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The indigenous condition: an introductory note

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Citation

Jansen, M. E. R. G. N., & Perez, G. A. (2017). The indigenous condition: an introductory note. In S. A. May Castillo M. (Ed.), *Heritage and Rights of Indigenous Peoples* (pp. 25-37). Leiden: Leiden University Press. Retrieved from <https://hdl.handle.net/1887/57583>

Version: Not Applicable (or Unknown)
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Note: To cite this publication please use the final published version (if applicable).

HERITAGE AND RIGHTS OF INDIGENOUS PEOPLES

PATRIMONIO Y DERECHOS DE LOS PUEBLOS INDÍGENAS

Heritage and Rights of Indigenous Peoples

Patrimonio y Derechos de Los Pueblos Indígenas

Edited by
Manuel May Castillo
and Amy Strecker

LEIDEN UNIVERSITY PRESS

The publication of this book was made possible thanks to the financial support of ERC Advanced Grant n° 295434 in the context of the European Union's Seventh Framework Programme (FP7/2007-2013) for the project '*Time in Intercultural Context*'.

Archaeological Studies Leiden University is published by Leiden University Press, the Netherlands
Series editors: M. E. R. G. N. Jansen and H. Kamermans

Cover design: Joanne Porck
Coverpage image: Ellen-Berit Nymo Dakbakk, Joanne Porck
Layout: Samira Damato

ISBN 9789087282998
e-ISBN 9789400603042
NUR 682

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Acknowledgements

This book is very much the result of a collaborative effort. First and foremost, we are indebted to Maarten Jansen for his continual support and wise counsel, as well as for spearheading this project and making a significant contribution to decolonizing academia more generally. We extend our gratitude to Gerard Persoon, who also obtained funding for the activities that led to the publication of this book. A number of institutions contributed financially to this research project: the European Research Council, Leiden University, particularly the Faculty of Archaeology, and Leiden Global Interactions. We sincerely thank the contributors, many of whom travelled long distances to participate in the

discussions at Leiden University, and without whom this publication would not have been possible. It was remarkable to have such a wide participation of scholars, activists and community leaders at the various colloquia that took place in Leiden between 2014 and 2016. We are extremely grateful to the anonymous reviewers of our manuscript for their thorough appraisal and insightful comments, as well as to Eithne Carlin for editing assistance early on. Last but not least, we thank the team at Leiden University Press for making the publication process so smooth and swift. It was a pleasure to work with them, especially Romy Uijen, Joanne Porck, Samira Damato and Amber de Groot.

Prologue: The Ideas, Events and People Behind this Book

Manuel May Castillo

In 2007 the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by member states of the United Nations following a long struggle by representatives of Indigenous Peoples globally. The Indigenous Peoples' movement has been consolidated at the international level, but represents a large process of struggle still enduring structures of (neo-)colonialism and oppression, particularly at national level. The intersection between the national and the global constitutes an arena in which Indigenous Peoples are confronting social and political marginalisation, economic exploitation and various kinds of human rights violations. Ten years after the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), implementation on the ground has still not been achieved because of the difficulties translating UNDRIP tenets into vastly diverse national and local realities.

Indigenous Peoples constitute a large portion of the world's population and occupy ancestral territories that are contested due to complex global dynamics. In terms of heritage, safeguarding cultural and biological diversity has become a special responsibility of Indigenous Peoples, who often find themselves on the front line. Aggressive forms of capitalism and globalised economics are generating global poverty, inequality, massive displacement and human rights violations in the form of transnational extractivism, large-scale land acquisition and industrial cultivation. At present, we are witnessing an alarming increase in murder and forced disappearances (of indigenous and non-indigenous activists alike) because of their commitment to defending land and natural resources. Democracy in modern states is increasingly being tested by global dynamics.

This book was conceived as a contribution to the exploration of ways for achieving the implementation of UNDRIP, in particular in the field of heritage. Overall, however, the idea behind it relies upon the question posed by Gayatri Spivak: *Can the subaltern speak?*

Backstage

Since the beginning of the 1980s, Mixtec activist and researcher Gabina Aurora Pérez Jiménez, working with Americanist Maarten Jansen in the field of archaeology and cultural history of Indigenous America at Leiden University, has advocated and enabled the participation of indigenous experts in the academic world, as well as in other international fora. She was a leading figure in the organisation of a week-long symposium 'La Visión India: tierra, cultura, lengua y derechos humanos' in the context of the XLVI International Congress of Americanists, Amsterdam, 1988, and also participated in several meetings at the UN in Geneva, which led to the first draft of what is now the text of the UNDRIP. In later years several indigenous experts were invited to meetings at Leiden University dedicated to the cultures and rights of Indigenous Peoples in the Americas.

In 2011 the European Research Council (ERC) awarded an advanced grant to a research proposal of Jansen and Pérez Jiménez with the title '*Time in Intercultural Context: the indigenous calendars of Mexico and Guatemala*', which aims at contributing to the interpretation of precolonial art through the study of present-day oral traditions. In the annex on ethical issues, the applicants clarified in accordance with ERC requirements, that the project would abide by the principles of UNDRIP and thereby include

the effective participation of Indigenous Peoples and respect for indigenous traditions, religions, art and literature as part of the project. Consequently this project took the form of intercultural teamwork, involving researchers (PhD candidates and postdocs) from an indigenous Mesoamerican background, as well as from Europe and elsewhere.

In addition, the aim was to organise a series of international colloquia on the Heritage and Rights of Indigenous Peoples, for which indigenous experts would be invited as speakers. With the support of the ERC grant and the profile area ‘Global Interactions’ of Leiden University, these colloquia discussed a number of topical issues such as the sacred values of land, cultural memory, land rights, environmental degradation and natural resource extraction. They also extended their geographical scope to include indigenous experts, activists and academics from outside Latin America, namely from Asia, Africa, and Europe, thereby enriching the discussions with their expertise, experience and comparative perspective. What made these encounters unique is that Indigenous Peoples’ voices played a primary role in defining the discussion points, which has resulted in an invaluable intercultural dialogue and a people-centred and problem-centred focus. In this way, equality, inclusion and diversity were promoted in academic praxis.

In parallel, in February 2015, a research group from Leiden University, including indigenous scholars and activists, participated as observers in the *Meeting on Mandate, Methodology and Selection of Cases* organized by the Committee on the Implementation of the Rights of Indigenous Peoples of the International Law Association. After this meeting, the Leiden group of experts was invited to contribute with key case studies in the field of heritage in order to widen the scope of possibilities for the implementation of UNDRIP.

This publication results from these initiatives and draws together various topical debates adopting a global and comparative perspective. The proposals arising from this book, which plead the case for taking indigenous voices, perspectives, ontologies and worldviews seriously, aim to influence and support the way in which policymakers approach

the heritage of Indigenous Peoples. It also promotes, in solidarity with Indigenous Peoples, the quest for global social justice. This volume deals not only with the implementation (or lack thereof) of UNDRIP on the ground in various parts of the world, but aims to promote further collaborative research with/for/by Indigenous Peoples within academia itself, thereby furthering the development of innovative decolonised research and methodologies in an attempt to find more effective ways, beyond law, for the implementation of the UNDRIP.

The contributions included here are part of an ongoing discussion on the subject of heritage and rights of Indigenous Peoples and as such, remain open to future contributions and reflections. At first glance, the cases discussed in this book appear to be disconnected from each other and a coherent narrative may seem to be lacking. However, they are thematically connected in terms of historical processes and contemporary global-systemic dynamics. Human rights, heritage, land, colonisation, neo-colonialism, globalisation, and transnationalism constitute the articulations from which culturally-geographically diverse contributions are developed. Chapters move from the local to the global level, from theory to empirical data, and the other way around, thus painting a colourful view of the subjects and avoiding black and white dichotomies. Connections were more evident for the participants who attended the meetings and easily identified common problems, struggles and historic experiences during the debates following the presentations and during coffee breaks or group dinners. In fact, it is within this informal environment where the different participants started sharing experiences and learning from each other. Furthermore, this was the meeting point where academics, intellectuals, activists and interested members of the audience created an engaged community bound by universal ideals of solidarity and social justice. Naturally, these connections are less visible for the reader and some clarifications are therefore needed beforehand.

The Structure

First of all, this book begins with some necessary clarifications on the concept of Indigenous Peoples

by Jansen and Pérez Jiménez, because we still find academic debates (influenced by Aristotelic thought) problematizing the terms *indigenous* and *people* (without the 's') separately. It is worth noting that the concept of *Indigenous Peoples* has intrinsic meanings related to human rights that were embedded by the indigenous leaders' struggle in past decades and adopted in a Declaration by the member states of the United Nations in 2007. But, by detaching the words' concept and categorizing people in terms of 'geographical originarity', such debates usually fall into a dialectical labyrinth which diverts attention away from the real problems and hinders the implementation of UNDRIP on the ground. This is why in the first chapter the authors redirect our attention to problems of '... discrimination, exploitation, marginalisation, oppression and other forms of social injustice that primarily (though not exclusively) affects...' Indigenous Peoples around the globe.

Secondly, the narrative of this publication turns around heritage articulated in terms of *land*, *spirituality* and *self-determination*, because these three concepts¹ are central to the lived-in experience of Indigenous Peoples' heritage. Over the course of our meetings, a collective consciousness emerged on the protagonist role of the concept of land within indigenous struggles. On the one hand, indigenous lands and territories constitute sacred and intimate hearths, battlegrounds and disputed goods at the same time. Land also represents the physical space in which most of the world's diverse living heritage is archived.

Obviously, the concepts of land and heritage in indigenous ontologies are different from those employed in *Western* academia. The concept of heritage, as used here, refers to a holistic notion, including ancestral legacies that involves both indigenous ontologies and epistemologies. On the one hand, the moral and ethical respect for all manifestations of life, as well as the spiritual relationship with the land, are the cornerstones of

indigenous heritage, as illustrated here by the Maya, Mixtec and Nahua cases. Heritage also involves human intimacy that mirrors a particular relationship with and an attitude towards the physical and metaphysical world. The ancestral dimension to transmitting spirituality, intimacy, and even cultural memory, is fundamental to this notion of heritage. It is this human dimension of heritage, and its significance for the very existence of Indigenous Peoples, that implicates human rights in diverse ways that need be taken into account when dealing with safeguarding strategies. The use of the term 'rights' in this volume, while referring to the international indigenous rights framework, is not used in a strictly 'legal' sense, but rather as a barometer to discuss the heritage of Indigenous Peoples from a rights' perspective, using UNDRIP as a point of reference.

The numinous dimension of this heritage often clashes with notions of property and ownership. State policies and transnational enterprises based on very different paradigms can have devastating consequences for the ways of life of Indigenous Peoples. The heritage of Indigenous Peoples is often inextricably tied to indigenous land, so threatening indigenous lands means endangering entire cultures. A number of chapters in this book aim to revisit the concept of land in terms of indigenous ontologies, not by definition, but by scrutinizing how the concept is used and negotiated in the context of environmental struggles and heritage concerns. Thus, particular environmental problems, generated by the overexploitation of land, and indigenous responses are exposed in the first section. Environmental destruction and extreme resource extractivism generated by global economies are exposed in cases located in the so-called *global south*, in Indonesia, The Philippines, Nigeria and Guadeloupe and Martinique, whereas organized resistance-confrontation of such problems are exposed in Guatemala and Belize.

In the second section chapters deal with the spirituality of land in indigenous ontologies. The sacred notion of land is evident in the case studies from Peru, Guatemala and Mexico, although, as debated in coffee breaks during our meetings, Indigenous Peoples in other countries around the world often preserve similar ontologies that recognise the spiritual values

1. In recent times, *water* also became a key concept in the diverse struggles faced by Indigenous Peoples around the globe, and because of its own complexities we believe it deserves further discussion in another volume.

of the land. Metaphorically speaking, the land is the mother who feeds humans and deserves our greatest respect. Such a respect belongs to the moral sphere of society and involves spiritual/moral commitments in community with others.

The third section of this book explores indigenous heritage in terms of self-determination. Though not so evident, chapters in this section share common notions of indigenous self-determination and spatiality that challenge external actors (mainly from states and abstract global entities) to interact with Indigenous Peoples with sensitivity and respect for basic human rights. Household sovereignty as exposed in the case of Peru is being violated by national health care policies due to miscommunication and on-going neo-colonialism, in the form of cultural racism and assimilationist policies. Indigenous health care and epistemics are also excluded and marginalized from heritage safeguarding policies in Taiwan. In similar ways, transnational enterprises violate the self-determination and sacredness of indigenous lands and territories when extracting resources for economic benefit and generating environmental degradation, as evidenced by cases in Mexico and Indonesia, as well as the others in the first section. Yet despite all this, Indigenous Peoples' resilience has developed in inspiring ways, as illustrated by cases dealing with Norway, the USA and Mexico.

The last section brings the book to its conclusion, with chapters on indigenous scholarship, the conflict between official conceptualisations of heritage and 'lived-in' heritage, and lastly, an epilogue which returns to the international legal context within which the heritage and rights of Indigenous Peoples are situated.

Heritage, Rights and Social Justice

In a broader sense, each chapter of this book deals, either explicitly or not, and to a greater or lesser extent, with colonial legacies, global economics and transnationalism, which trigger each of the problems analysed here. Naturally, cases located in the same region have more similarities in terms of culture, politics and historical events, such as neo-colonialism in Mexico. Colonial legacies are

more comparable regionally than globally due to similarities and differences between colonisation processes through time and space. For instance, the cases in Guatemala and Mexico show similarities in terms of culture when it comes to discussing the sacred values of the land, and the lack of recognition of such values by heritage policymakers. In addition, the lack of recognition of spiritual values of the land is influenced by the modern *Western*- global capitalist mindset, which in turn influences national legal bodies, not only in the Americas but also in Asia and Africa. Thus, it becomes evident that the spiritual value of land, in a global perspective, is not compatible with the extreme extractivism and environmental degradation promoted by transnational companies, nor with the neoliberal policies of states. Environmental degradation and resource extraction in Nigeria, The Philippines, Indonesia, Guadeloupe and Martinique, Mexico and Guatemala are thus comparable in terms of neo-colonialism and global neoliberalism, although there are local particularities in the way in which such extractivism and environmental degradation may be carried out.

Further reflections are offered in the epilogue, elucidating the common threads through the contributions and placing them in the context of wider challenges in the pursuit of global justice. But, as a whole, this book embodies a joint initiative of indigenous and non-indigenous experts in the academic world to compel governments and policymakers to act in accordance with the principles of UNDRIP, respect human rights and bear the responsibilities of democracy placed on their shoulders. It particularly addresses governments that tend to minimize this problem of global proportions while repressing those demanding respect for basic human rights. It also calls upon transnational enterprises and their representatives to respect the tenets of UNDRIP in light of its ten year anniversary in September 2017.

Finally, this book is part of efforts to build a bridge between academia and the oppressed and marginalized sectors of global society. Hopefully this publication will support Indigenous Peoples in their particular struggles and contribute to their emancipation as Peoples.

1. The Indigenous Condition

An Introductory Note

Maarten E.R.G.N. Jansen and
Gabina Aurora Pérez Jiménez¹

‘Many Indigenous Peoples have maintained their traditional cultures and identities (e.g., way of dressing, language and the cultivation of land) and therefore have a strong and deep connection with their ancestral territories, cultures and identities. The 370 million Indigenous Peoples around the world contribute to enriching the world’s cultural and linguistic diversity.’

(Blackstock, 2013)

Indigenous Peoples have made and continue to make important cultural contributions to the development of human society. However, they are currently confronting a number of serious problems, which may go as far as to constitute a threat to their very existence. One of the greatest difficulties is the generalised lack of recognition of those problems and a lack of understanding of their nature and causes.

The term ‘indigenous’ in discussing the plight and rights of Indigenous Peoples often evokes various kinds of critical objections, leading to confusion and time-consuming discussions. Elementary questions arise, such as: ‘But who is indigenous? What is the definition? Aren’t we all indigenous?’ and so on. It is our impression that this reaction comes, not only from an intrinsic lack of understanding, due to unfamiliarity with the advances in international thought on the subject and an essentialist incapacity to grasp the dynamics

involved, but also from an aprioristic unwillingness to recognise the issue itself. Here, therefore, we will try to clarify some basic terminology.²

The famous working definition of ‘*Indigenous Peoples*’ by rapporteur Martinez Cobo in the first years of the discussions in the UN Working Group on Indigenous Populations (1984) remains a valid point of departure:

‘...those which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.’

Long discussions in this Working Group from 1991 to 1994, between activists belonging to Indigenous Peoples and state representatives in Geneva, resulted in a ‘Draft Declaration’, which, after another thirteen years of considerations and emendations by the UN bodies, was finally adopted by the General Assembly in 2007 as the *UN Declaration on the Rights of Indigenous Peoples*.³ Curiously enough at this stage, legal and anthropological experts in the matter will often put

1. This article is the outcome of a long-term teaching and research activity at the Faculty of Archaeology (section ‘Heritage of Indigenous Peoples’), Leiden University, carried out with the support of the European Research Council for the project ‘Time in Intercultural Context’ (Advanced Grant no. 295434 in the context of the European Union’s Seventh Framework Programme (FP/2007-2013). The thoughts formulated here were leading in our forthcoming monograph on Aztec and Mixtec ritual art, written in the context of that ERC project.

2. See also the study by Sarivaara, Maatta and Uusiautti (2013).

3. Our own experience with this matter is reflected in Musiro (1989) and Pérez Jiménez & Jansen (2006).

forward the disclaimer that the Declaration is not a ‘legally binding document’. We consider this to be an absurd and even offensive remark. It is certainly the case that some national institutions (particularly in rogue or failed states) are lagging in their legislations and regulations – and perhaps do not intend to create and practice decent and effective rule of law in their countries. However, this UN Declaration, the outcome of a long process in which many stakeholders participated and, furthermore, a process within which certain activists were repressed and lost their lives as martyrs of this cause, is certainly BINDING in normal human terms, based as it is on moral and ethical principles as well as social norms, which precede and transcend the letter of the law.

The UN Declaration is a watershed document and a timely beacon in a global struggle for social justice and the emancipation of large segments of the population, who still suffer from exclusion and oppression. The text of the Declaration does not include an explicit definition of ‘Indigenous Peoples,’ and yet in the vast majority of cases it is crystal clear what and who is meant by this term. In a general introduction to the Declaration, Blackstock (2013) briefly defines ‘Indigenous Peoples’ as ‘*descendants of the original people or occupants of lands before these lands were taken over or conquered by others*’.

First of all, the issue at stake here is not just that of the word ‘indigenous’, but that of ‘*Indigenous Peoples*’, a combined term that represents one concept. In fact, in the Geneva debates the noun ‘Peoples’ was more contested than the adjective ‘Indigenous’. This is because, for many years, state representatives did not want to recognise that in many countries live peoples other than the national mainstream segment or dominant group. Linguistic semantics were thus brought into play. State representatives felt/feel uneasy given previously formulated and recognised rights (among which the right to self-determination and sovereignty is paramount). As such, they preferred/prefer terms such as ‘populations’, ‘minorities’ ‘ethnic groups’ or just ‘people’ (singular), none of which imply these rights. Indigenous voices, for this same reason, insisted on the need to be recognised as *peoples* (in plural).

A people is an ‘organic group’, which is defined by Wiessner (2011: 125) as a ‘collectivity of human beings which manifest their will to live together as a community’, characterised by ‘the desire and practice of sharing virtually all aspects of life together’. Such a ‘people’ is historically attested as an organic group and so precedes the existence of its individual members in the present: one, therefore, *belongs to* a people. Shared language, territory, cultural memory and/or social condition are generally the main elements that lead to a people’s self-identification and/or its identification by others, creating a bond of group-solidarity and a common orientation towards future development.

In the context of colonialism the adjective ‘Indigenous’ (with its synonyms ‘native’, ‘aboriginal’ and so on) refers to persons that were living in a specific region before colonising powers invaded their territory. Today that term refers to peoples that descend from or have some historical, territorial, cultural and / or linguistic continuity with those original (pre-colonial) inhabitants.

A semantic problem exists in Spanish: the cognate term *pueblos* is ambivalent as it not only refers to ‘peoples’ but may also be understood as ‘villages’. In North America, Indigenous Peoples have put into use the term ‘First Nations’. Interestingly, the term *naciones* appears in colonial Spanish literature but in the present day evokes such strong associations with independence and separatism that it is difficult to swallow for Latin American legal and intellectual circles. Furthermore, the strong racist and discriminatory associations of the word ‘*indio*’ in Latin American countries have started to affect the term ‘*indígena*.’ In recent years, therefore, this has led to the introduction of the term ‘*pueblos originarios*’. In our own field experience in Mexico, we have noticed that elderly people in traditional communities use the concept ‘*legítimo*’ (‘legitimate’) – as a Spanish loanword in their indigenous language – for self-adscription.

The terminological discussion, though relevant, should not obscure the fact that this is not about categorising (and so essentialising) a specific

‘type of people’, but about analysing a *problem* of worldwide dimensions. States and dominant classes like to suggest that Indigenous Peoples *are* the problem. The problem, however, is not the existence of specific peoples, but the continued presence of colonial structures and mentalities in those countries, which results in discrimination, exploitation, marginalisation, oppression and other forms of social injustice that primarily (though not exclusively) affects the communities that descend from the pre-colonial occupants of the territory.

Colonialism is not a closed chapter in the book of history, but continues to have an impact on daily life in the present. In many formerly colonised countries, political independence meant a shift of power to the descendants of the colonising settlers, while no fundamental changes occurred to the oppressed condition of the colonised peoples. True decolonisation is still lacking. The continuation of colonial structures, mentalities and exploitations within the context of the independent nation is called ‘internal colonialism’.¹ In practice this implies, for example, that the language, literature, art and cultural heritage of the Indigenous (i.e. internally colonised) Peoples do not have official status and are typically not taught in school. Instead, they are treated as objects of study and exploitation by outsiders, for example as folklore for the development of tourism and as topics for research to foster a career. In this way, Indigenous Peoples are manipulated to suit other interests, their past is expropriated, their present is under threat, their languages are endangered.

Colonial Gaze and Representation

Colonialism is currently entering a new phase of neo-colonial extractivism, in which local governments play the role of ‘indirect rule’ in the interest of transnational companies. Indigenous Peoples often live (that is, they have survived) in ‘marginal’ areas, that have not been completely emptied of resources by earlier forms of predatory colonialism. As such, they are still rich in resources, which transnational enterprises / companies now want to exploit.²

In this conflict of interests, it is useful for those extractive entities to create or maintain an image of Indigenous Peoples as fundamentally primitive, uneducated, incapable and irrational. That image reproduces the historical ‘doctrine of discovery and conquest’, according to which western colonisers attributed to themselves a superior level of civilisation, religion, science and humanity, while portraying the colonised as idolaters, cannibals and so on.³ In the case of Mexico, the image of human sacrifice (in combination with cannibalism) has been extremely powerful in that it combines the notion of cruel barbarians with that of religious fanaticism.

Critical studies have raised doubts about such colonial allegations. The cannibalism in the Caribbean, for example, seems to have been an invention based on a tendentious misunderstanding of funerary customs and ancestor worship (Arens, 1979). It is most likely that the gory image of Aztec large scale human sacrifice was constructed from a projection of the frequency of self-sacrifice (bloodletting), which was characteristic of native religion, onto the (much less frequent) execution of enemies or criminals (a form of death penalty). These executions were ritualised in accordance with the Mesoamerican conceptions of returning life to the gods who had created it. Even though Spanish authors were never present at such a human sacrifice, they reported such acts frequently, consistently and in great detail. Their writings were then printed with sensational illustrations that aimed to capture the attention of a broad audience (see, for example, the famous but fanciful engravings by Theodore de Bry).

In a similar vein, Spanish authors condemned indigenous religious practices as witchcraft, that is they considered it to be based on a covenant with the devil. We should remember that the conquest took place at the height of the witch-hunt in Europe, marked by inquisitional manuals on how to identify, interrogate and torture the unfortunate women and men who had been accused of witchcraft. Customs

1. Memmi wrote a classic study on this situation (1965); compare for example Bonfil Batalla (1996) and Huayhua (2010).

2. Cf. López Flores (2014) as well as the volume *Tiempo y Comunidad* edited

by Jansen and Raffa (2015). The analysis of the present world order by Chomsky (2016) is particularly revealing.

3. Cf. Edward John: A Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress (E/C.19/2014/3).

identified as witchcraft were to be extirpated and their practitioners exterminated by burning at the stake. Just as in the case of Spanish missionaries among the Aztecs, behind these criminal executions (which claimed several thousands of innocent victims) was an interest – on the part of the church as an institution – to monopolise control over people's souls, and in this way to be an essential factor in the political power game. The extirpators of witchcraft in Europe and the persecutors of indigenous religion in the Americas shared the same ideological background; they were, in fact, sometimes the same people.⁴

The Eurocentric representation of the indigenous world by conquerors and missionaries became the justification for colonial invasion and for usurping the unregistered lands (*terra nullius*) of the natives.⁵ The biased written works (and interpretations) of the missionaries are still the foundation for Americas research to this day; the famous Franciscan friar, Bernardino de Sahagún, author of a true encyclopaedia of the Aztec world, is even hailed as the father of ethnography. Critical studies, such as Deloria (1969) and Fabian (1983), have denounced the problematic ideological perspective that modern anthropology has inherited from this colonial propaganda. Alarming, words such as 'idol', 'witchcraft' and 'devil' continue to be used to refer to aspects of the religion and religious heritage of Indigenous Peoples. The colonial paradigm disavowed the conquered civilisation in such stigmatising terms that it becomes nearly impossible for whoever enters the study of Mesoamerica to accept and assimilate this culture or to identify with its peoples. The indoctrinated preconception that Mesoamerica is a world of evil provokes a psychological distance, even among many profoundly interested investigators. A correlate of

this is the 'internalised colonialism', which means that the population at large (even persons who themselves belong to an Indigenous People) have absorbed colonial notions of inequality. It is this type of propaganda and false argumentation that is still used today when Indigenous Peoples are portrayed as standing in the way of progress and evolution. Fabian (1983) has eloquently shown that the colonial attitude amounts to a 'denial of coevalness': dominant colonial paradigms – present even in anthropology – situate Indigenous Peoples in the past, describing them as 'pre-modern', 'traditional' and 'pre-logic' Others. At best, indigenous persons are 'informants,' but they are implicitly or explicitly judged to be incapable of analytical thought.

A dual mentality reigns: the ancient treasures are admired and promoted as emblems of the nation's past – they are stored, for example, in museums – but descendant communities are considered inferior and as such are not granted access to and control over their heritage. National authorities, and outsiders in general, often show a systematic lack of communication, engagement and solidarity with these communities, they do not respect their voice and do not seek their *free prior and informed consent*. Even the word 'consent' is too weak: the peoples in question are entitled to a defining and directive role in all matters that concern them. The word 'informed' is often used in a very superficial sense ('we inform you that we will conduct this project in your community: trust our scientific knowledge in this matter, you have no choice, you must declare your cooperation...'). A people cannot be truly 'informed' if it does not have its own well-prepared specialists that can analyse the proposal (and its consequences) and steer the project. It is the responsibility of academic institutions in economically developed parts of the world to contribute pro-actively to the training of such specialists. These specialists should not be trained as sympathetic 'informants', nor as brainwashed servants of capitalist / neoliberal ideology, but involved as free, innovative, yes even rebellious, thinkers, who make their own valuable contributions to science and society.

4. A key example is that of the first bishop of Mexico, friar Juan de Zumárraga (author of a Christian doctrine in Nahuatl) and his companion, friar Andrés de Olmos (famous because of various works on Nahuatl). Both participated in a campaign against the witches of Vizcaya (Spain) during 1527. Olmos later wrote a treatise in Mexico against witchcraft and the cult of the devil – a Nahuatl text directed to the newly converted generation. This text was an adaptation from a similar work in Spanish by a fellow Franciscan who had accompanied them in the campaign in Vizcaya (see: Olmos, 1990).

5. See, for example, the classic studies by Wolf (1982), Churchill (1998) and Goody (2007).

Although there is considerable progress,⁶ the academic disciplines (anthropology, archaeology, linguistics, history, as well as developmental sociology) generally still suffer from a self-congratulatory, paternalistic attitude, in which there is a lot of talk about Indigenous Peoples, but in which Indigenous Peoples themselves are excluded from true participation.

This creates (1) an ethical problem, denounced by Indigenous Peoples as ‘intellectual exploitation’, as well as (2) a scholarly problem, in that relevant knowledge is not taken into account and alien (colonial) paradigms prevail in the interpretation of cultural traditions as well as in development planning.

The UN Declaration as Recognition and Definition of the Problem

Representatives of Indigenous Peoples called upon the UN, insisting that it recognise this problem and that it begin to find solutions by formulating principles and setting norms. The 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is the outcome of this long process.⁷ It should be understood that this is not a list of rights that specific peoples have and others do not have. These are fundamental human rights, which all peoples have. As noted above, the term ‘Indigenous Peoples’ does not denote an essential type or category of peoples, but refers to a specific problem. The UN Declaration does indeed spell that problem out: the word ‘Indigenous’ characterises a special condition, namely that of collectively facing specific forms of social injustice that are the consequence of colonialism. The predicament that characterises Indigenous Peoples can be described as the presence of one or more oppressive

conditions, which the Declaration addresses by formulating and explicitly stressing the rights that all peoples have in order to be free of such negative circumstances. Understanding the text in this way, we may read the Declaration as an unequivocal definition of elements that singly or in combination may characterise the Indigenous condition.

* The term Indigenous Peoples applies to peoples that do not yet enjoy, as a collective or as individuals, all of the human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law (art. 1). Typically they live within an independent state but lack freedom and equality; instead they suffer discrimination because of their origin or identity (art. 2). Their right to self-determination as a people is not recognised. They do not have possibilities to freely determine their own political status, nor to freely pursue economic, social and cultural development (art. 3). As such, these peoples do not have autonomy or self-government in matters relating to their internal and local affairs, nor do they have ways and means to financing those autonomous functions (art. 4). Facilities (and even permission) to maintain and strengthen these peoples’ distinct political, legal, economic, social and cultural institutions are structurally lacking (art. 5). Their own nationality is denied; instead, the mainstream nationality of the state is imposed upon them (art. 6).

* The term Indigenous Peoples applies to peoples that lack peace and security as persons and as distinct peoples. Their physical and mental integrity may be harmed and endangered by acts of genocide or other violence, such as the forcible removal of children (art. 7). The forced assimilation or destruction of their culture deprives them of their integrity as distinct peoples and of their cultural values or ethnic identities. Propaganda designed to promote or incite racial or ethnic discrimination leads to the dispossession of their lands, territories or resources, to forced population transfer, and to forced assimilation or integration (art. 8). They suffer discrimination *of* and outside interference *in* their traditions and customs (art. 9), as well as forced removal from their lands/territories, for example, relocations without their free, prior and informed consent, without just and fair compensation, and without the option of

6. We do want to acknowledge here the small but growing body of critical and collaborative anthropological and archaeological work, which started with early writings of authors such as Rodolfo Stavenhagen, Robert Jaulin and Guillermo Bonfil Batalla, and which is developing further in present-day community-oriented heritage research (e.g. Chip Colwell, T. J. Ferguson, Rosemary Joyce, Natasha Lyons, Stephen Silliman and Larry J. Zimmerman in the Anglophone world).

7. The text of the Declaration has been published frequently and is accessible on the internet (see for example the publication by the International Labour Organisation 2009 and the publication by Blackstock, 2013).

return (art 10).

* The term Indigenous Peoples applies to peoples that within their country face severe limitations in practicing and revitalising their cultural traditions and customs, as well as in maintaining, protecting and developing the past, present and future manifestations of their culture, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature (art. 11). They are equally severely limited in manifesting, practicing, developing and teaching spiritual and religious traditions, customs and ceremonies as well as in maintaining, protecting, and having access in privacy to religious and cultural sites. Instead, their ceremonial objects and human remains are stolen or otherwise removed (art. 12). State authorities and local elites impede the revitalisation, use and/or development of their histories, languages, oral traditions, philosophies, writing systems and literatures, as well as the transmission of these to future generations, while also prohibiting ways of naming communities, places and persons in the people's own language (art. 13).

* The term Indigenous Peoples applies to peoples that are exposed to a lack of education that takes into account their own linguistic and cultural identity. The system of education imposed upon them by the state is fundamentally alien. Typically there is no education in the Indigenous Peoples' own languages and education is not conducted in a manner that is appropriate to their own cultural methods of teaching and learning.

Furthermore, Indigenous Peoples often do not have adequate access to all levels and forms of public education. The state's education itself is generally discriminatory in practice, as are the media: they show no respect for the dignity and diversity of the Indigenous People's culture, traditions, histories and aspirations, nor are these elements reflected in educational content or in public information at large (art. 14 and 15). The Indigenous Peoples' wish to establish their own education systems and their own media in their own language is often blocked.

* The term Indigenous Peoples applies to peoples that generally suffer discriminatory conditions in labour, employment or salary, due to the fact that international and domestic labour laws are not applied. Indigenous children are often exploited and

exposed to work that is likely to be hazardous or will interfere with their education. This kind of work can be harmful to the child's health or physical, mental, spiritual, moral or social development (art. 17).

* The term Indigenous Peoples applies to peoples that are excluded from decision-making in matters that affect their rights. Their representatives, chosen in accordance with their own procedures, are generally not recognised, nor are the Indigenous People's own decision-making institutions (art. 18). Typically their representatives and representative institutions are not consulted and not cooperated with. It is not considered important to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (art. 19). The maintenance and development of Indigenous Peoples' own political, economic and social systems or institutions are obstructed, so that these peoples cannot be secure in the enjoyment of their own means of subsistence and development, nor engage freely in their traditional and other economic activities (art. 20).

* The term Indigenous Peoples applies to peoples whose economic and social conditions, including education, employment, vocational training and retraining, housing, sanitation, health and social security, are inadequate and continue to be damaged (art. 21). This leads to inadequate attention for the special needs of the people's elders, women, youth, children and persons with disabilities. In this climate, there is insufficient protection of women and children, given that there are no guarantees against violence and discrimination (art. 22). Indigenous Peoples are not actively involved in designing development nor in determining development strategies concerning, for example, health, housing and other economic and social programmes (art. 23). The traditional medicines and health practices of Indigenous Peoples are marginalised or even persecuted. The knowledge of their vital medicinal plants, animals and minerals is not valued. They themselves are usually discriminated against, in terms of their access to public social and health services (art. 24).

* The term Indigenous Peoples applies to peoples that suffer lack of respect for the distinctive spiritual relationship that they may have with traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources.

Often they are frustrated in their commitment to uphold their responsibilities to future generations in this regard (art. 25). Their right to own, use, develop and control lands, territories and resources (which they possess by reason of traditional ownership or other traditional occupation or use, or which they have otherwise acquired), is not adequately recognised nor protected. In general their customs, traditions and land tenure systems are not respected (art. 26). Typically the state does not implement a fair, independent, impartial, open and transparent process, which would give due recognition to the Indigenous People's laws, traditions, customs and land tenure systems, and would recognise and adjudicate the Indigenous People's rights pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used.⁸ There is no adequate participation of the Indigenous Peoples in such processes (art. 27). There is no adequate redress (by restitution or just, fair and equitable compensation) for the lands, territories and resources that Indigenous Peoples have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent (art. 28).

* The term Indigenous Peoples applies to peoples that have to live in an environment that is insufficiently attended to, preserved and protected. Hazardous materials are often stored or dumped in these lands or territories, while free, prior and informed consent has not been obtained from the Indigenous People. There are insufficient programs for monitoring, maintaining and restoring the health of the local inhabitants that are affected by such disposals (art. 29). The productive capacity of the lands, territories and resources may also be seriously affected. Military activities that take place in the lands or territories of Indigenous Peoples – without consent or request by the people concerned – have a further worsening effect (art. 30).

* The term Indigenous Peoples applies to peoples that simply do not have guarantees for maintaining, controlling, protecting and developing their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of

their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games, and visual and performing arts. There is no protection of Indigenous Peoples' intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions (art. 31).

* The term Indigenous Peoples applies to peoples that cannot participate freely in the determination and development of priorities and strategies for the development or use of their lands or territories and other resources. They are generally not consulted, nor is their free and informed consent sought prior to the approval of any project affecting the people's lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of minerals, water or other resources. No just and fair redress for any such activities is provided, nor are appropriate measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact (art. 32).

* The term Indigenous Peoples applies to peoples whose own determination of identity or membership in accordance with customs and traditions is not taken into account (art. 33). On the contrary, there are dispositions against the promotion, development and maintenance of their institutional structures and distinctive customs, spirituality, traditions, procedures, practices and juridical systems or customs (art. 34). Indigenous Peoples are confronted with an interference of their right to determine the responsibilities of individuals to their communities (art. 35). Similarly the contacts, relations and cooperation between members of peoples that are divided by international borders are obstructed, even when these concern activities for spiritual, cultural, political, economic and social purposes (art. 36). Typically there is no adequate recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors (art. 37).

* The term Indigenous Peoples applies to peoples that the state authorities do not adequately consult nor collaborate with, not even when appropriate measures, including legislative measures, need to be taken to achieve the ends of the Declaration of

8. Tzec offers a profound and exemplary case study of this crucial issue in her PhD thesis (2014).

the Rights of Indigenous Peoples (art. 38). States do not provide them with sufficient access to financial and technical assistance for the enjoyment of the rights contained in the Declaration of the Rights of Indigenous Peoples (art. 39). Much is lacking in the application of just and fair procedures for the resolution of conflicts and disputes between the Indigenous Peoples and the state or other parties. Effective remedies for all infringements of their individual and collective rights are absent. The customs, traditions, rules and legal systems of the Indigenous Peoples themselves do not receive proper consideration, nor are their human rights adequately protected (art. 40).

The UN Declaration emphasises that all peoples have the right to be free from such detrimental conditions. In the present day, those peoples that still suffer from such predicaments are called Indigenous Peoples. The underlying assumption is that the continued presence and impact of colonialism is a major factor in causing this worldwide issue.

State Responsibilities

The UN Declaration expresses the commitment, the solemn promise, of the signing state parties to do their utmost to find ways to solve these problems, that is, to recognise the rights of the peoples for whose well-being the state governments are responsible. This includes the restitution of cultural, intellectual, religious and spiritual property that has been taken from Indigenous Peoples without their free, prior and informed consent or in violation of their laws, traditions and customs. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with the Indigenous Peoples concerned. Article 41 promises that the organs and specialised agencies of the United Nations system and other intergovernmental organisations shall contribute to the full realisation of the provisions of this Declaration through the mobilisation, *inter alia*, of financial cooperation and technical assistance. Furthermore, the article states that ways and means of ensuring the participation of Indigenous Peoples on issues affecting them shall be established. UN Member States have also committed themselves to

providing effective mechanisms for the prevention of, and redress for abuses and infringements of the rights of Indigenous Peoples. In particular, they have agreed to always obtain their free, prior and informed consent in matters or projects that would affect these peoples. Furthermore, the signing states promise to take effective measures to ensure that this right is protected and also to ensure that Indigenous Peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means. The states have indicated that they will take effective measures, in consultation and cooperation with the Indigenous Peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among Indigenous Peoples and all other segments of society, as well as to ensure that state-owned media duly reflect indigenous cultural diversity.

A decade after the adoption of the Declaration of the Rights of Indigenous Peoples, however, we observe that the implementation of these promises is completely lacking. On the contrary, there are numerous cases in which the most elementary principles are not observed.⁹

Mexico is an example of a country in which there is generalised repression. The population suffers the appalling daily reality of violence related to drug trafficking, but also to older structures of social injustice, economic exploitation and political manipulation. Several massacres have occurred in the recent past, and the systematic murder of journalists and human rights activists are an on-going phenomenon. A large percentage of girls and young women belonging to Indigenous Peoples are condemned to become domestic servants; they are among the prime victims of widespread abuse and femicide. A crude and cruel aggravating circumstance is that there is a national mentality of *machismo* and corruption that is maintained, partly in connection with the rancid patriarchal doctrines of the Catholic and other Christian churches

9. For assessing the development of the life circumstances of Indigenous Peoples see the publications by the International Work Group for Indigenous Affairs (IW-GIA) in Copenhagen, particularly their yearbooks entitled *The Indigenous World*.

(meant to cover up their own sexual abuses). The structure of power is still to a large extent based on a patron-client system, which is determined by (and serves the interests of) specific groups, the traditional *caciques* (landowners and other local potentates) as well as industrial conglomerates. In past decades, these have become increasingly entangled with drug cartels. This situation has also permeated the juridical system, so that human rights are violated on a large scale and impunity reigns.

Consequently, Mexico seems to have become a failed state, in danger of becoming a failed community, as the country is in danger of sinking away into a night of horror. The entanglement of political corruption, organised crime and impunity has frustrated the development of true democracy and the rule of law. The continuous violations of human rights, with generalised intimidation, harassment, torture and murder of journalists and dissidents, in combination with total impunity, are the indisputable hallmark of this bitter reality. The forced disappearance and killing of students in Ayotzinapa (2014) is a telling example, the killing with targeted gunfire by police of civilians in protest in Nochixtlan (2016) is another such example.

A government is responsible for having the state of law and particularly human rights (including, of course, the rights of Indigenous Peoples) fully operational and effectively respected in its country. By looking away, minimising or denying such alarming realities, and not taking all possible measures to prevent and remedy such crimes, a government becomes an accessory. In some cases, the government may even be directly and actively involved. This is the more apparent where large or transnational corporations use the national and local authorities in a modern adaptation of the colonial system of indirect rule, that is, to merely serve their neo-colonial or *mafioso* interests. Within this type of social structure Indigenous Peoples have no real chance to establish adequate conditions that foster the development of their languages, cultures and autonomy, much less to control or limit the excessive extraction of resources from their territories. It is no wonder that many people doubt that politicians, in

making such declarations, ever had the intention of going beyond pompous grandiloquence, empty words and sinister cynicism. It has often been observed that the Declaration contains internal contradictions. For example, in the beginning, Article 3 sets out by recognising that 'Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.' But the final Article (46) limits that right significantly by stressing that 'Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.'

There are also some possible sources for intercultural misunderstanding in the text. The declaration recognises that Indigenous Peoples 'have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies' (art. 12) and 'to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands' (art. 25). For most Indigenous Peoples, the spiritual relationship with the land is an all-encompassing concept, intimately connected to their quality of life. From the secular standpoint of a 'Western' state, however, spirituality is seen as a private matter. As such, people should indeed be allowed to do whatever they like in this respect, as long as that remains within the law. For the states, therefore, recognising such a right is inconsequential. Furthermore, in many countries the religions of Indigenous Peoples are not recognised as such, but are generally and publically considered 'superstition' and 'idolatry'. What Indigenous Peoples see and experience as a sacred place the mainstream bourgeoisie would call a 'cave of the devil'. Keepers of traditional knowledge, the wise men and women of the community, the healers and midwives, are still often considered 'witches'.¹⁰ The

10. The Mixtec docudrama *Tiempo de Lluvia* (2017), written by Armando Bautista and directed by Itandehui Jansen, produced in the context of our ERC project, offers a totally different portrait of the Mesoamerican curandera.

religion of the colonised was and is not recognised as valid or respectable by mainstream society and the state; on the contrary, its non-Christian (diabolic, barbarian) character was and remains the main justification for conquest. In such cases, there is little basis for Indigenous Peoples to claim any right in this respect. The religious value (sacredness) of landscape, customs, artefacts and so on is not a serious consideration, neither in general social attitudes and mentalities nor in the justice system (in which 'religion' is generally the Christian religion).¹¹ In this way, a 'spiritual relationship with the land' is a total social fact for Indigenous Peoples, but only a minor pastime for the dominant class.

The national governments now play a double, hypocritical role: on the one hand they pretend to be democratic (maintaining the formal façade of elections, parliaments and so on) but on the other they are at the service of transnational companies in the expropriation, pillage and spoliation of their own country (hinterland). In this context they criminalise the resistance of local communities and militarise the regions where Indigenous Peoples live. The complexity of the situation makes it difficult for the representatives and advocates of Indigenous Peoples – generally operating from a marginalised position with the lack of human, technical and financial resources to counteract the main power structures and established interests in their country – to effectively defend the community resources and the communities themselves.

The Road Ahead

The UN Declaration on the Rights of Indigenous Peoples has the merit of having established a framework in which the problems can be defined and discussed. A crucial element is to focus on the accountability of governments in keeping their promises. It would be a severe blow to the credibility of the UN and to international legal order in general, if declarations such

as this one were to be generally supported in speeches but not practically implemented. The Declaration can become a lever to change the burden of proof to the governmental authorities: it is governments themselves who should demonstrate that they are operating with decency and seriousness, in accordance with the convened norms, rather than the victims having to prove and document the wrongdoings they suffer. By their own signature the states have recognised their responsibility in doing their part to overcome the problems set forth in the Declaration.

Thus, the Declaration provides the Indigenous Peoples with clear arguments that can mobilise shame among their oppressors. What are still missing, however, are efficient mechanisms to monitor the situation and to guarantee the implementation of these rights and principles. An important controllable step is, for example, the prescription that free previous and informed consent should be obtained from Indigenous Peoples before transnational companies, state institutions or other outside forces can realise projects that would impact their regions and livelihood. Typically the obligation to seek consent is still very little put in practice - and in these cases, it is generally done so through manipulation and deceit.

However, important advances have been gained. One positive point is the structural attention placed on this problem within the UN system, through the appointment of a Special Rapporteur, the creation of the Permanent Forum on Indigenous Issues (which holds annual sessions at the UN Headquarters in New York), the Expert Mechanism on the Rights of Indigenous Peoples (with annual sessions at the Palais des Nations in Geneva), together with international expert meetings on different topics that are important to Indigenous Peoples. Here, attention is paid to these matters in other relevant contexts (for example, biodiversity, language revitalisation, climate change, and food).

Over the past decades, Indigenous Peoples themselves have become increasingly organised, vocal and active in the international arena. They are also developing their own expertise, experience and theoretical perspectives, with which they now

11. The Christian domination in European colonial thought has, unfortunately, parallels in the religious intolerance of other cultures. Islamic rule has marginalized traditional knowledge as "pagan" in Asia and Africa as well. The governmental institutions of countries such as Japan and China show little respect or care for indigenous spiritual heritage. The state of Israel tries to monopolise memory by erasing histories of other religions, except, ironically, Christianity.

influence these debates. A series of anti-colonial authors have laid the basis for further critical reflection on and deconstruction of colonial and Eurocentric biases: the school of postcolonial thought.¹² From Indigenous Peoples' perspective it is important, however, to insist that the postcolonial situation is an ideal, but *not yet* a reality: the very existence of the problems that Indigenous Peoples face is proof of the on-going presence and impact of colonial structures and racist mentalities. The active term 'decolonial', or rather 'decolonising', is therefore programmatic, both in the sense of decolonising the traditional methodologies and of using methodologies that have a decolonising aim and effect. The classic work by Maori scholar Linda Tuhiwai Smith, *Decolonizing Methodologies* (1999), is a seminal analysis that points the way.¹³

The realities that Indigenous Peoples face are determined by a complex interaction of different cultural, historical, social, economic, political, psychological and other factors, which generally have a large part of their root in colonialism. As such, this calls for integrated decolonising analysis and practice. The academic world is called upon to overcome the still prevalent and influential colonial paradigm (the practice of outsiders turning indigenous cultures into mere objects of detached analysis), which has severely limited the interpretive scope and potential of scholarship and has had an alienating and excluding effect on descendant communities. In our own work on aspects of the cultural heritage of Indigenous Peoples in Mexico we notice very clearly that present-day popular perceptions of ancient societies and religions are heavily influenced by centuries of hostile colonial propaganda and a lack of intercultural comprehension – in a nutshell, by the *denial of coevalness* in past and present. One of the methodologically relevant consequences of this denial is the sharp distinction that is often made between ancient culture and descendant communities. Although historical continuity between ancient populations and present-day Indigenous Peoples (in language, territory, oral traditions and many other cultural aspects) is evident, this fact

is often neglected in the separation of disciplinary approaches: archaeologists study only the material remains of the pre-colonial past, historians the colonial documents, cultural anthropologists present-day indigenous society.

On the basis of our personal experience and analysis, we are convinced that the continuity of indigenous culture today holds many crucial keys for understanding the indigenous past, and vice versa.¹⁴ We, therefore, argue for a focus on that continuity and for a holistic approach to indigenous cultural and linguistic heritage *in* (and *on*) its own terms, taking into account its own cultural vocabulary and its own symbols and values. In order to achieve this, the full participation, on an equal footing, of indigenous specialists and communities is an obvious prerequisite. This approach should not be construed as mining the present for an understanding the past, nor as yet another way of making Indigenous Peoples an object of study. On the contrary, the interest in the present should be part of a decolonising perspective and practice, which seeks to include the indigenous interests and paradigms as well as the voice and active participation of indigenous experts and communities (cf. Watkins, 2001; Atalay, 2006 and 2012; see also Bruchac, Hart and Wobst, 2010). Here we connect with the recent development of a more community-centred and indigenous archaeology, following the impact of the Native American Grave Protection and Repatriation Act (NAGPRA). Similar developments are also taking place in sociological and art-historical studies (e.g. Ríos Morales, 2011, Van Kampen, 2012).

In Fabian's terms, we might say that the UN Declaration on the Rights of Indigenous Peoples promotes the establishment of a coeval relationship between Indigenous Peoples and the dominant groups in nation states, and more particularly between Indigenous experts and foreign researchers, in a common quest for dignifying indigenous culture by decolonising research. This direction is not only

12. See for example Bhabha (1994), Loomba (1998) and Nayar (2015).

13. See also Denzin et al. (2008), Grosfoguel (2011) and Mignolo (2012).

14. See our publications of 2011 and 2017. We have learned a lot from indigenous scholars working with us in the ERC project on time symbolism, such as Manuel May Castillo, Juan Carlos Reyes Gómez (2017) and Raúl Macuill Martínez (2017), as well as from research on the representation of indigenous themes in film (I. Jansen 2015).

a matter of social justice and professional ethics, but also an important issue for scientific development itself. The full and equal participation of indigenous experts in research has epistemological consequences (cf. McNiven, 2016).

Conversely, the study of ancient art, archaeology and history in connection with living heritage is important for the Indigenous Peoples today to validate social positions and foster cultural identities. Heritage, values and representation, consequently, become important topics of theoretical and comparative reflection. The issue of heritage connects our project to concerns about the rights of Indigenous Peoples vis-à-vis nationalist ideologies, and brings to the fore the implications of introducing and applying the voices and rights of (internally) colonised peoples in academic and social contexts. Conceived in this manner, academic research may bring to light important components of cultural memory, not just as items of humanist interest in the past, but as stimuli that evoke a sense of belonging and inspiration in an awareness-raising effort. In this way, the art-historical study may become a crucial ingredient in the decolonisation of culture and memory. Such a decolonising hermeneutical method evidently demands a critical assessment of the socio-economic and political factors that lead to injustices and human suffering. This method also calls for the engagement and active participation of indigenous experts and communities.

The main methodological practices of a decolonising approach may be summarised as follows:

- Definition of a research design in relation to the struggle for recognition and implementation of the rights of Indigenous Peoples; realisation of the research in cooperation with indigenous experts and/or communities.
- Deconstruction of colonial notions in cultural-historical sources (criticising and avoiding colonial and otherwise discriminatory terminologies, as well as alienated or alienating viewpoints in general).
- Focus on cultural continuity and intercultural equality in order to achieve a reintegration of memory and an interpretation of artworks in terms

of their own living culture (implying an emic and participatory approach).

- Concern for tangible and intangible heritage aimed at the continuation, dignification and validation of the culture and community in question, not as a static past but as an element for emancipatory education and creative elaboration directed towards the future.
- Contributing to the creation of conditions in which Indigenous Peoples and individual communities can be truly informed and can have a decisive voice in all matters that concern them. This involves procuring access, scholarships and a forum for experts who themselves belong to Indigenous Peoples, as well as promoting their professional training and active participation in and their direction of concrete projects.

Re-establishing a connection between past and present, between a community and (their knowledge about) its heritage, will lead to new concrete insights into the possible meanings of details of ancient art, artefacts and monuments. What we argue for is not just a revision of analytical techniques, but rather our quest is for a reflection on those meanings and on that past, so as to create another, more committed, attitude of identification with and care for the heritage (and the future) of the indigenous community. In this way, the main thrust of this approach does not only concern the remains of the past themselves, but also their value for constructing and reconstructing *communitas* within the social struggles of the present.¹⁵

Such a perspective is not common in archaeology or in the humanities, and may be criticised, even censured, as ‘mixing science and politics’ with all the difficulties, counteractions and boycotts that come from going against mainstream practice. The call for awareness and decolonisation, on the other hand, implies (self-) criticism and may have a disturbing effect on students, or even lead to despair: “what can I do about it?” Actually this is precisely the question – it should not be posed or taken in a rhetorical

15. See the original definition of the *communitas* concept by Turner (1975).

fashion, but should challenge students to start thinking independently and morally. There is no easy recipe in these matters, but situating one's research in this changing paradigm will trigger developments that will bring energy, a sense of purpose, and other unexpected, wonderful fruits.

LAND

2. Protection of Indigenous and Tribal Peoples' Cultural and Environmental Rights in Suriname

Challenges in the Implementation of the Judgment of the Inter-American Court of Human Rights in the *Saramaka* Case and Subsequent Decisions¹

Anna Meijknecht and Bas Rombouts

In the introduction of this book Jansen and Pérez Jiménez conclude that: “A decade after the adoption of the Declaration of the Rights of Indigenous Peoples, however, we observe that the implementation of these promises is completely lacking. On the contrary, there are numerous cases in which the most elementary principles are not observed.” This contribution focuses on recent judgments concerning cultural and environmental rights in Suriname and on the obstacles hampering the full implementation of these judgments.

The ground-breaking character of the 2007 *Saramaka People v. Suriname* decision is beyond doubt and has been underlined in subsequent international and national rulings and scholarly articles.² In this case the IACtHR elaborated on earlier decisions and proposed a framework of (a) participation and consultation, (b) social and environmental impact assessments and (c) benefit-sharing mechanisms, in order to deal with cases involving (development) projects on or near Indigenous Peoples' territories

in which economic, environmental and cultural interests need to be balanced carefully. The model that was suggested by the Court in the *Saramaka* case served as an example for the 2008 *Endorois v. Kenya* decision of the African Commission on Human and Peoples' Rights and the reasoning of the Court is fully in line with its earlier case-law concerning Indigenous Peoples' land rights (*Awes Tingni*, *Sawhoyamaza*, *Yakye Axa*, *Moiwana*) and later decisions (*Sarayaku*, *Kaliña and Lokono*).³

While the significance of the jurisprudence of the Inter-American Court concerning Indigenous Peoples' land rights is passed on amongst Indigenous Peoples and legal scholars internationally, it is often not realized that this jurisprudence is still not the end of Indigenous Peoples' struggles for the restitution or recognition of their ancestral lands. After the juridical decision both Indigenous Peoples and states are confronted with a new process: a land delimitation and demarcation process during

1. This contribution is partly based on a Report by Anna Meijknecht, Bas Rombouts, and Jacintha Asarfi for the International Law Association Subcommittee on the Implementation of the Rights of Indigenous Peoples in 2016. <http://www.ila-hq.org/en/committees/index.cfm/cid/1048>.

2. S.J. Rombouts, *Having a Say, Indigenous Peoples, International Law and Free, Prior and Informed Consent*, Wolf Legal Publishers, 2014 (Henceforth: Rombouts, 2014); Richard Price, *Rainforest Warriors, Human Rights on Trial*, University of Pennsylvania Press, 2010; Fergus MacKay, *Saramaka*, de Strijd om het Bos, KIT Publishers, 2010; M. Orellana, 'Saramaka People v. Suriname', *American Journal of International Law*, 102, 2008.

3. IACtHR, *The Mayagna (Sumo) Awes Tingni Community v. Nicaragua*, Judgment of August 31, 2001, Ser. C, No. 79. IACtHR, *Case of the Moiwana Community v. Suriname*, Judgment of June 15, 2005, Series C No. 124, Preliminary Objections, Merits, Reparations and Costs. IACtHR, *Case of the Yakye Axa Indigenous Community v. Paraguay*, Judgment of June 17, 2005, Series C No. 125, Merits, Reparations and Costs. IACtHR, *Sawhoyamaza Indigenous Community v. Paraguay*, Judgment of March 29, 2006, Ser. C, No. 146. IACtHR, *Case of Kichwa Indigenous People of Sarayaku v. Ecuador*, Judgment of June 27, 2012, Series C No. 245, Merits and reparations. IACtHR, *Case of the Kaliña and Lokono Peoples v. Suriname*, Judgment of November 25, 2015, Ser. C, No. 309, Merits, Reparations and Costs.

which they must cooperate. Cooperation on these matters between states and Indigenous communities establishes a new relationship characterized by specific requirements such as ‘full participation of the community’ and ‘as much as possible according to their traditions and customary law’.

The implementation of the *Saramaka* case has been, to say the least, ineffective thus far. Considering the innovative character of the Courts’ rulings concerning Indigenous land rights, it is plausible that their practical implementation at national level takes some time. However, the current implementation processes is becoming increasingly longer and it is to be feared that some judgments eventually will remain unimplemented.⁴ This phenomenon of long-lasting non-compliance has a devastating effect, in the first place on the physical, cultural and psychological survival of the communities concerned, but also on the biodiversity and natural resources in the territories concerned. Moreover, it undermines the credibility of international law, of the OAS Human Rights System, and of the trustworthiness of states.

While this study focuses on the *Saramaka* case and the following implementation process, the 2015 *Kaliña and Lokono Peoples* case and the pending case of *Maho* will also be taken into account in order to explore how Suriname could implement Indigenous peoples’ land and resource rights when economic activity is proposed to take place on Indigenous territories.

Judicial Mechanisms Revoked: The OAS Human Rights System and its Involvement in the Protection of Indigenous Peoples

The Organization of American States (OAS) includes two main institutions designed specifically for human rights protection and promotion: the Inter-

American Commission on Human Rights and the Inter-American Court of Human Rights. The main function of the Commission is to promote respect for and defence of human rights.⁵ In the exercise of its mandate the Commission is empowered, *inter alia*, to receive and act upon petitions that allege facts constituting violations of the substantive norms included in the American Declaration of the Rights and Duties of Man (ADRDM)⁶ or, in cases involving states parties to the American Convention, norms in that Convention.⁷

According to Article 44 of the ACHR, ‘any person or group of persons or nongovernmental entities legally recognized in one or more of the Member States of the OAS may submit such petition to the Commission, on their own behalf or on behalf of third persons.’⁸ Thus, since the claimant does not need to be a victim of violations of the ACHR or the ADRDM, complaints to the IACHR may be filed⁹ by individuals, groups and organisations who are legally recognized in at least one OAS member state¹⁰, other than the victims, and with or without the victims’ knowledge or consent.¹¹ However, as follows from the jurisprudence of the Commission this broad *ius standi* is not limitless: ‘with respect to the victim, it must be understood that the concept refers primarily to individuals, the Commission having no standing to consider petitions regarding legal entities’ with the (recent) exception of indigenous peoples and trade unions, who also have full access to remedies under the Inter-American System.¹²

The Inter-American Court of Human Rights began operating in 1979. The contentious jurisdiction of the Court is more limited than that of the Commission; it may only hear cases where the state

4. For instance, it took more than 7 years before the judgment in the *Awasi Tingni* case was fully complied with by the state. See for a description of the background of the case and titling ceremony: <<http://unsr.jamesanaya.org/opinions/nicaraguas-titling-of-communal-lands-marks-major-step-for-indigenous-rights>> (accessed 31 March 2016). So far, most subsequent rulings of the IACHR regarding indigenous peoples’ land rights, such as in the cases concerning the *Yakye Axa Indigenous Community* (2005), the *Moiwana Community* (2005), the *Saramaka People* (2007), the *Xákmok Kásek Indigenous Community* (2010) and the *Kichwa Indigenous People of Sarayaku* (2012) have remained largely unimplemented.

5. Art. 41 ACHR.

6. American Declaration of The Rights And Duties of Man, Adopted By The Ninth International Conference Of American States, Bogotá, Colombia, 1948.

7. Art. 44-51 ACHR, Art. 23 Rules of Procedure IACHR. Also see: Report No. 43/10, *Mossville Environmental Action Now v. United States*, March 17, 2010, para. 43.

8. Art. 44 ACHR.

9. According to Art. 46 sub d ACHR, the petition must contain the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

10. Art. 26 par. 1 Regulations of the IACHR.

11. Art. 44-47 ACHR and 26, 32-41 Regulations IACHR.

12. Report No. 88/03, Case 11.533, *Metropolitan Nature Reserve v. Panama*, October 22, 2003, para. 33. Inter-American Court of Human Rights, The Standing of Legal Entities in the Inter-American Human Rights System, Advisory Opinion OC-22/16, 26 February 2016, par. 71 ff. (only in Spanish).

involved has ratified the American Convention and has accepted the Court's (optional) jurisdiction.¹³ Furthermore, only the states parties and the Commission have the right to submit a case to the Court within three months of the release of the Commission's report.¹⁴ Thus, an individual, group or a petitioner may not independently bring forth a case to be considered by the Court.

In fact, the broad *ius standi* before the Inter-American Commission is enough to enter the OAS Human Rights System and this judicial opening is increasingly being used by various categories of petitioners in order to denounce policies and practices jeopardizing the survival of Indigenous Peoples in the Americas.

Applicable Law and Legal Interpretation

Within the OAS human rights system, legal provisions on which allegations of violations of specific Indigenous Peoples' rights could be based are not directly clear: neither the American Declaration of the Rights and Duties of Man (hereinafter: 'the American Declaration')¹⁵ nor the American Convention on Human Rights (hereinafter: 'the American Convention', or 'ACHR')¹⁶ contain provisions explicitly referring to Indigenous Peoples or their specific rights. As far as other OAS documents are concerned, Indigenous Peoples are only mentioned in Art. 9 of the Inter-American Democratic Charter, adopted on 11 September 2001, and the non-binding Proposed American Declaration on the Rights of Indigenous Peoples (1997).¹⁷ The latter document was approved by the Inter-American Commission on Human Rights on February 26, 1997, but the document has not yet reached its definitive version.¹⁸

The jurisdiction of the Court comprises all cases concerning the interpretation and application of the provisions of the ACHR.¹⁹ Petitions to the American Commission aiming to address situations concerning the physical or cultural survival of Indigenous Peoples must be based on articles of the Declaration, such as: Article XI, the right of every person 'to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care (...)', and Article XXIII, the right 'to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home', or on the provisions of the American Convention, such as: Article 4 (Right to Life), Article 8 (Right to a Fair Trial), Article 10 (Right to Compensation), Article 15 (Right of Assembly), Article 21 (Right to Property), Article 24 (Right to Equal Protection), and Article 25 (Right to Judicial Protection).

The Court ascribes autonomous meaning to the ACHR's provisions, independently of how a particular term is defined in the national context.²⁰ It also applies the 'living instrument doctrine' by which it affirms that the Convention's provisions are not static and their scope may change over time. Furthermore, the human rights entities of the OAS follow a universalistic approach, by which they rely on other international sources. Concretely, it means that the American Commission and Court are systematically using Article 29 ACHR²¹ as a tool to expand their respective mandates²² and invoke treaties and other sources outside the Inter-American system²³, such as ILO

13. Art. 62 ACHR.

14. Art. 51 par. 1 and 61 ACHR.

15. The American Declaration from 1948 is the first international document listing human rights and duties and is applicable to all the members of the OAS.

16. The American Convention entered into force in 1978 and contains both civil and political human rights and well as economic, social and cultural rights.

17. Proposed American Declaration on the Rights of Indigenous Peoples (Approved by the Inter-American Commission on Human Rights on February 26, 1997, at its 1333rd session, 95th Regular Session), OEA/Ser/L/V/II.95 Doc.6 (1997).

18. See: http://www.oas.org/dil/indigenous_peoples_preparing_draft_american_declaration.htm

19. Art. 62 par. 3 ACHR.

20. M. Killander, 'Interpreting Regional Human Rights Treaties, SUR' - *International Journal on Human Rights*, v. 7, n. 13, Dec. 2010, p. 163.

21. As regards the interpretation of the Convention, Article 29 ACHR appears to be a central tool for determining the ways in which the Convention should not be interpreted. Art. 29 ACHR reads as follows: No provision of this Convention shall be interpreted as: (...) b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party; c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

22. Lucas Lixinski, 'Treaty Interpretation by the Inter-American court of Human rights: Expansionism at the Service of the Unity of International Law', *EJIL*, Vol. 21 no. 3, p. 587 and 603.

23. V. De Oliveira Mazzuoli and G. De Faria Moreira Teixeira, 'Greening the Inter-American Human Rights System', *L'Observateur des Nations Unies*, 2012-2, Vol. 33, p. 312.

Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries²⁴ and the UN Declaration on the Rights of Indigenous Peoples.²⁵ In the *Saramaka* case, for example, the Court refers to elements of the UNDRIP as having gained the status of international custom, thereby contributing to shaping and interpreting international legal norms.²⁶

This active approach by the Court has been described by James Anaya as the post-modern realist method, a working method that includes interdisciplinary inquiries to determine how the law actually works or has worked in the past in relation to its effect on specific groups.²⁷ According to James Anaya, the realist model establishes three interpretative principles that are widely accepted in international adjudication.²⁸ Firstly, human rights provisions are to be interpreted in light of the overall context and object of the instrument of which they are a part. Secondly, the broader body of relevant human rights norms should be taken into account and thirdly, the relevant provisions are to be interpreted in the manner that is most advantageous to the enjoyment of human rights (the *pro homine* principle).²⁹ This evolutionary method of (purposive) interpretation, goes further than applying positive international law and progressively addresses the current problems of Indigenous Peoples.³⁰

Saramaka People v. Suriname

The following paragraphs will examine the IACtHR's 2007 *Saramaka* judgment in detail. After providing the historical and social context of Indigenous and Tribal Peoples in Suriname, the most relevant elements of the Court's decision will be analyzed. In paragraph 4, the implementation process following the decision will be examined.

Suriname: historical context

Following the colonial period, full independence from the Dutch was achieved in 1975 but after the initial positive reception, Suriname quickly fell into a political and economic crisis in the years 1975 – 1980.³¹ This was the catalyst for the 1980 coup which installed a *de facto* military regime in the period 1980 – 1987.³² The constitution that was quite similar to the Dutch constitution was suspended for a number of years after the infamous “Decree A” and Suriname's democratic aspirations seemed lost. Under pressure from the people and due to civil strife and economic downfall, the military regime agreed to a return to democratically chosen legislators and a new constitution in 1987.³³ The following turbulent period (1986 – 1993) was characterized by a new constitutional formula on the one hand and on the other by the conflict known as the “war of the interior”.³⁴ The new constitution departed from the old constitutional structure and created – under pressure from the military – a presidential democracy, in which the president wields executive power and legislative power is vested in the National Assembly (Nationale Assemblée), which still is the name of the parliament today.

The “war of the interior” was an uprising by – initially – several Maroon communities against the military rulers. The Maroons, led by Ronnie Brunswijk, fought a guerrilla war against the government troops of Dési Bouterse. The conflict had a disruptive effect on Suriname's economy and social life while it allowed illegal drug and weapons trade to flourish.

24. Report No. 75/02, Case 11.140, *Mary and Carrie Dann v. United States*, 2002, paras. 127-131;

IACtHR, *Case of Sawhoyamaya Indigenous Community v. Paraguay*, Judgment of 29 March 2006, Series C No. 146, at paras. 117, 119, 150, 151; IACtHR, *Case of Yakye Axa Indigenous Community v. Paraguay*, Judgment of 17 June 2005, Series C No. 125, at paras. 95, 96, 127, 130, 136, 150, 151, 163; IACtHR, *Case of Saramaka People v. Suriname*, Judgment of 28 Nov. 2007, Series C No. 172, paras. 92, 93, 130.

25. Lucas Lixinski, ‘Treaty Interpretation by the Inter-American Court of Human rights: Expansionism at the Service of the Unity of International Law’, *EJIL*, Vol. 21 no. 3, pp. 596-598.

26. Cf. International Law Association, Sofia Conference 2012, Rights of Indigenous Peoples, Final Report, part 6 and 7.

27. S. James Anaya, ‘Divergent Discourses About International Law, Indigenous Peoples, and Land Rights over Lands and Natural Resources: Towards a Realist Trend’, *Colorado Journal of International Environmental Law and Policy* 16, 2005, page 250.

28. S. J. Anaya, ‘Panel: Indigenous Rights, Local Resources and International Law, Divergent Discourses about International Law, Indigenous Peoples, and Rights over Lands and Natural Resources: Towards a Realist Trend’ (2005) 16 *Colo J Int'l Envtl L & Pol'y*.

29. *Ibid.*

30. Cf. IACtHR, *The Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, Judgement of August 31, 2001, Ser. C, No. 79 (2001), paragraph 148.

31. H. Buddingh, *De Geschiedenis van Suriname*, Nieuw Amsterdam/NRC boeken, 2012, pp. 297- 308.

32. *Ibid.*, Chapter 13.

33. < <http://pdba.georgetown.edu/Constitutions/Suriname/dutch.html> >

34. H. Buddingh, *De Geschiedenis van Suriname*, Nieuw Amsterdam/NRC boeken, 2012, pp. 354-362.

The conflict formally ended on 27 March 1991, when the peace talks at the town of Drietabbetje were finalized. The government of President Venetiaan ratified the peace treaty in August 1992. This slow return to a democratic regime, which continued over the years leading up to the new millennium, was also characterized by large scale corruption and drug trafficking, and the military continued to exercise substantial control over Surinamese politics. During the first years of the new millennium, Suriname has witnessed economic recovery and growth, but in recent years the country's economy is again staggering.³⁵

Indigenous and Tribal Peoples in Suriname

Suriname's dynamic history is characterized by different – voluntary and involuntary – immigration flows. During the colonial period, Africans were brought to Suriname by the Dutch to work on the plantations as slaves. Furthermore, large groups from China, India and Indonesia (Java) were brought to Suriname as indentured labourers by the Dutch Colonial authorities. More recently, considerable groups of Jewish, Lebanese, Guyanese and Brazilian people have settled there.

The original inhabitants of Suriname were a number of different Caribbean, Arawakan and Warao peoples. According to the 2012 census, Indigenous Peoples comprise approximately four percent of the Surinamese population or around 20,000 persons. There are four distinct peoples of sizable numbers Kaliña³⁶, Lokono, Wayana, Trio and associated peoples, e.g., Akuriyo, Tunayana-Katwena, Mawayana and Sik'iyana) living in around 51 villages. Suriname is also home to six Tribal Peoples referred to generically as Maroons: the Saramaka, Ndyuka, Matawai, Kwinti, Aluku, and Paramaka. They number approximately 117,500 persons, comprising 21 percent of the national population. These peoples are descendants of Africans who fled from the Dutch slave-plantations

to the rainforest in the 18th century and retained a large part of their distinct identity based on their West African origin.³⁷

Since both the Maroon and the Indigenous Peoples have no legal personality, they are also represented before the public authorities by different organizations like the Association of Indigenous Village Leaders in Suriname (VIDS) and the Association of Samaaka Traditional Authorities (VSG).³⁸ Currently, both indigenous and Maroon groups in Suriname again face problems that relate - among other things - to the absence of (constitutional or other) recognition of their juridical personality, the absence of collective rights to lands and resources, marginalization and lack of effective participation, effects of development projects and (illegal) resource extraction. A number of these issues were discussed by the Court in its groundbreaking "*Suriname*" judgments.

The Substantive Issues in the Saramaka Case

In the mid-1990s, the Surinamese government had granted a number of concessions for timber extraction to – among others – Chinese logging companies in areas where the Saramaka people reside. The affected communities had not consented to these activities and were neither informed nor consulted about the concessions. In fact, the Saramaka people only found out about the concessions when they discovered loggers – escorted by Surinamese soldiers - already employed on their territories.³⁹ When national remedies had failed, the Saramaka people filed a petition to the Inter-American Commission (IACHR) in 2000. The Commission referred the case to the Inter-American Court of Human Rights (IACtHR) in 2006.⁴⁰ On

35. *Ibid.*, pp. 359- 362, 376-378.

36. An alternative spelling of this name is Kari'na, which is generally used by the people themselves in Suriname. However, given that the spelling found in the title of the court case under discussion in this chapter is Kaliña, I am retaining this latter spelling for the sake of consistency.

37. A Report on the Situation of Indigenous and Tribal Peoples in Suriname and Comments on Suriname's 13th - 15th Periodic Reports (CERD/C/SUR/13 - 15) Committee on the Elimination of Racial Discrimination, 87 th Session (2015) by The Association of Indigenous Village Leaders in Suriname, The Association of Saramaka Authorities and The Forest Peoples Programme 14 July 2015, para. 6

38. VIDS: Vereniging Inheemse Dorpschoofden Suriname; VSG: Vereniging Saramakaanse Gezagsdragers. Furthermore, a number of NGOs represent the indigenous and tribal peoples in Suriname.

39. Forest Peoples Programme, *Inter-American Commission on Human Rights requests that Suriname suspend logging and mining concessions in Saramaka Maroon territory*, Press Release, 20th August 2002, www.forestpeoples.org.

40. IACtHR, *Case of Saramaka People v. Suriname*, Judgment of 28 Nov. 2007,

the 28th of November 2007 the Court issued its judgment in the case *Saramaka People v. Suriname*.⁴¹

The applicants alleged that Suriname had failed to recognize their collective land rights, which resulted in violations of Article 21 (the right to property) and Article 25 (the right to judicial protection) of the American Convention on Human Rights, in particular in relation to development projects and investment activities in the area inhabited by the Saramaka people.

The Court first had to deal with a lengthy set of preliminary procedural objections by the State of Suriname that related to: the lack of legal standing before the Commission and the Court;⁴² irregularities in the proceedings before the Commission;⁴³ non-compliance with certain time-limits;⁴⁴ non-exhaustion of domestic legal remedies;⁴⁵ duplication of international proceedings;⁴⁶ and lack of jurisdiction “ratione temporis”.⁴⁷

The preliminary objections were rejected and the Court stated eight substantive issues to be addressed. First, whether the Saramaka people are a tribal community; second, whether article 21 of the ACHR also protects tribal peoples; third, whether the State recognizes the communal or collective property rights of the Saramaka people; fourth, to what extent the Saramaka people are entitled to enjoy their natural resources; fifth, whether the State may grant concessions for extracting these resources; sixth, whether the current concessions are in line with the safeguards under international law; seventh, whether the lack of recognition of the Saramaka people as possessing juridical personality makes them ineligible to receive communal land title under domestic law; and lastly, whether there exist effective legal remedies in domestic law for the Saramaka people.⁴⁸

The Saramaka Judgment

In its judgment, the IACtHR reaffirmed the right to communal property under Article 21 of the American Convention on Human Rights for Tribal Peoples by stating that “the Court’s jurisprudence regarding Indigenous People’s right to property⁴⁹ is also applicable to Tribal Peoples because both share distinct, social, cultural, and economic characteristics, including a special relationship with their ancestral territories, that require special measures under international human rights law in order to guarantee their physical and cultural survival”.⁵⁰ The Court had little trouble in asserting that the Saramaka qualify as Tribal People, since it had already explained in the *Moiwana* case that the *Ndyuka Maroons* formed a tribal community.

Subsequently, the Court linked the juridical personality of the Saramaka people with their right to property and concluded that recognition of their juridical personality is necessary to ensure that the community, as a whole, will be able to fully enjoy and exercise their right to property.⁵¹

After acknowledging⁵² that the right to property is not absolute,⁵³ the Court added that a ‘crucial factor to be considered is whether the restriction amounts to a denial of their traditions and customs in a way that endangers the very survival of the group and of its members.’⁵⁴ Furthermore, the Court stated that members of Indigenous and Tribal Peoples have the right to own the natural resources they have traditionally used within their territory since: “Without them, the very survival of such peoples is at stake. Hence the need to protect the lands and resources they have traditionally used to prevent their extinction as a people.”⁵⁵ Subsequently, the

Series C No. 172.

41. *Ibid.*

42. *Ibid.*, paragraph 19 and 25.

43. *Ibid.*, paragraph 30.

44. *Ibid.*, paragraph 34.

45. *Ibid.*, paragraph 41.

46. *Ibid.*, paragraph 45.

47. *Ibid.*, paragraph 59.

48. *Ibid.*, paragraph 77. See: Rombouts, 2014, p. 253 ff.

49. IACtHR, *Case of the Mayagna Community Awas Tingni vs. Nicaragua*, Ser. C No. 79, Judgment of August 31, 2001, para. 148.

50. IACtHR, *Case of Saramaka People v. Suriname*, Judgment of 28 Nov. 2007, Series C, No. 172, par. 86.

51. *Ibid.*, para. 171.

52. *Ibid.*, para. 127.

53. As follows from Art. 21 sub b ACHR, a State may restrict the use and enjoyment of the right to property where the restrictions are: a) previously established by law; b) necessary; c) proportional, and d) with the aim of achieving a legitimate objective in a democratic society.

54. IACtHR, *Case of Saramaka People v. Suriname*, Ser. C No. 172, Judgment of November 28, 2007, para. 128.

55. *Ibid.*, paragraph 121, drawing on the *Yakye Axa* Case.

Court formulated three safeguards in order to guarantee that restrictions to the communities' property rights will not amount to a denial of their survival as a Tribal People⁵⁶:

First, the State must ensure the *effective participation* of the members of the Saramaka people, in conformity with their customs and traditions, regarding any development, investment, exploration or extraction plan (hereinafter "development or investment plan") within Saramaka territory. Second, the State must guarantee that the Saramaka people will receive a *reasonable benefit* from any such plan within their territory. Thirdly, the State must ensure that no concession will be issued within Saramaka territory unless and until independent and technically capable entities, with the State's supervision, perform a *prior environmental and social impact assessment*. These safeguards are intended to preserve, protect and guarantee the special relationship that the members of the Saramaka community have with their territory, which in turn ensures their survival as tribal people.⁵⁷

With regard to the requirement of ensuring the effective participation of members of the community in development plans within their territory, the Court explicated that the State has a *duty to actively consult* with the Saramaka people taking into account their traditional methods of decision-making. This duty requires the State to both accept and disseminate information, and entails constant communication between the parties.⁵⁸ The Court points out that these consultations must be 'in good faith, through culturally appropriate procedures and with the objective of reaching an agreement'. Furthermore, the Saramaka people must be consulted 'at the early stages of a development or investment plan, not only when the need arises to obtain approval from the community'.⁵⁹ Moreover, the State must 'ensure that members of the Saramaka people are aware of possible risks, including environmental and health risks, in order that the proposed development or investment plan is accepted knowingly and voluntarily'.⁶⁰

The Court added that the same safeguards and the same duty to consult apply regarding other concessions within Saramaka territory involving natural resources which have not been traditionally used by members of the Saramaka community, like gold, because their extraction will necessarily affect other resources that are vital to the way of life of the community, such as waterways.⁶¹ Finally, in a crucial consideration – taking into account art. 32 of the UNDRIP – the Court added that:

Regarding large-scale development or investment projects that would have a major impact within Saramaka territory, the State has a duty, not only to consult with the Saramakas, but also to obtain their free, prior, and informed consent, according to their customs and traditions. The Court considers that the difference between "consultation" and "consent" in this context requires further analysis.⁶²

The Court concluded that Suriname had violated the property rights of the members of the Saramaka people recognized in Art. 21 of the Convention. The Court considered that 'the logging concessions issued by the State in the Upper Suriname River lands have damaged the environment and the deterioration has had a negative impact on lands and natural resources traditionally used by members of the Saramaka.' Furthermore, 'the State had failed to carry out or supervise environmental and social impact assessments and failed to put in place adequate safeguards and mechanisms in order to ensure that these logging concessions would not cause major damage to Saramaka territory and communities'. Finally, the State did not allow for the effective participation of the Saramaka people in the decision-making process regarding these logging concessions.⁶³

In order to guarantee the non-repetition of the violation of the rights of the members of the Saramaka people and to ensure the recognition of their juridical personality, property, and judicial protection, the Court ordered the State, to take the following measures with regard to the members of the Saramaka people:

56. *Ibid.*, para.129.

57. *Idem*, emphasis added.

58. *Ibid.*, para. 133.

59. *Ibid.*

60. *Ibid.*

61. *Ibid.*, para.155.

62. *Ibid.*, para.134.

63. *Ibid.*, para. 154.

a) Delimit, demarcate and grant collective title over the territory in accordance with their customary laws, and through previous, effective and fully informed consultations with the Saramaka people, without prejudice to other tribal and indigenous communities;

b) Grant legal recognition of their collective juridical capacity pertaining to the community to which they belong, with the purpose of ensuring the full exercise and enjoyment of their right to communal property, as well as collective access to justice, in accordance with their communal system, customary laws, and traditions;

c) Remove or amend the legal provisions that impede protection of the right to property and adopt in its domestic legislation legislative, administrative and other measures to recognize, protect, guarantee and give effect to hold collective title of the territory;

d) Adopt legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their traditions and customs, or when necessary, the right to give or withhold their free, informed and prior consent, with regards to development or investment projects that may affect their territory, and to reasonably share the benefits of such projects with the members of the Saramaka people

e) Ensure that environmental and social impact assessments are conducted by independent and technically competent entities in order to minimize the damaging effects such projects may have upon the social, economic and cultural survival of the Saramaka people;

f) Adopt legislative, administrative and other measures necessary to provide the Saramaka people with adequate and effective resources against acts that violate their rights to the use of their property;⁶⁴

Additionally, the Court ordered the State to take measures of satisfaction, such as translating the judgment into Dutch and publishing this in the State's Official Gazette and one daily newspaper as well as

financing the broadcasts of several paragraphs in the Saramaka language. The material and immaterial damages were also awarded. The material damages were to be compensated by US\$ 75.000,00 and the immaterial damages by allocating US\$ 600.000,00 for a community development fund.⁶⁵

Tools to Monitor and Enforce Compliance with the Judgments of the IACtHR

The Inter-American Court has a number of ways to monitor compliance with its decisions. Article 68 of the American Convention obliges states to comply with the IACtHR judgments in any case to which they are party. In the case of *Baena Ricardo et al.* (270 Workers v. Panama) the Court explained in detail the basis for its authority to oversee implementation with its decisions and established that the IACtHR has inherent power to monitor states' compliance with its own judgments.⁶⁶ As stated in Article 63 of the Rules of Procedure of the Inter-American Court, monitoring compliance with the Court's judgments implies, first, that it must periodically request information from the states on the measures taken to comply with the said judgments, and then obtain the observations of the Commission and of the victims or their representatives. The Court can require information from other sources, such as expert declarations or reports it considers appropriate,⁶⁷ and can convene the parties to a hearing in order to monitor compliance with its decisions. In the context of such hearings, the Court does not merely take note of the information presented by the parties and the Commission, but also endeavours to establish collaboration between the parties suggesting options to resolve difficulties, encourages compliance with the judgment, calls attention to a lack of willingness to comply, and promotes the establishment of timetables for compliance by all those involved.⁶⁸

However, in case of failure to comply with the IACtHR judgments in contentious cases of breach of the ACHR or the Court's order of provisional measures,

65. *Ibid.*, par. 195-196.

66. IACtHR, *Case of Buena Ricardo et al vs Panama*, Judgment of November 28, 2003, Series C No. 104, paras. 26, 58 – 67.

67. Art. 30 par. 2 ACHR.

68. J.M. Pasqualucci, *The Practice and Procedures of the Inter-American Court of Human Rights*, 2nd edition 2013, pp. 58-67.

64. *Ibid.*, par. 194.

there are no effective tools to enforce sanctions: the American Convention⁶⁹ does not confer any duty to a political body within the OAS to ensure execution of the Court's judgments.⁷⁰ As follows from Art. 30 of the Statute of the Inter-American Court of Human Rights, every year the Court submits a report on its work to the OAS General Assembly indicating those cases in which a State has failed to comply with the Court's ruling. However, through its resolutions⁷¹ the General Assembly can only encourage the State in question to comply with the Courts' decision.⁷² So far 'these resolutions have not had a clear effect on implementation practices'.⁷³

The Implementation Process of the Saramaka Judgement

In monitoring the follow-up to its decisions, the IACtHR can issue monitoring reports to measure and expose the way in which the state complies with its judgments. Furthermore, the state may request an interpretation of the judgment from the Court if certain parts are unclear. Both follow-up mechanisms were used after the *Saramaka* judgment. Furthermore, the UN Special Rapporteur on the Rights of Indigenous Peoples – at that time James Anaya - visited Suriname and offered his technical expertise to help the state with the implementation of the verdict. Moreover, representatives of the Saramaka people also requested the Committee on the Elimination of all forms of Racial Discrimination (CERD) to consider their complaints about the lack of implementation of the *Saramaka* judgment under its Urgent Action and Early Warning Procedures. CERD also commented upon the judgment's follow-up on several occasions in the framework of the state reporting obligations to the ICERD.⁷⁴

Request for Interpretation of Judgment 2008

In 2008, Suriname requested the IACtHR for an interpretation of parts of the judgment, which the Court provided on August 12 of that year. Pursuant to Article 67 of the ACHR, the Court is mandated to interpret judgments if one of the parties files a request. The exclusive purpose of such an interpretation is to clarify the meaning of a decision when parties feel that certain operative paragraphs lack clarity of precision. Such a request for interpretation therefore cannot be used as a disguised form of appeal. The Court explained a number of issues regarding compensation, environmental and social impact assessments (ESIA's) and future concessions in Saramaka territory. Furthermore, it analyzed the issue of effective participation and the scope of the right to consultation and explained that:

In this regard, the Judgment orders the State to consult with the Saramaka people regarding at least the following six issues: (1) the process of delimiting, demarcating and granting collective title over the territory of the Saramaka people; (2) the process of granting the members of the Saramaka people legal recognition of their collective juridical capacity, pertaining to the community to which they belong; (3) the process of adopting legislative, administrative, and other measures as may be required to recognize, protect, guarantee, and give legal effect to the right of the members of the Saramaka people to the territory they have traditionally used and occupied; (4) the process of adopting legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their

69. Unlike Article 46 of the European Convention of Human Rights.

70. M. Kirilova-Eriksson, *At the Service of Human Rights, The contribution of the Human rights Bodies of the OAS to the Protection of Indigenous Peoples' communal Property*, Working Paper 2014:5, Uppsala Faculty of Law, 2014, p. 82.

71. *From Judgment to Justice Implementing International and Regional Human Rights Decisions*, Open Society Justice Initiative, Open Society Foundations, 2010, pp. 77- 78.

72. Art. 65 ACHR.

73. *From Judgment to Justice Implementing International and Regional Human Rights Decisions*, Open Society Justice Initiative, Open Society Foundations, 2010, p. 78.

74. IACtHR, *Case of The Saramaka People v. Suriname*, Judgment of August 12, 2008, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs. Concluding Observations of the Committee on the

Elimination of Racial Discrimination, Suriname, CERD/C/SUR/CO/12, 13 March 2009, Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Order of the President of the Inter-American Court of Human Rights of April 20, 2010, Case of the Saramaka People v. Suriname, Monitoring Compliance with Judgment. Order of the IACtHR, of November 23, 2011, Case of the Saramaka People v. Suriname, Monitoring Compliance with Judgment. A/HRC/18/35/Add.7, 18 August 2011, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, Measures needed to secure indigenous and tribal peoples' land and related rights in Suriname. Request for Consideration of the Situation of the Saramaka People of Suriname under the Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures submitted by the Association of Saramaka Authorities and the Forest Peoples Programme, 22 January 2012. Order of the IACtHR, of September 4, 2013, Request for provisional measures and monitoring compliance with judgment with regard to the republic of Suriname, case of the Saramaka people.

traditions and customs; (5) regarding the results of prior environmental and social impact assessments, and (6) regarding any proposed restrictions of the Saramaka people's property rights, particularly regarding proposed development or investment plans in or affecting Saramaka territory.⁷⁵

Furthermore, the Court reiterated in its interpretation judgment that "survival" entails more than just physical survival⁷⁶ and emphasized with respect to the land rights of the Saramaka people that:

Until said delimitation, demarcation, and titling of the Saramaka territory has been carried out, Suriname must abstain from acts which might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the territory to which the members of the Saramaka people are entitled, unless the State obtains the free, informed and prior consent of the Saramaka people. With regards to the concessions already granted within traditional Saramaka territory, the State must review them, in light of the present Judgment and the Court's jurisprudence, in order to evaluate whether a modification of the rights of the concessionaires is necessary in order to preserve the survival of the Saramaka people.⁷⁷

The Court explained that in implementing this criterion, the State should also apply it to any other Indigenous or Tribal Peoples in Suriname that are affected by development of investment projects.

Compliance Reports by the IACtHR 2010, 2011, 2013

Monitoring compliance with its judgment is a power inherent to the judicial functions of the IACtHR, and three compliance reports have been issued by the Court since its judgment: in 2010, 2011 and 2013 respectively.

In the first report, dated 10 April 2010, the Court stated that although some action had been undertaken, the majority of the orders of the Court had not been carried out. It continued to monitor compliance and convened a closed hearing at the seat of the Court in San José in May 2010. A second report followed in November 2011.⁷⁸ Although regular meetings between the representatives of the Saramaka people and government were held, the State has not complied with its duty to delimit, demarcate and title Saramaka land. A project called "Support for the Sustainable Development of the Interior" was stopped because it lacked adequate stakeholder support, but the State and Saramaka people had signed an agreement which included State assistance for the delimitation process.⁷⁹ But this was not enough to comply with the Court's orders, and the IACtHR stated that next to complying with the requirements mentioned, the State also had to report on the specific action it was to take related to consultation of the Saramaka people. Furthermore, since the State failed to meet the deadlines, it was ordered to submit a detailed schedule for compliance to the Court.⁸⁰

With regard to new and existing concessions, the Court warned Suriname that continuing with those activities, while Saramaka territory has not been delimited yet: "without the consent of the Saramaka and without prior environmental and social impact assessments, would constitute a direct contravention of the Court's decision and, accordingly, of the State's international treaty obligations".⁸¹ For each of these concessions, the State has to show the Court that it had ensured the Saramaka people's effective participation, that there was a benefit-sharing agreement concluded and whether ESIA's had been carried out in a proper way. Moreover, the Court ascertained that no progress was made in recognizing the Saramaka people's juridical personality.

Although the Court did not order provisional measures, it reiterated that the State has 'the constant and permanent duty to comply with its general

75. IACtHR, *Case of The Saramaka People v. Suriname*, Judgment of August 12, 2008, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs, pp. 5-6.

76. *Ibid.*, paragraph 37.

77. *Ibid.*, paragraph 55.

78. Rombouts, 2014, pp. 274-275.

79. Order of the IACtHR of November 23, 2011, *Case of the Saramaka People v. Suriname*, Monitoring Compliance with Judgment, pp. 6-7.

80. *Ibid.*, p. 8.

81. *Ibid.*, p. 10.

obligations under Article 1(1) of the Convention to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, in any circumstance.⁸² And that 'regardless of the existence of specific provisional measures, the State has the special obligation to ensure the rights of individuals in a situation of risk'.⁸³ Moreover, the Court reminded the State of its particular obligation of protection with regard to those whose work involves the defense of human rights,⁸⁴ hereby subtly reiterating its decision in the *Case of Kawas-Fernandez v. Honduras*.⁸⁵ The Court decided to continue monitoring the implementation of the *Saramaka* judgment and ordered the State to provide a report on the awarded mining concession.⁸⁶

On 28 May 2013⁸⁷, a private hearing on monitoring compliance in the *Saramaka* judgment was held in Port of Spain, which was attended by representatives of the Commission, the State, and the victims. As a result of this hearing the Court proposed to Suriname to establish a Commission consisting of government officials and members of the Tribal People, in order to set a timeline for the implementation of the judgment. According to the sworn testimony of Loreen Jubitana, the Director of the Secretariat of the national indigenous peoples' organization ("VIDS"), these commissions have still not been established and "the Government fails to implement actual policy and legislative changes or undertake a consistent, structured process towards the legal recognition of our rights ... hiding behind the argument that it is a 'sensitive' and 'difficult issue' or other excuses."⁸⁸

82. *Ibid.*, para. 9.

83. *Ibid.*, para. 10.

84. *Ibid.*, para. 17.

85. IACtHR, *Case of Kawas-Fernandez v. Honduras*, Judgment of 3 Apr. 2009, Series C No. 196, para. 140 and 145. In this case the Court emphasized the importance of protecting human rights advocates for the role they play in defending and promoting the rights in a democratic society and concluded that environmental defenders should be considered human rights defenders. The Court pointed also out that the States have 'the duty to provide the necessary means for human rights defenders to conduct their activities freely; to protect them when they are subject to threats in order to ward off any attempt on their life or safety; to refrain from placing restrictions that would hinder the performance of their work, and to conduct serious and effective investigations of any violations against them, thus preventing impunity.

86. Order of the IACtHR of September 4, 2013, Request for Provisional Measures and Monitoring Compliance with Judgment with regard to the Republic of Suriname Case of the Saramaka People, decision, par. 2 – 3.

87. Order of the Inter-American Court of Human Rights of September 4, 2013.

88. Cited in: A Report on the Situation of Indigenous and Tribal Peoples in Su-

CERD Monitoring Reports and Communications 2009, 2013, 2015

Besides recourse to the IACtHR, the Saramaka community also decided to seek the assistance of the UN Committee on the Elimination of Racial Discrimination. The Committee, after exploring the periodic reports of Suriname, had noted in 2009 that it was deeply concerned about the implementation of the *Saramaka* judgment and legislation on land and resource rights in a wider perspective.⁸⁹ The Committee stated that significant problems were caused by natural resource extraction - mainly logging and mining - on Indigenous and Tribal traditional lands. It expressed its concern about the lack of effective natural resource management legislation and policy.⁹⁰ It urged Suriname to take steps towards: "A comprehensive national land rights regime and appropriate relevant legislation with the full participation of the freely chosen representatives of indigenous and tribal peoples."⁹¹ All this should happen respectful of: "full compliance with the orders of the Inter-American Court of Human Rights in the *Saramaka people* case."⁹²

The Committee sent letters to the State in 2012 and 2013 in which it expressed its concern about the implementation process, in particular concerning the legal recognition of the collective juridical capacity of the Saramaka people and the communal and self-determination rights of the Saramaka people.⁹³ Furthermore, in relation to mining concessions in Saramaka territory, the community sent a request to the Committee for consideration under its Urgent Action and Early Warning Procedures in 2013: 'to avoid imminent and irreparable harm to the Saramaka caused by Suriname's active and persistent violations of the orders of the Court [...] by a massive expansion of large-scale industrial gold mining activities [by

riname and Comments on Suriname's 13th - 15th Periodic Reports (CERD/C/SUR/13 - 15) Committee on the Elimination of Racial Discrimination, 87 th Session (2015) by The Association of Indigenous Village Leaders in Suriname, The Association of Saramaka Authorities and The Forest Peoples Programme 14 July 2015, para 22.

89. CERD/C/SUR/CO/12, 12 March 2009, Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination, Suriname.

90. *Ibid.*, para. 12.

91. *Ibid.*, para. 13.

92. *Ibid.*, para. 13. Rombouts, 2014, pp. 275-276.

93. CERD/82nd/GH/MJA, 1 March 2013 and GH/SP, 9 March 2012.

IAMGOLD a Canadian mining company] and hydropower generation in Saramaka territory.’ In the request it was emphasized that ‘the Saramaka have not participated in any of these decisions and have explicitly objected to the hydropower project’.⁹⁴

In 2015, in its Concluding Observations on the combined thirteenth to fifteenth periodic reports of Suriname⁹⁵ the Committee expressed its deep concern about “the pervasive and persistent discrimination that characterizes the enjoyment of indigenous and tribal peoples’ property rights and about the absence of any specific legislative framework guaranteeing the effective enjoyment of their collective rights.”⁹⁶ It also noted that notwithstanding the fact that “Suriname is developing a protocol on free, prior and informed consent, the Committee is concerned that authorizations for mining and logging concessions, activities that pose substantial threats of irreparable harm to indigenous and tribal peoples, continue being granted to private companies without the free, prior and informed consent of the peoples concerned and without any prior impact assessment(arts. 2 and 5).”⁹⁷ As regards the implementation of decisions of the Inter-American Court of Human Rights the Committee “expresses serious concern about the delay, and the lack of any concrete information indicating real progress made, in implementing these decisions.” Further, the Committee expressed serious concerns in relation to the recognition of the collective juridical capacity of the communities, possible new concessions and the absence of effective legal remedies.⁹⁸

Report and Visit of the UN Special Rapporteur, 2011

In March 2011, James Anaya, the former UN Special Rapporteur on the Rights of Indigenous Peoples (UNSRIP), visited Suriname, after the Government

of Suriname requested his technical and advisory assistance in developing a legal framework for securing Indigenous and Tribal rights.⁹⁹ The following report by the Special Rapporteur provides observations and recommendations to assist Suriname in the development of laws and administrative measures to secure indigenous and tribal peoples’ rights, in particular their rights over lands and natural resources.¹⁰⁰ The Rapporteur mentions that:

In light of the Moiwana and Saramaka judgments, the Special Rapporteur is of the opinion that priority should be placed on developing specific legal provisions for (1) a procedure to identify and title indigenous and tribal lands; and (2) a procedure to follow for consulting with and seeking consent of indigenous and tribal peoples for resource extraction and other activities affecting their lands and resources.¹⁰¹

In relation to the land titling process, Anaya explains that although there is some flexibility allowed, there are a number of minimum components that such a process should entail:

It could be expected, nonetheless, that the procedure for land demarcation and titling would contain, at a minimum, the following components: (a) identification of the area and rights that correspond to the indigenous or tribal community, or group of communities, under consideration; (b) resolution of conflicts over competing uses and claims; (c) delimitation and demarcation; and (d) issuance of title deed or other appropriate document that clearly describes the nature of the right or rights in lands and resources.¹⁰²

The overall goal of these processes is to “provide security for land and resource rights in accordance with indigenous and tribal peoples’ own customary laws and resource tenure.”¹⁰³ While Anaya’s findings provide helpful guidance for the implementation

94. Request for Consideration of the Situation of the Saramaka People of Suriname under the UN Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures, 12 February 2013. For further information on this IAMGOLD ‘case’ see: Report on observations to communications sent and replies received by the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, A/HRC/27/52/Add.4, 3 September 2014, para. 162-165. Also see: [https://spdb.ohchr.org/hrdb/24th/public_-_AL_Suriname_04.04.13_\(1.2013\).pdf](https://spdb.ohchr.org/hrdb/24th/public_-_AL_Suriname_04.04.13_(1.2013).pdf)

95. Adopted by the Committee at its eighty-seventh session (3-28 August 2015).

96. CERD/C/SUR/CO/13-15, paras. 22- 23

97. CERD/C/SUR/CO/13-15, para. 25

98. CERD/C/SUR/CO/13-15, para. 29- 37.

99. Rombouts, 2014, pp. 277-281.

100. A/HRC/18/35/Add.7, 18 August 2011, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum, Measures needed to secure indigenous and tribal peoples’ land and related rights in Suriname.

101. *Ibid.*, para. 35.

102. *Ibid.*, para.36.

103. *Idem.*

process, his subsequent offer to provide the State with further assistance went unanswered. After this visit the State observed that the UNSRIP visited Suriname in 2011 to provide technical assistance as “it develops the legislative and administrative measures necessary to secure the territorial and other rights of the ITPs [Indigenous and Tribal Peoples] of Suriname.”¹⁰⁴ However, in 2015 in a Report on Suriname submitted to the CERD by several civil society organisations it was sharply pointed out that the Government failed to mention, “that it has not implemented any of the UNSRIP’s recommendations, is not now discussing any of his recommendations, nor has it drafted one single word of any of the legislative or other measures ordered by the IACTHR, even though the associated deadlines all expired long ago.”¹⁰⁵

National Initiatives by the Government of Suriname

On the national level, the Government of Suriname has taken several initiatives with regard to the *Saramaka* judgment of 2007. In 2010, the Government of Suriname indicated that the issue of Indigenous and Tribal peoples is a priority and as such this was also mentioned in the Coalition Agreement of 2010-2015¹⁰⁶, in which it is clearly stated that a solution should be found for this issue.

Another initiative is the land rights conference which was held on 21 and 22 October 2011. This conference was intended to facilitate the national debate concerning the collective land rights of Indigenous and Tribal Peoples in accordance with the judgment. The issue of land rights of these peoples is considered to be a national issue; therefore the main purpose of this conference was to create sufficient support by means of starting a national dialogue between all the stakeholders. This conference is said to have been organized with the Indigenous and Tribal People and they presented their views at the conference. However, the conference did not meet the intended expectations and was terminated prematurely by the President.

In 2015, the Coalition Agreement of 2015-2020¹⁰⁷ states that the issue of land rights - namely 1) the granting of a proper title, 2) the tension regarding the issuance of mining rights as well as forestry rights and 3) the conservation and protection of the traditional communities - should be solved within this period. In this regard, the constitutional recognition of Tribal People, the criteria established by law in order to qualify as such, and the reorganization of the gold sector will be important. Notwithstanding these national initiatives the Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities and The Forest Peoples Programme concluded in their report to the CERD in July 2015, that “with regard to the judgments of the IACTHR in *Moiwana Village* and *Saramaka People*, Suriname claims that it is “in the process of implementing both judgments... with the participation of the relevant stakeholders.” “However, this claim does not stand up to scrutiny: the State has failed to comply with all of the fundamental orders in these judgments and this has been confirmed by the IACHR (in June 2015) and IACTHR. Also, there is no extant process, participatory or otherwise, aimed at their implementation or otherwise meaningfully aimed at recognizing and securing ITPs’ rights. Additionally, the deadlines imposed by the IACTHR for compliance with its various orders all expired over six years ago in *Moiwana Village* and more than four and one half years ago in *Saramaka People*. There is no reasonable explanation for this substantial delay provided anywhere in the State Party report or elsewhere, nor is there any rational excuse that could justify this substantial derogation from the State’s international obligations.”¹⁰⁸

Analysis: Causes and Consequences of Delayed and Partial Implementation of the Saramaka Judgement

By January 2016, 9 years after the Court’s Judgment in the *Saramaka case*, the government had taken the following measures of satisfaction and had awarded the following material and immaterial damages:¹⁰⁹

104. CERD/C/SUR/13-15, para. 15-6.

105. CERD/C/SUR/13 - 15, para 12.

106. *Regeer Akkoord 2010-2015*, available at: http://atm.gov.sr/media/29956/1._regeerakkoord_2010-15.pdf

107. *Regeer Akkoord 2015-2020*, p. 8, available at:

<http://www.gov.sr/media/3045311/regeerakkoord-2015-2020.pdf>

108. CERD/C/SUR/13 - 15, 14 July 2015, paras. 9, 22-28, 42-59.

109. Information obtained from the interview with Mr. Misiedjan and members

- In 2009, the community development fund was established called “Stichting Fondsonwikkeling Samaaka Gemeenschap”;
- The material damages of US\$ 75.000,00 and the immaterial damages of US\$ 600.000,00 were paid entirely and transferred to the community development fund;
- Payment of US\$ 15.000,00 compensation to the Forest People Programme;
- Payment of US\$ 75.000,00 compensation to the Association of Saramaka Authorities, the VSG (“Vereniging van Saramakaanse gezagsdragers”);
- The operative paragraphs of the judgment were published in the State’s Official Gazette in June 2010. The judgment has also been published in two local daily newspapers in May 2010;
- In 2010, several paragraphs were broadcast in the *Saramaka* language as well as two other local languages through various radio stations.
- With regard to the legislative measures concerning the juridical personality and communal property rights, the work is still in progress according to the Bureau for land rights.

This overview raises the question as to why the crucial and substantive elements of the measures ordered by the Court¹¹⁰ have remained largely unimplemented, notwithstanding, inter alia, an additional interpretation of the judgment by the Court; monitoring reports measuring and exposing the way in which Suriname complies with the judgment; the UN Special Rapporteur on the Rights of Indigenous Peoples visiting Suriname and offering his technical expertise to help Suriname with the implementation of the verdict; involvement of the Committee on the Elimination of all forms of Racial Discrimination (CERD) under its Urgent Action and Early Warning Procedures, and several national government plans and measures.

According to the Presidential Commissioner (hereinafter: “the Commissioner”), interviewed in January 2016 in Paramaribo,¹¹¹ “the compliance with the judgments of the IACtHR brings many challenges for Suriname”. He emphasized that “the government of Suriname is working on a proper and satisfactory solution without creating social turmoil. Furthermore, he indicated that the State is working out the possibilities of acknowledging the collective rights of the Indigenous and Tribal People within the legal system. This, he emphasized, will certainly have to be done in dialogue with the people concerned.”

As regards the “obligations to delimit, demarcate and grant collective title over the territory in accordance with their customary laws, and through previous, effective and fully informed consultations with the Saramaka people, without prejudice to other tribal and indigenous communities”¹¹² the Commissioner mentioned that “up till now, one of the main obstacles hampering the implementation, which was also conveyed to the IACtHR, is that there is no overall consensus among the Indigenous and Tribal People on certain issues. For instance, there are diverging opinions among these people concerning the maps of the territories in order to demarcate their traditional lands.”

As far as the obligation “to grant legal recognition of the collective juridical capacity pertaining to the community to which they belong, with the purpose of ensuring the full exercise and enjoyment of their right to communal property, as well as collective access to justice, in accordance with their communal system,

111. Interviews were conducted in Suriname from 13-15 January 2016. Due to privacy reasons, the names of the interviewees of the Ministries of Foreign Affairs and Regional Development are not mentioned in this article. The Ministry of Foreign Affairs of Suriname is the diplomatic channel and is mainly in charge of the correspondence between the Inter-American Human Rights institutions and the national institutions such as the Bureau for land rights. The Ministry of Regional Development is mostly in charge of the affairs of indigenous and tribal people and maintains contact with these people. This ministry was also in charge of implementation of, for instance the *Saramaka* case. This was the case until the Bureau for land rights was established in 2013. The Bureau for land rights (*Bureau Grondenrechten*) was established by Presidential Decree in 2013. In accordance with this Decree, a Presidential Commissioner has been appointed from April 1, 2013. The task of this Commissioner is formulated in general terms and consists of providing information as well as supporting and advising the Government on matters relating to, in particular, the administrative or constitutional field. This Decree does not explicitly mention the land rights of indigenous or tribal people and reference is made to developments which can influence society in the short and long term.

112. IACtHR, *Case of Saramaka People v. Suriname*, Ser. C No. 172, Judgment of November 28, 2007, para.194.

of the Bureau for land rights on 15 January 2016.

110. See para. 3.4. of present ILA contribution.

customary laws, and traditions”¹¹³ is concerned, the Commissioner explained that the legal status of the traditional authorities “is also on the list of the Government of Suriname.”

As regards the obligations to “remove or amend the legal provisions that impede protection of the right to property and adopt in its domestic legislation legislative, administrative and other measures to recognize, protect, guarantee and give effect to hold collective title of the territory”¹¹⁴, the Commissioner mentioned that the drafting of legislation on granting collective rights to Indigenous and Tribal People is in progress and that the State is in favour of an integral approach, which means a solution not only for the Saramaka people but for all the Indigenous and Tribal People. According to the Commissioner, “the Governments’ main question concerns how the State can adapt its legislation in accordance with the *Saramaka* judgment, while keeping in mind the national interests of all its citizens as well as the principles and rules of the parliamentary democracy”.¹¹⁵ What if implementing the *Saramaka* judgment to the letter will adversely affect the foundations of the existing order in Suriname?¹¹⁶ These concerns have been voiced to the IACtHR at the hearing of 28 May 2013 in Costa Rica. The Commissioner indicated that “the State is willing to implement the *Saramaka* judgment in such a manner that it is satisfactory to all its citizens including the Indigenous and Tribal People”.

Another point of concern for the government is the fact that “the legislative measures as ordered by the IACtHR require that probably constitutional procedures should be followed in order to enact new legislation or amend existing ones. Implementation of certain parts of the judgment may possibly lead to an adjustment of the current Constitution of Suriname. The State has also communicated to the IACtHR that the current Constitution was adopted by 98% of the Surinamese population as a result of a referendum held on 30 September 1987.”¹¹⁷

As far as the government is required to “adopt legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their traditions and customs, or when necessary, the right to give or withhold their free, informed and prior consent, with regards to development or investment projects that may affect their territory, and to reasonably share the benefits of such projects with the members of the Saramaka people”¹¹⁸ the Commissioner stated that “the Indigenous and Tribal People are regularly consulted on matters relating to their habitat. He refers to the meetings between the Ministry of Regional Development and the traditional authorities of the various indigenous and tribal tribes concerning issues related to development of their respective areas. He also mentioned that it is not clear whether, after the *Saramaka* judgment, the State has granted any concessions for timber in the areas which are perceived as tribal land.¹¹⁹ According to the Commissioner, a model is being developed concerning the concept of Free, Prior and Informed Consent (FPIC), to which he refers as the “FPIC Protocol”. The creation of a mechanism on benefit sharing is also set in motion by the State. With regard to this mechanism, the State is also considering a way in which the people in the interior can benefit directly, besides the general benefits resulting from the activities of the multinationals. It should be noted that the consultation mechanism of FPIC as well as the conducting of ESIA’s need a legal basis in national law, which is not the case yet”.

As regards the obligations “to ensure that environmental and social impact assessments are conducted by independent and technically competent entities in order to minimize the damaging effects such projects may have upon the social, economic and cultural survival of the Saramaka people”¹²⁰, the

113. *Ibid.*

114. *Ibid.*

115. From the Statement Agent of the State of Suriname at the hearing in Costa Rica, on 28 May 2013.

116. *Ibid.*

117. Statement by the Agent of the State of Suriname at the hearing of 28 May

2013 in Costa Rica.

118. IACtHR, *Case of Saramaka People v. Suriname*, Ser. C No. 172, Judgment of November 28, 2007, para. 194.

119. Compare with: Request for Consideration of the Situation of the Saramaka People of Suriname under the Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures submitted by the Association of Saramaka Authorities and the Forest Peoples Programme, 22 January 2012, paras. 29-33.

120. IACtHR, *Case of Saramaka People v. Suriname*, Ser. C No. 172, Judgment of November 28, 2007, para. 194.

Commissioner stated that “these are conducted before the start of projects in the hinterland. The State hires consultants to perform these impact studies and the National Institute concerning the environment and development (NIMOS)¹²¹ is in charge of evaluating the ESIA’s. According to the Commissioner several ESIA’s have been conducted recently by various multinationals, which were evaluated by the NIMOS. He also mentions that it is not clear whether the multinationals meet the requirements of such ESIA’s before starting their activities.

Unfortunately, the Commissioner did not provide information on the question as to whether the government has adopted legislative, administrative and other measures necessary to provide the Saramaka people with adequate and effective resources against acts that violate their rights to the use of their property.¹²²

The description above reveals four main issues, which according to the Commissioner complicate the implementation of the Judgment: 1) the lack of overall consensus among the Indigenous and Tribal People on certain issues; 2) the fact that the State is in favour of adapting its legislation in line with the *Saramaka* judgment through an integral approach, thus solving the issue for all Indigenous and Tribal Peoples of Suriname; 3) the fact that Suriname, while implementing the *Saramaka* decision, also wants to keep in mind the national interests of all its citizens as well as the principles and rules of the parliamentary democracy; 4) the fact that the current Constitution of Suriname possibly needs to be revised.

Consequences of Delayed and Partial Implementation of the Saramaka Judgment

In 2012, in their request to the CERD, the representatives of the Association of Saramaka Authorities and the Forest People Programme stated that “Suriname’s protracted refusal to take any meaningful action to implement the judgment perpetuates and exacerbates [their] suffering and the

denigration of the basic cultural and spiritual values held by the Saramaka. The same may also be said for all indigenous and tribal peoples in Suriname, who are all in the same position and who have all strived for recognition of their rights for many decades only to be rebuffed, frustrated and denied at every opportunity by the State.”¹²³ In 2016, the lack of full compliance with the Courts’ rulings continues to affect the physical and cultural survival of the Saramaka communities as well as the environment and natural resources in the areas concerned.

Moreover, the lack of compliance by the State undermines the trustworthiness of the State. The Court, in its consecutive monitoring reports, had to conclude over and over again that the failure to implement its Judgments constitutes a violation of Suriname’s international treaty obligations. Moreover, the Court had to remind Suriname that according to international law, states cannot invoke their domestic laws to escape pre-established international responsibility.¹²⁴

Finally, as formulated by Kirilova-Eriksson: ‘Needless to say, substantial delays and unsolved cases may create a high number of repetitive cases and thereby jeopardize the Court’s effectiveness in the long run.’¹²⁵

Kaliña and Lokono Peoples v. Suriname

The Court’s Judgment in the *Kaliña and Lokono Peoples case* (2015) constitutes such a repetitive case against Suriname. On behalf of the Kaliña and Lokono people of the Lower Marowijne River, eight traditional leaders, the Association of Indigenous Village Leaders in Suriname and the Lower Marowijne Indigenous Lands Rights Commission filed a petition to the Commission of the Inter-American Court of Human Rights (IACHR) on

121. Dutch: Nationaal Instituut voor Milieu en Ontwikkeling in Suriname (NIMOS)

122. IACtHR, *Case of Saramaka People v. Suriname*, Ser. C No. 172, Judgment of November 28, 2007, Para. 194.

123. Request for Consideration of the Situation of the Saramaka People of Suriname under the Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures submitted by the Association of Saramaka Authorities and the Forest Peoples Programme, 22 January 2012, paras. 34-35.

124. Article 27 Vienna Convention on the Law of Treaties, in force since 27 January 1980. Suriname acceded to this Convention on 31 January 1990.

125. M. Kirilova-Eriksson, *At the Service of Human Rights, The contribution of the Human rights Bodies of the OAS to the Protection of Indigenous Peoples’ communal Property*, Working Paper 2014:5, Uppsala Faculty of Law, 2014, p. 244.

February 16, 2007.¹²⁶ The Commission referred this case to the Inter-American Court of Human Rights (IACtHR) on January 28, 2014.¹²⁷ In 2015, the Inter-American Court on Human Rights (IACtHR) issued its judgment on the merits, reparations and costs in the case of the *Kaliña and Lokono Peoples v. Suriname*.

The Kaliña and Lokono peoples are known as the “Lower Marowijne Peoples”. Their complaints concern alleged violations of their territorial rights resulting from the establishment of three nature reserves and mining operations, as well as granting property titles over parts of their lands to third parties. The Kaliña and Lokono were unable to bring their grievances before national authorities since they do not possess legal personality and recognition of their collective land rights.¹²⁸ The IACtHR ruled that Suriname was responsible for violations of the right to recognition of juridical personality (Art. 3), the right to collective property and political rights (Art. 21 and 23) and the right to judicial protection (Art. 25).¹²⁹

With regard to the right to collective ownership, the Court concluded that the State’s failure to delimit, demarcate and grant title to the territory of the Kaliña and Lokono peoples – like in the *Saramaka* case - violated the right to collective property recognized in Article 21 of the American Convention and the obligation to adopt domestic legal provisions established in Article 2.¹³⁰ The Court furthermore indicated that the State should also respect the rights of Maroon communities in the area.

The case is also similar to the *Saramaka* judgment, because it concerns a lack of recognition of the juridical personality which in its turn prevents the recognition of the collective ownership of their ancestral territories.¹³¹ Therefore, it is not surprising

that the Court follows the same reasoning as it did in the *Saramaka* judgment, by declaring that the State has to grant the Kaliña and Lokono peoples legal recognition of collective juridical personality, delimit and demarcate the traditional territory of the members of the Kaliña and Lokono people, as well as grant them collective title to that territory and ensure their effective use and enjoyment thereof, taking into account the rights of other tribal people in the area and create a community development fund for the members of the Kaliña and Lokono people.¹³²

Furthermore, the State has to establish, through the competent authorities, how the territorial rights of the Kaliña and Lokono people will be protected in cases in which the land claimed is owned by the State or by third parties, and take the appropriate measures to ensure the access, use and participation of the Kaliña and Lokono people in the Galibi and Wane Kreek Nature Reserves, as well as take the necessary measures to ensure that no activities are carried out that could have an impact on the traditional territory, in particular in the Wane Kreek Nature Reserve. The State should also implement sufficient and necessary measures to rehabilitate the affected area in the Wane Kreek Nature Reserve and implement the necessary inter-institutional coordination mechanisms in order to ensure the effectiveness of the measures established above, within three months.¹³³

Importantly, the Court reaffirmed the *Saramaka* criteria and stated in operative paragraph 16 that:

The State shall take the necessary measures to ensure: (a) effective participation processes for indigenous and tribal peoples in Suriname; (b) the execution of social and environmental impact assessments; and (c) the distribution of benefits, as appropriate, as established in paragraphs 305.d of this Judgment.¹³⁴

126. http://www.corteidh.or.cr/docs/casos/articulos/seriec_309_ing.pdf, p.4

127. *Ibid.*, p. 6

128. IACtHR, Case of the *Kaliña and Lokono Peoples v. Suriname*, Official Summary Issued by the IACtHR, Judgment of November 25, 2015.

129. *Ibid.*, paras. 1-3.

130. http://www.corteidh.or.cr/docs/comunicados/cp_01_16_eng.pdf

131. In contrast with the *Saramaka* judgment, an on-site visit to Suriname was conducted by the Inter-American Commission in this case. The purpose of the on-site visits to Member States by the Commission is to conduct an in-depth analysis of the general situation and/or to investigate a specific situation.

132. IACtHR, Case of the *Kaliña and Lokono Peoples v. Suriname*, Judgment of November 25, 2015, Merits, Reparations and Costs, paras. 5-11.

133. http://www.corteidh.or.cr/docs/casos/articulos/seriec_309_ing.pdf, p. 83-84.

134. IACtHR, Case of the *Kaliña and Lokono Peoples v. Suriname*, Judgment of November 25, 2015, Merits, Reparations and Costs, para. 16. Furthermore, the Court stated in paragraph 17, that: “The State shall implement permanent programs or courses on the human rights of indigenous and tribal peoples, as established in paragraph 309 of this Judgment.”

This paragraph illustrates clearly that the implementation of this judgment is closely tied to the implementation of the *Saramaka* judgment and the recognition of Indigenous and Tribal Peoples' rights in the whole of Suriname, especially regarding the granting of collective titles to ancestral territories but also in relation to the recognition of juridical personality and rights to effective participation and consultation. The Presidential Commissioner indicated that the process to enact legislation on a collective land rights regime is still in progress.

The Court found in the case of the *Kaliña and Lokono Peoples* that pursuant to its case law, as well as other relevant international standards, domestic remedies have to be applied in order to ensure the human rights of Indigenous Peoples in Suriname.¹³⁵

Maho Indigenous Community v. Suriname

A third – also repetitive – case, that is still pending before the Court, concerns the Kaliña indigenous community of Maho and the Association of Indigenous Village Leaders in Suriname, who filed a complaint to the Inter-American Commission on Human Rights on 16 December 2009.¹³⁶ The IACHR declared this petition admissible on 19 March 2013.

In this case, the petitioners argue that the State has allegedly granted concessions and permits to third parties to allow them to exploit the land, territory and natural resources that the Community has traditionally occupied and used.¹³⁷ According to information obtained from the Bureau for land rights,¹³⁸ the State and the Kaliña indigenous community of Maho and its members are in the process of a friendly settlement in accordance with Article 40 of the rules of procedures. On 21 October 2015, a meeting was held in Washington D.C., and the IACHR was informed about the status quo of the friendly settlement. According to the Bureau for land rights, there is currently (January 2016) a proposal of the Maho Indigenous Community, which is being

discussed by the appropriate institutions of the State. The Bureau indicated that both the State and the Maho Indigenous Community will discuss this proposal on a date to be determined later. Unfortunately, according to a recent IGWIA report: “Another long-standing case concerning the community of Maho[...] did not move at domestic level. These and other issues led VIDS but also VSG, the Association of Saramaka Authorities, to issue a joint letter to the President of Suriname, Mr. Desiré Bouterse, stating that they are no longer willing to work with the presidential commissioner on land rights[...], who took a strong, negative position against the Indigenous Peoples in these and other cases.”¹³⁹

Concluding Remarks

This contribution focused on the Indigenous Peoples' land rights judgments concerning Suriname and in particular on the *Saramaka People v. Suriname* case and on the obstacles hampering the full implementation of this judgment. Considering the innovative character of the Court's rulings concerning Indigenous land rights, it is plausible that their practical implementation on national level takes some time. However, almost ten years have passed since the *Saramaka* Judgment and the Government of Suriname has still not managed to fully implement any of the substantive parts of the ruling. Among other things, it has been unable to provide the legislative basis for recognising and securing Indigenous and Tribal rights in Suriname. This situation remains, notwithstanding international expertise offered by the UN Special Rapporteur; several detailed monitoring compliance reports by the IACHR; involvement of the CERD; questions from other States in the context of the Universal Periodic Review system; national governmental plans, conferences and measures; and even the submission to the State for its consideration of several draft laws on indigenous and peoples' rights drafted by Indigenous and Tribal Peoples and their organisations.

From the interview with the Surinamese Presidential Commissioner it becomes clear that, 10 years after

135. IACtHR, Case of the *Kaliña and Lokono Peoples v. Suriname*, Official Summary Issued by the IACtHR, Judgment of November 25, 2015.

136. Report No. 9/13, Petition 1621-09, Admissibility *Maho Indigenous Community v. Suriname*, March 19, 2013, p.1

137. *Ibid.*

138. See note 111.

139. IGWIA “Indigenous World 2016”, p. 141, available at: http://www.iwgia.org/iwgia_files_publications_files/0740_THE_INDIGENOUS_ORLD_2016_final_eb.pdf

the Judgment, Suriname is still willing to comply with its international treaty obligations, but that it considers 1) compliance with the judgments of the IACtHR an issue bringing “many challenges for Suriname”; 2) that the government of Suriname tries to reconcile two disparate elements, insisting “on a proper and satisfactory solution without creating social turmoil”; 3) that the Government, so far, has been unable to work out in visible legislative measures the acknowledgment of the collective rights of the Indigenous and Tribal people within the legal system.

The ongoing lack of full compliance with the Court's rulings affects the physical and cultural survival of the Saramaka Indigenous communities as well as the environment and natural resources in the areas concerned. Moreover, it undermines the trustworthiness of the State and creates repetitive cases – the case of the *Kaliña and Lokono* people and the *Maho Indigenous Community* case. All three cases reveal a structural problem involving a lack of recognition in domestic law of the juridical personality and right to collective property of Indigenous and Tribal Peoples in Suriname. Given the negative experience with the implementation of the *Saramaka* case, the 2015 victory in the *Kaliña and Lokono* peoples case, hailed as “an absolute high-point and provid[ing] a big boost to the morale of Suriname's indigenous peoples”¹⁴⁰, might easily turn into another source of disappointment.

‘Achievements at the international level may be curtailed by unwilling governments as well as domestic authorities and courts. Decisions of international monitoring mechanisms at times and on different occasions have been seen by some governments as an intrusion into their domestic affairs.’¹⁴¹ This observation by Maja Kirilova – Eriksson bears specific relevance to the implementation processes of rulings concerning Indigenous Peoples. In those cases the lack of political will is a problem driven by economic and political

gains associated with Indigenous Peoples, their lands, and natural resources, and cannot be curtailed by the OAS system. However, the very protracted and cumbersome implementation process following the *Saramaka* Judgment is not only an indicator of an ‘unwilling government’, but ultimately also of the weakness of the human rights system of the OAS.

According to Article 27 of the Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. Moreover, as follows from articles 1 and 2 of the IACHR: “Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.” These rules of international law make crystal-clear that all arguments put forward by the Government of Suriname in order to explain its failure to implement the rulings of the Court, cannot negate the fact the Suriname is continuously violating its international treaty obligations.

In 2015, the Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities and The Forest Peoples Programme, noting the State's admission that it has yet to “make an attempt to implement the conclusion of the judgment” concluded in their report to the CERD, that the “intent of the State in raising these issues appears to be to reject the judgment of the Court as an imposition that it does not agree with and that, in its view, its legislative body would not agree to endorse. It is ‘undemocratic’ in the sense that the State neither agrees with the judgment nor wants to comply with it”.¹⁴²

At this point however, the lack of strong compliance mechanisms within the OAS system becomes painfully visible. As pointed out in paragraph 3.5, in case of failure to comply with the IACtHR judgments in contentious cases of breach of the

140. IGWIA “Indigenous World 2016”, p. 142.

141. M. Kirilova-Eriksson, *At the Service of Human Rights, The Contribution of the Human Rights Bodies of the OAS to the Protection of Indigenous Peoples' Communal Property*, Working Paper 2014:5, Uppsala Faculty of Law, 2014, p. 77.

142. CERD/C/SUR/13 - 15, 14 July 2015, para 14.

ACHR or the Court's order of provisional measures, there are no effective tools to enforce sanctions: the American Convention does not confer any duty to a political body within the OAS to ensure execution of the Court's judgments.¹⁴³

In 2010, Richard Price concluded as follows: "Suriname has done little to abide by the Court's judgment, other than to assert its good intentions. It has complied with the easiest of the rulings..." and he continued: "The Saramakas and other Suriname Maroons will need to be vigilant in seeing that Suriname implements the Judgment of 2007 (and the Interpretive Judgment of 2008). The coming several years will be pivotal, on the ground in Suriname, in determining whether the rulings of the Court in San José have the desired local effects. The Saramaka leaders, negotiating with the government of Suriname, will need to draw on all their considerable political and warrior skills to assure that their abstract legal victory brings the desired concrete benefits to their long-suffering but proud people."¹⁴⁴ In 2017, unfortunately, these conclusions have not (yet) lost their validity.

143. *Ibid.*, p. 82.

144. Richard Price, *Contested Territory: The Victory of the Saramaka People vs. Suriname*, Prepared for Simpósio Internacional: Territórios Sensíveis: diferença, agência e transgressão, Museu Nacional, Rio de Janeiro, 15 June 2009.

3. Projected Futures for the Orang Rimba of Sumatra (Indonesia)

Gerard A. Persoon and
Ekoningtyas Margu Wardani

At the end of October 2015 the President of Indonesia, Joko Widodo, popularly known as Jokowi, paid a visit to the Orang Rimba in the Province of Jambi, Sumatra (Indonesia). It was an historical visit: for the first time in Indonesian history the country's president visited the group of hunter-gatherers who are usually classified as the country's most 'primitive people'. During his visit, which was widely publicized in the national media and the presidential facebook page, he offered the Orang Rimba houses, employment and educational facilities. He stated: 'We have to manage this so that they have houses and are not moving around. We also need to think about their source of income and education for the children.' He also ordered his subordinates to provide facilities for the indigenous people such as water and electricity. His visit took place at a time when large parts of Sumatra and Kalimantan were blanketed in haze as a result of the widespread fires in the island's forests and peatlands (The Jakarta Post 31, October 2015).

The presidential visit was remarkable as never before in history had an Indonesian president made an effort to visit this nomadic tribe. However, the visit was not remarkable in the sense of what was being discussed. Permanent housing, education and modern facilities to bring the Orang Rimba into mainstream Indonesian society has for a very long time been the dominant projected future for the Orang Rimba. This kind of development perspective has been the main orientation in all governmental plans since the late 1960s.

In this contribution we discuss how various people, governmental, agencies, missionaries and other institutions have been thinking, writing and developing policies for the future of the Orang Rimba over an extended period of time. It is evident that these projected futures have changed over time but rarely have they taken into account how the Orang Rimba themselves think about the times ahead. Towards the end of the chapter we will come back to how we should understand the reactions of the Orang Rimba towards decades of efforts to change their future in a direction that would have taken them away from their semi-nomadic and adaptive way of life in the lowland rainforests of Sumatra in which they still live at present.

The Orang Rimba were formally known as the Kubu (in colonial times also spelled as Koeboe or Koeboes). In the 1960s and 1970s the Indonesian government started to call them Suku Anak Dalam. But nowadays the people themselves prefer to be called Orang Rimba ('People of the Jungle'). For that reason we will consistently use this term in this chapter, also when referring to the colonial and later periods. In the ethnographic and policy literature as well as in the Indonesian media all three terms are still being used.

This chapter is based on fieldwork among the Orang Rimba in a number of periods. The first author conducted fieldwork in Jambi in the mid-1980s (1984, 1985 and 1987) and during a few short visits in later years. The second author worked among the Orang Rimba in 2006 and 2007 and did extensive field work in the years 2012-2016 for her PhD dissertation (Wardani, forthcoming).



Figure 3.1: Digging up *diascorea* tubers (Persoon, 1986).

The Orang Rimba

The Orang Rimba of the central part of Sumatra (Jambi Province) are originally a group of hunter-gatherers. Even though their history is not well-known, early reports on the Orang Rimba indicate that have lived in the lowland forests of Central Sumatra for centuries. Some authors argue that they are descendants of people who have fled into the forest in order to escape from slavery, while others argue that they have left agricultural settlements in order to become specialized hunter-gatherers as has also been suggested for several other hunter-gatherer societies (Schebesta, 1925; Sandbukt, 1988; Prasetyo, 2015). At present the Orang Rimba number of few thousand people. The conditions in which these people live however vary widely as a result of a range of causes. Traditionally they lived in relatively simple huts in small groups consisting of a number of families. They made a living by hunting forest animals such as wild boar, monkeys, deer and a number of smaller animals such as rats and snakes. In the past a spear used to be their main weapon, but nowadays many Orang Rimba avail of locally fabricated shot guns. They were not familiar with bows and arrows nor with blow pipes as hunting weapons. In addition to the bush meat, the Orang Rimba also collected wild tubers, forest fruits, honey, fish and mollusks for their daily food intake. For a long time the Orang Rimba have resisted the cultivation of food crops such as rice or corn just as they did not keep domesticated animals such as chickens, goats or cows. However, already since quite a number of decades this type of livelihood is no longer possible because of the

changes in the environment and the encroachment into their territory by outsiders.

The changes in the living conditions of the Orang Rimba are in the first place to be ascribed to the large scale logging operations that have taken place since the early 1970s. In the wake of the logging companies, large areas were converted into rubber and palm oil plantations or they were prepared as transmigration sites for people from Java and Bali through official governmental programmes. Relatively few people survive in more or less intact rainforest that has been declared as a protected area, a reserve or even a national park. Most of them however survive in a strongly modified landscape, which has been transformed dramatically compared to the original lowland forests that used to dominate the landscape in this part of Sumatra (Whitten *et al.* 2000).

As a result of this transformation the population density in the area has rapidly increased over the last few decades. Not only have the Malay people increased in numbers as the dominant ethnic group in Jambi, the influx of transmigrants and so-called spontaneous migrants have turned the Orang Rimba into a numerically small and weak population that survives at the edges of settlements and plantations, or in the remaining patches of disturbed rainforest or in some protected areas. In the past the settlements of Malay people were located on the banks of the major rivers, which also allowed for some irrigation of their rice fields. The Orang Rimba used to live inside the rainforests at some distance from the Malay communities. For trade purposes they would visit the settlements to exchange forest products for other commodities such as tobacco, sugar, coffee, cloth, and machetes. To some extent the Orang Rimba were also being hired as daily laborers to work in agricultural fields or the rubber gardens of the Malay peasants.

Early Forecasts

At the end of the 19th century and the first decades of the 20th century there was a relatively large interest in the Orang Rimba. These were the times of evolutionary thinking about cultures and societies. The simple lifestyle of the Orang Rimba and what was called 'the early forms of civilization and



Figure 3.2: Limited material possessions are crucial to maintain a mobile lifestyle (Persoon 1984).

religion' attracted quite a bit of attention from the early ethnographers and colonial civil servants. Another interesting aspect of their culture was the so-called silent trade with outsiders, the silent exchange of forest products by the Orang Rimba for other articles without actually meeting the traders. Interesting studies were written by Winter (1901), Hagen (1908), Van Dongen (1906, 1910 and 1912) and Volz (1909). It was not uncommon in those days to make a distinction between two types of Orang Rimba, the 'wild' and the 'tame' Orang Rimba. The basis of the distinction was the degree of assimilation into the Malay world as everybody was expecting that in the end the Orang Rimba would either completely assimilate into the world of the Malay villages or they would go extinct. The 'wild' Orang Rimba were the people who still were roaming around in the forests, living a nomadic way of life of hunting and gathering and with only very little interaction with the outside world. In many of these studies the authors were also speculating about the possible future of the Orang Rimba. But just like in many other cases of hunter-gatherer societies the idea prevailed that these people would become extinct in a relatively short time. A senior official of the Dutch government, for instance, stated:

"The original Koeboe, who are at the lowest level of civilization, will soon be extinct. This 'Naturvolk' is one of the few remaining 'Schlocken' of the great civilization process of humanity that is rapidly expanding."

(Kol, 1912, our translation).

A mining engineer, Van Waterschoot van der Gracht 1915, who was exploring the central part of Sumatra for oil fields also had a number of encounters with Orang Rimba. He remarked that:

"As untamed children of nature they live hidden in the forests, with hardly more needs than wild animals and living exclusively from the little food that these forests provide, and in which a non-native would not find anything eatable and would undoubtedly die from starvation. ... This interesting people is disappearing fast and will be swallowed in front of our eyes by the all-encompassing process of 'civilization'."

(Van Waterschoot van der Gracht, 1915: 220 and 225)(our translation).

Another author was considering whether or not the colonial government had a role to play in the assimilation process and in the end he came to the conclusion that:

"We don't need to do this in order to bring these peace loving and well-willing forest dwellers to 'culture', which will undoubtedly make them unhappy. Soon this tiny people, the only people that lives in real peace, that does not know lie, nor hate, nor animosity, will be extinct."

(Adam, 1928: 299)(our translation).

A few decades later and after numerous failed efforts to persuade the Orang Rimba to become rice farmers and live in orderly settlements, government officials were still faced with what they called 'wild and nomadic' Orang Rimba. Sometimes the suggestion was raised that the government would give up its efforts to bring these people to civilization. After another incident with a group of 'wild' Orang Rimba a civil servant wrote:

"These are deplorable and desperate people who do not want to give up their freedom and laziness. Most likely it is a group that will become smaller and smaller and that will be threatened on the one hand by the feared assimilation with the Malay population and on the other hand by the daily lack of food. Should the government provide assistance?"



Figure 3.3. Picking up durians inside the forest of Bukit Duabelas (Wardani, 2015).

I don't think so: the hunger will eventually force them to give up their freedom (which is by the way very limited). ... Assimilation under certain conditions is to be preferred: the state of nature of the Koeboes is not very ideal.'

(Keereweer, 1940: 394-395)(our translation).

In the period leading up to, as well as during, the Japanese occupation in Indonesia (1942-1945) there were very few publications about the Orang Rimba. In the first decades after Indonesian independence hardly any research was done among the Orang Rimba. Many people assumed that the process of assimilation and integration of the Orang Rimba into Malay society progressed during those years. The first reports that appeared about the Orang Rimba were written by the Department of Social Affairs as part of the preparation for the resettlement of the Orang Rimba into new villages, in which special development programmes were going to be implemented (Departemen Sosial, 1973 and 1974). It would take quite a few years before modern anthropological research among the Orang Rimba was started again (Kamocki, 1979; Sandbukt, 1984, 1988 and 2000; Persoon, 1989 and 1994; Muntholib, 1995).

Major Changes

As mentioned above, in the decades following Indonesian independence (1945) not much was written about the orang Kubu, as they were still called at that time. However in the 1950s and 1960s, a small number of reports about the Orang Rimba were produced, along with some governmental efforts to settle these nomadic people permanently.



Figure 3.4: An encounter between employees of a logging company and some Orang Rimba (Persoon, 1984).

It would take quite a number of years before these efforts would really take off. The Department of Social Affairs was put in charge of the process of civilization and development of all the country's isolated communities (*suku-suku terasing*). In the early 1970s resettlement projects were constructed for the Orang Rimba. The idea was that the people would give up their nomadic way of hunting and gathering in favor of a sedentary life in villages at a relatively small distance from settlements of the dominant Malay people. Background studies were made on the identified positive and negative aspects of the lifestyle of the Orang Rimba. These projects would always involve about 50-100 houses. During a number of years the inhabitants would receive aid goods, such as food and agricultural tools, in order to encourage them to take up agriculture. A number of such resettlement villages were actually built. Many of these projects however were not successful. After a relatively short period the Orang Rimba would go back to the forest and take up their traditional lifestyle again. They preferred to live in relatively simple huts or lean-to's and roam around in the forest. The future as projected by the Department of Social Affairs did not coincide with the preferred lifestyle of the Orang Rimba themselves. The Department's ultimate aim was to integrate the Orang Rimba into mainstream Indonesian social, economic and cultural life. In this part of Sumatra, assimilation would certainly mean 'becoming like the Orang Malayu', in terms of the language spoken (*Bahasa Indonesia* or *Bahasa Malayu*), the food eaten (rice and other cultivated foods instead of 'wild food'), the religion (Islam), the settlement patterns in tidy villages with schools,

mosques and other community buildings and the lifestyle of small peasants, partly incorporated into the cash economy through the cultivation of crops such as rubber and the collection of non-timber forest products (like rattan, *damar*, forest fruits, honey).

Though the Orang Rimba were among the very first ethnic groups to be identified by the government as being in urgent need of civilization and development, and numerous efforts have been made to settle them, the resettlement villages have not generally been successful (Departemen Sosial, 1985). In various documents reasons are given as to why this is the case. They refer to arguments such as the fact that the Orang Rimba are not used to the heat, the regular work rhythm in the agricultural fields. Mention is often made of the tradition of *melangun*, as the reason for why people do not stay in a permanent settlement. The tradition of *melangun* refers to the custom of moving away from their dwelling place when a family member has passed away. This is done during a long period of mourning.

One conclusion however is not mentioned and that is the fact that the Orang Rimba generally prefer their traditional lifestyle to living in a permanent settlement with many people from other ethnic groups. For many Malay people as well as for Javanese and Balinese transmigrants, the Orang Rimba are still considered as being primitive and dirty. Orang Rimba do not feel comfortable in these settlements as they feel that they are looked down upon or feel they are being discriminated as 'primitive people'.

While the aim of the Department of Social Affairs was to explicitly create a new future for the Orang Rimba, the impact of other causes of change were mainly felt indirectly. The large-scale logging operations that were started in the 1970s never had an explicit focus on the Orang Rimba. The impact of logging and the establishment of plantations for oil palms or rubber trees as well as the large-scale transmigration sites was largely indirect. The state granted concessions to the logging companies or made land use plans for transmigration sites all based on the assumption that the state forest lands were 'empty' (*tanah kosong*). The presence of the Orang Rimba was never a problematic issue in itself while considering

the granting of such concessions. In addition, the 'problem' of these forest dwelling communities was supposed to be solved through the resettlement programme of the Department of Social Affairs.

As a result of a few decades of this type of land use transition, the lowland forests of Jambi have drastically been converted into oil palm and rubber plantations, and transmigration sites where thousands of migrants from Java and Bali have found a new home. In addition, the Malay farmers and numerous spontaneous migrants from many parts of the country have entered Jambi in search of arable land. The Orang Rimba were in many cases forced to adjust to these changing environmental conditions by moving into new areas or by changing their ways of living. They have done so in a variety of ways because it was simply impossible to continue to live just by hunting and gathering alone. Some have done so by starting slash and burn agriculture for the cultivation of cassava and upland rice. More recently others have started planting rubber trees thereby creating clear evidence of cultivation of the land which is a requirement for claiming land rights. In this way the Orang Rimba, faced with dramatic changes in the landscape, have created new options for themselves as an alternative to complete integration.

Another type of future for the Orang Rimba was also strongly promoted through missionary activities of Christian churches. The Orang Rimba were officially considered as 'people without a religion', and for that reason they were subject to missionary activities of various organizations. In some case these activities were undertaken by Indonesian protestant churches such as the HKBP, GKI and others. These churches are based in North Sumatra and send out missionaries to communities that are supposedly still 'pagan'. To some extent these projects are successful and they create small Christian enclaves in the middle of the dominant Muslim Malay population. This difference in religion (and therefore also the difference in preferred food etc.) limits the possibilities for real integration into the Malay communities. The Christian enclaves are being served by protestant ministers from North Sumatra. The religious organizations sometimes receive money from abroad for their missionary activities.



Figure 3.5: Orang Rimba boys selling medicinal plants and begging on a bus terminal along the Trans Sumatra Highway (Persoon, 1992).

Bukit Duabelas Reserve

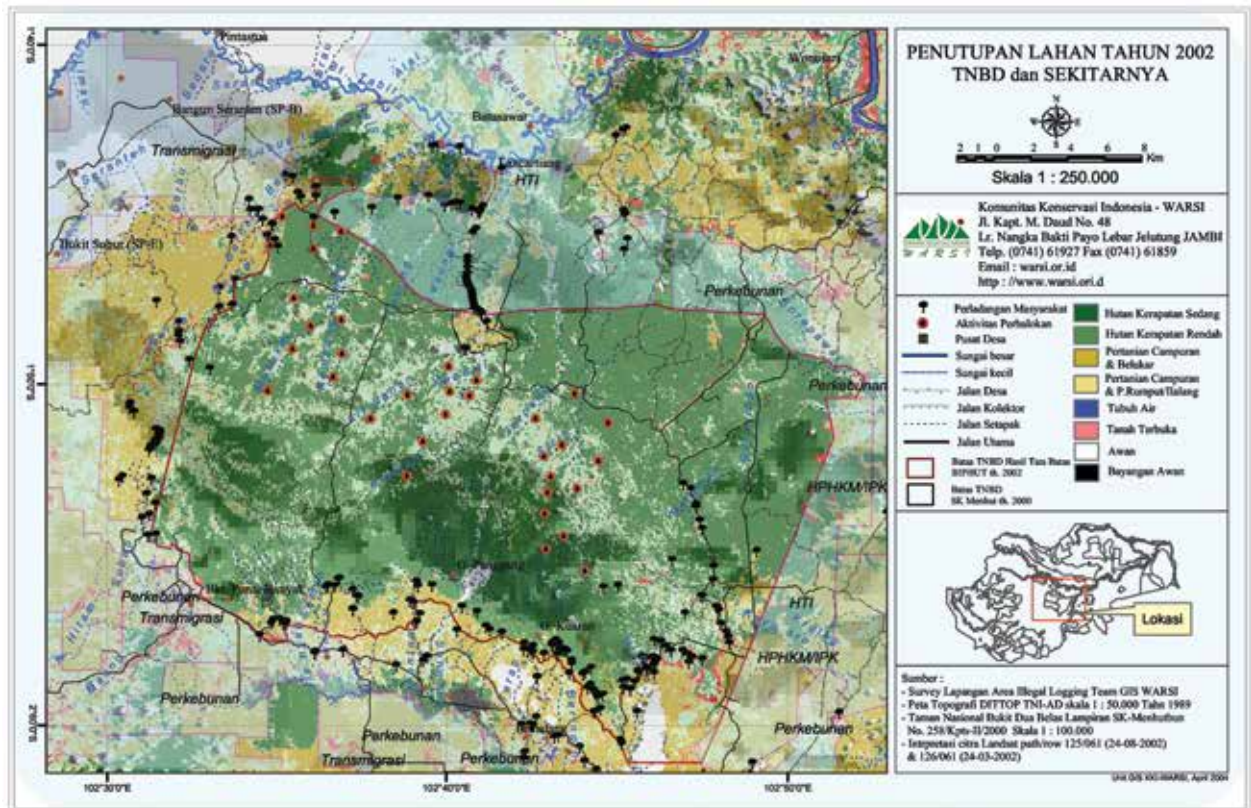
To a large extent the lowland forests of Central Sumatra were subject to heavy logging operations and conversion into other forms of land use (plantations and transmigration sites). In addition, the construction of the Trans Sumatra Highway and its web of connecting roads from the north of the island to the southern tip, created new opportunities for migrants and landless peasants in search of arable land. People from various parts of the country worked their way into the forests in the wake of the logging companies and road builders.

At the same time nature conservationists also started to express concern about the massive onslaught on the island's forests and biodiversity. This also had a direct impact on the environment of the Orang Rimba, though they availed of little means to protest against transformations in their landscape. Supported however by the Nature Conservation Department of the Ministry of Forestry and their *jenang* (Malay middlemen), efforts were made to start a discussion about the need for protection of at least part of their territory. The deplorable situation of the Orang Rimba, begging along the highways or hanging out near bus terminals in transmigration sites, helped to increase awareness among some policy makers, including those from the Ministry for the Environment. Eventually in the mid-1980s, a relatively small area in the central part of Jambi was declared as a protected area. This area is called Bukit Duabelas and consists of a small mountain range in

the middle of a large peat swamp between Jambi's main rivers, Batanghari and Tembesi. Initially the protected area was 28,900 ha. The protected status implied that logging activities would be prohibited but also that Malay farmers from the villages along the Air Hitam River would not be allowed to expand their rubber gardens into that area. Though the protected status of Bukit Duabelas was of course extremely important, the area itself was too small to provide sufficient opportunities for the three major groups of Orang Rimba living in the area to continue their traditional lifestyle. For their daily needs they were still forced to search for food in the area north of the protected area in which logging companies were operating. Initially the park was a protected area but with the support of the Ministry of Forestry and the Environmental Ministry it was given the status of a *cagar budaya*, a cultural reserve, meant for the Orang Rimba. At the same time the area was also expanded to 60,500 ha. Soon after that came a decision to classify the protected area as a national park.

This happened also at a time when environmental organizations and the Ministry for the Environment were changing their perspective on the relatively simple lifestyle of the Orang Rimba and similar groups in the Indonesian archipelago. In the year 2000 a leader of one of the three groups that lives inside and near the Bukit Duabelas reserve was invited to Jakarta to receive the Kehati Award from the then president of Indonesia, Megawati Sukarnoputri. The Orang Rimba leader, *temenggung*¹ Tarib was praised for the sustainable lifestyle of his people and for the contribution they had made to the actual protection of the Bukit Duabelas reserve. He received the award, which consisted among other things in a substantial amount of money that was meant to be used for the benefit of his people. The former Indonesian minister for the environment, Emil Salim, was also present during the award ceremony at the presidential palace, as were several other high ranking officials. We believe it was for the very first time, officially, that the way of life of the Orang Rimba was not condemned with words such as 'primitive' or

1. *Temenggung* is the title given to the leader of a group of Orang Rimba that lives within a (part of a) watershed. The community can count up to a few hundred people.



Map 3.1. Land use in 2002 in National Park Bukit Duabelas and its surroundings. In the legend a differentiation is made between various types of roads and settlements. Logging activities are also indicated. The various colours refer to the types of vegetation: relatively dense forest, disturbed forest, mixed agriculture and secondary forest, mixed agriculture and grasslands. Source: WARSI, 2002.

‘backward’, but in positive terms. Moreover, the way of life of the Orang Rimba could serve as an example for other Indonesians. A Jambi based NGO, called WARSI, was instrumental in promoting the cause of the Orang Rimba and through its networking it facilitated a substantial part the granting of the award to *temenggung* Tarib.

In 2006 the same *temenggung* Tarib was invited again to come to Jakarta in order to receive an award from President Susilo Bambang Yudhono. This Kalpataru Award is a governmental award granted to an individual or an organization for making an outstanding contribution to preserving the environment. Tarib became the recipient of this award for his role in setting up a kind of buffer zone (*hompongan*) at the edge of the Bukit Duabelas National Park by connecting the agricultural fields of the Orang Rimba to each in order to prevent outsiders from encroaching into the protected area.

Again, the award ceremony was widely publicized and contributed substantially the reputation of Tarib as one of the most prominent leaders of the Orang Rimba (Prasatijo, 2015: 193).

The Present Situation

The Orang Rimba are mainly living in the forested areas of Jambi province in small groups of people following river branches or sub-river branches that support their way of life. They live on undulating land that lies between Batanghari River and the foothills of Bukit Barisan Hills. In general and for descriptive proposes, the Orang Rimba can be divided into three groups: those that live in Taman Nasional Bukit Duabelas (TNBD), other groups that live in the north of Jambi province (around Taman Nasional Bukit Tigapuluh), while the third group lives in the south of Jambi province (along Trans Sumatra highway).

From a cultural perspective, the Orang Rimba live in areas that stretch in terrain that is crisscrossed by rivulets of the Batanghari River. Specifically, they live in the transition zone between wavy flat land in the middle of the Batanghari River and the foot of the Bukit Barisan (the Barisan Hills). It is worth noting that the Orang Rimba live in areas that are circumscribed by the Malay People, who often live along the banks of the Batanghari River as well. From the main river of the Batanghari, the Orang Rimba follow the smaller watercourses of the Makekal, the Kejasung, the Terab, and the Air Hitam. The smaller watercourses have sub-branches, which is the area where the Orang Rimba live. However, in terms of formal administrative structures, the Orang Rimba live in three districts (*kabupaten*) of Merangin, Tebo, and Batang Hari.

The location of our research is primarily in and around TNBD. The Orang Rimba currently spread out in 13 subgroups that live inside, surrounding and outside the Bukit Duabelas forest. Among these groups, we chose three groups for the main research focus. The three groups represent the three different geographical landscapes of inside, surrounding and outside the Bukit Duabelas forest. For the communities living outside the forest, we chose the Sako Tulang group that lives in the western part of TNBD. The Terab group represents the Orang Rimba who still have a wandering lifestyle inside and outside of the Bukit Duabelas forest, meanwhile the Air Hitam group serves as a group that is still living inside the forest.

This degree of variation in each group can be gauged from the interconnection between the Orang Rimba and the outside world, more specifically their relationship with forests and other natural resources. The representation of the three groups is also used as a prism to gain an understanding of the complexity of social relations among the Orang Rimba as well as with outsiders (Wardani, 2007).

The Sako Tulang Group

The Sako Tulang group is one of the groups that live in the Makekal Hilir River area in the western part of Bukit Duabelas. The Makekal Hilir is the downstream

of Makekal River. Cultural and geographical landscapes define the Makekal Hilir groups in general, who have close ties with the Malay people. A patron-client relationship evolved, and continues with some adjustments to this day. As part of the Makekal Hilir groups, the Sako Tulang group also shows the unique way of life that the Orang Rimba lead. As a downstream group, the group has more exposure to the sedentary lifestyle and behavior. This owes much to the group's cultural and geographical origin, which indulges in less roaming activities compared to their fellows of the Orang Rimba from upstream groups of the Makekal Hulu. Their geographical location is also very close to their Malay neighbors who traditionally lead sedentary lives and engage in land clearing for agriculture purposes. In the local term, the habit of clearing land is known as *bertalang* or *membuka hutan*. The Malay people have the habit of clearing land either to serve their subsistence purposes or to sell their products to the outside market.

The Sako Tulang itself is a rivulet that branches off from the sub-branch of the main river that is located in the eastern part of the Makekal River. The topography is relatively flat and is mainly used for rubber plantations. Besides rubber fields, the terrain consists of cleared lands, a scanty forested area, palm oil plantation, several human settlements, small branch rivers, and roads. The area used to be a vast primary forest which has been degraded massively, leaving in the wake many logging roads. These logging roads serve as the main entrance to the Sako Tulang resettlement and to their agricultural fields (rubber and palm oil), as well as entrance to fields of other ethnic groups (such as the Malay and Javanese).

The land that the Sako Tulang group controls lies in secondary forest which they believe to be their ancestral territory, hence they consider themselves to be entitled to cultivate and use them. The Sako Tulang area is a strategically important location for the Orang Rimba because the area lies on the boundaries of the national park. This means that the Orang Rimba can occupy secondary forest, which is *de facto* free for use by every Indonesian citizen who can manage it. It is also very close to transmigration settlements, which is an important source of additional income, through selling rubber,

non-timber products, and fulfilling their basic needs (close to the market and other public services).

The general characteristics of the Makekal Hilir groups and the Sako Tulang group in particular, are quite unique compared to other groups of Orang Rimba elsewhere. Besides other sources of livelihood, the Orang Rimba living in this area have a strong attachment to rubber as the main income generating activity. In fact specifically for the case of the Orang Rimba in the Makekal Hilir, rubber growing has become one of the favorite crops, in addition to hunting activities. Based on interviews with key informants, the establishment of rubber fields is traced back to two to three generations ago.

Like other groups in different locations, the Sako Tulang group used to be a hunter-gatherer people who were heavily dependent on forest produce for their living. Nonetheless, increased pace of forest degradation has forced them to change their way of life from a hunter-gatherer people to semi-secondary farmers. Rubber is the main agricultural product, and over time was gradually adapted for palm oil plantation. Such conditions impact on the lifestyles including the houses they make, the food they eat, and other aspects of their lives.

However, it is interesting to note that the Sako Tulang group continues to lead lives that combine a non-commercial hunter-gatherer lifestyle with that of sedentary farmers. The combination of being hunter-gatherers on the one hand and commercial farmers on the other, is indeed a unique way of life. For instance, the Sako Tulang group hunts wild game in order to meet their protein requirements, which serve as a supplement to incomes to buy foodstuffs they obtain from rubber and palm oil plantations.

The Orang Rimba depend heavily on hunting and gathering practices to meet their basic needs. However, forest degradation and high interaction with other ethnic groups has forced them to become more adaptive to their environment in order to survive (Persoon, 1989). Nonetheless, such changes have plunged their lives into dilemmas. For instance, in the traditional setting, *melangun* (moving from one place to another due to the death of a group member)



Figure 3.6. The double burden of female Orang Rimba trying to carve out a livelihood: taking care of the child and harvesting rubber in Sako Tulang in the western part of Bukit Duabelas Hills Jambi Province (Wardani, 2015).

activities used to take a number of years, usually four to six years. The vast forest area in the past made longer *melangun* periods possible. People from the Makekal Hilir River could go as far as the Kejasung River, which is an area that is the center of TNBD. Nonetheless, at present the Sako Tulang group only takes a few weeks or a maximum of six months for doing *melangun*. This is because the attachment of the Orang Rimba to their rubber plantations has increased.

Another impact is on sources of livelihood by gathering forest products and hunting animal life from natural forests. The interesting thing, which is unique for the Sako Tulang group, is that products of their hunting are used for their own consumption. They depend heavily on rubber and palm oil to earn the money they need to buy an array of basic

necessities. The range of basic necessities has been rising over time in line with their interaction with other ethnic groups.

The relationship with other ethnic groups has become more important, who by and large, serve as middlemen, and hail from the transmigrants from other ethnic groups as well as their *jenang* (their patron from Malay descent). There is a limited number of middlemen of Orang Rimba descent. Even then, the roles such middlemen play are not as important as those of middlemen from other ethnic groups.

The Terab Group

Surrounded by palm oil plantations that belong to one of the Indonesian conglomerates and industrial timber estates or *Hutan Tanaman Industri* (HTI), the Terab group live a nomadic way of life inside and outside the TNBD. Non-government organizations (NGOs), government officials, members of other ethnic groups, and other parties describe this group as representatives of the 'genuine' Orang Rimba who still preserve their traditional ways of life more or less as their ancestors lived many centuries ago, paying attention to details of custom and tradition. Precisely, the Terab group lives in the eastern part of TNBD. Originally, the livelihood of the Terab group used to follow the Terab watercourse. Today, the group is more widespread and mobile outside, inside, and along the edges of the park.

Technically, there are only 60,500 hectares of forest that remain in the national park. In the past, there were at least around 160,000 hectares of forest for Orang Rimba in Jambi Province. The remaining 100,000 hectares were divided between 16 companies of palm oil plantations and HTI. Specifically, there are six plantation companies which surround the national park of Bukit Duabelas: palm oil plantations of PT. EMAL, PT. Sawit Desa Makmur (SDM), PT. Jambi Argo Wijaya (JAW), PT. Sari Aditya Loka (SAL); and HTI Companies of PT. Wana Perintis and PT. Limbah Kayu Utama (LKU). At present the pressures of the Orang Rimba in Terab are caused by the operations of these companies, HTI, in addition to coal mining. On addition, the Orang Rimba of this group also suffer

from the pressures from the transmigrants and immigrants from Java and the Malay people.

Socially, the Terab group is a very close knit group compared to other groups of the Orang Rimba, and also very mobile group. Their mobility marks the celebration of all rituals related to the tradition *melangun* with various adaptive modes of production in their livelihood.

Similar to the typical Orang Rimba, the Terab group still preserves a way of life they inherited from their ancestors. The most vivid example is the way they build their houses. Houses, called *sesudungon*, are constructed using four small branches of wood with a simple roof. Today, the roof is made of plastic materials instead of leaves. The underlying reason for such a practice is that the Terab group maintains a nomadic life, which in this case is far more apparent than is the case with the other groups. The simplicity of the house that members of the Terab group live in is based on the consideration and consciousness that they do not stay long enough in one place, as they have to keep moving from one place to another, not only in pursuit of their cultural values and traditions but also in search of resources that are needed to sustain their livelihoods. Important to note is the high level of mortality among them, another reason that keeps the Terab group members mobile. The death of a member triggers movement to a new location.

The Terab group relies on variation of livelihood to fulfill their needs, ranging from the combination of traditional sources of livelihood and modern farming. The traditional source of livelihood is dominated by collecting honey, collecting other non-timber forest products (NTFPs) such as rattan, *jernang*² (*daemonorhops hyigrophilus*), and damar from various *dipterocarp* tree species. In addition the group has recently adopted the planting of oil palms as a new source of income and some members also serve as daily laborers for the oil palm companies.

2. *Jernang* is often referred to as dragon blood. It is a crop that falls under the rattan species which has scales on its pericarp and has somewhat a dry texture. The fruits are used as a raw material in the production of medicine, dye materials, cosmetics, and other purposes. It is a very lucrative crop, fetching a price of Rp 800,000.00 – Rp 1,200,000,000 per kilogram.

Since the Terab group mostly lives outside the forest, they have a high dependence on the market for their products. They fulfill their basic needs such as food and clothes from the market, which implies that they have to use money to do so. For that reason, they often serve as laborers for other ethnic groups or their fellow Orang Rimba groups. The work they do includes clearing land, collecting palm fruits and tapping rubber. Even small children participate in such activities. In return, labor is paid for by free meals for the day, which usually consists of rice, cassava, sardine, and instant noodles. Some of them also get small cash as an additional payment.

The Air Hitam Group

The Air Hitam group lives in Bukit Suban area located in the southern part of TNBD that falls administratively into two regencies (*kabupaten*), namely *kabupaten* Sarolangun and *kabupaten* Batanghari. The Orang Rimba living in the area of Bukit Suban also form part of the Air Hitam group which consists of smaller groups, namely the Paku Aji, the Semapuy, the Keruh, the Punt Kayu, the Tengkuayungon, the Gemuruh, the Kedundung Muda, and the Air Behan. All of them live near the banks of the rivers that flow through their territory.

The area in the southern part of TNBD has been influenced by the transmigration projects and palm oil plantations. PT. Sari Aditya Loka (PT. SAL) operates in this area, which is the branch of a giant plantation company in Indonesia, named Astra Agro Lestari Tbk with a specialization in maintaining palm oil plantations. Inside TNBD which still has some forest areas, there are two main rivers, namely Air Hitam River and Makekal River. These two rivers have smaller branches that serve as the home territory for many groups of Orang Rimba. Most of the Orang Rimba in this area live scattered individually per household following the path of the rivers or watershed.

The total population living in the southern part of TNBD is about 576 people based on BPS and KKI WARSI calculations in 2010. There are two local leaders or *tumenggung* that lead these groups, namely *tumenggung* Betaring and *tumenggung* Nggrrip. The

two groups are under the leadership of *tumenggung* Betaring, namely Paku Aji Group and Semapuy Group with the total number of 19 households or 93 people. These two groups mainly live in the plantation areas that belong to PT. SAL. Meanwhile the other group under *tumenggung* Nggrrip lives inside TNBD and counts 483 people (105 households).

Since the introduction of rubber cultivation by the Malay population in the early 1980s, rubber has become one of the favorite crops for the Orang Rimba. The Orang Rimba living in the southern part of TNBD create rubber fields by slashing and burning of forest trees. However, due to the shortage of labor and tools, Orang Rimba are only able to open new land once every 2-3 years. On average, Orang Rimba can only manage relatively small parcels of land for rubber growing (not more than five hectares). The more family members they have, the larger the field they can open. Approximately 1,000 seedlings are required for one hectare of rubber fields.

With time, the Orang Rimba have realized that having rubber fields is more beneficial for them in terms of income generation than various other modes of livelihood. This is because they are able to earn cash income in more certain ways by selling rubber resin. One hectare of rubber trees can yield about one million rupiah³ per month. Although most households have rubber fields, they often hire the services of other people (either from their Malay neighbors or from the transmigration sites with people originating from Pati, Central Java) to till the land and tap the trees through a production sharing arrangement whereby 33 percent goes to the owner of the rubber trees and 67 percent goes to the individual who does the tapping.

Other sources of livelihood that the Orang Rimba undertake to supplement their household incomes, include gathering of forest products such as rattan (*manau*), *jernang* and honey. The process of searching for rattan, referred to as *memanau* (rattan collection), is carried out the year around, which is in contrast with the collecting of honey. As far as

3. 1 USD is approximately about 13,500 rupiah.



Figure 3.7. A household from Kedundung Muda group is taking a rest in the forest during a trip visiting their relatives in Bukit Duabelas National Park area (Wardani, 2015).

jernang gathering is concerned, the work is being done in groups due to the difficulties gatherers face in collecting this product.

Another important source of livelihood is hunting. Hunting wildlife provides a vital source of animal proteins as well as serving as a source of carbohydrate nutrition for the Orang Rimba. Hunting, which can be done by an individual or by a group of individuals, involves men with a minimum age of 12 years. It is done twice a week per individual on average. Inside the forest, there is still a wide variety of wild animals that range from wild pigs, deer, mouse deer, antelopes, and numerous smaller forest animals. Wild pigs are the most commonly hunted and are the Orang Rimba's favorite game animal in this area. In a month, they can catch five to six wild pigs and almost every day they consume meat even though they often fail to catch one every day. The supply of meat from their hunting efforts is plenty, either from their own efforts or from the hunting success by other fellow Orang Rimba. Especially in the rainy season, the Orang Rimba earn more money by selling their meat to outsiders, particularly to Chinese traders.

What makes this group unique compared to the other two groups is that sometimes they are involved in collecting proceeds of their efforts, a process referred to as *lokpon*. The process involves the collection of rubber, rattan, and other related commodities. The process takes place in phases, with individuals collecting their household produce, which is then followed by the collection of all proceeds made by

households in a certain place, which is collectively determined beforehand. The produce is then taken by the middleman (*toke*) for sale. Many members of this group indicate that forest production has decreased, a result that is attributed to illegal logging practices which are rampant around the TNBD area. Today rattan, honey, *jernang*, and wild animals are harvested less frequently, partly due to the declining forests.

A New Future?

One of the constant struggles of the forest dwelling communities in Indonesia such as the Orang Rimba, has always been the lack of recognition of their territorial rights. On the basis of the constitution and numerous forestry laws the government was considered to be the legal owner of forests unless ownership could be proven on the basis of actual cultivation. Concessions of the state forests could on that basis be granted by the government to logging or mining companies, or forests could be converted to other types of land use such as plantations or transmigrations sites. Resistance against these state-dominated policies was relatively weak and largely unsuccessful, until 2013. Through AMAN, the organization for indigenous peoples in the Indonesian archipelago, a court case was filed to the Constitutional Court about the status of the so-called adat or village forests. In 2013 the Constitutional Court decided that the Indonesian forestry laws were in fact based on the wrong interpretation of the Constitution. The court decided that adat or village forests should be interpreted much more widely. The landmark decision is likely to have a major impact in the years to come regarding claims on land rights for many forest-dwelling indigenous peoples in Indonesia such as the Orang Rimba (Rachman, 2013; Purwanto, 2015).

While the Ministry of Social Affairs always tried to include mainstream education by including school buildings in the resettlement projects and by providing a few teachers to instruct the children, the level of drop-out was substantial. Most of the Orang Rimba did not attend school, in particular, when the schools were also attended by Malay or Javanese children. Usually the Orang Rimba children felt discriminated against and bullied by the others.

Moreover, once the parents decided to retreat from the resettlement villages the children did not show up any more in the schools. A couple of times the Orang Rimba had expressed their willingness to send their children to school and let them have education but on the condition that the children would not have to leave their families and that the school would be close to where the Orang Rimba were living.

At the end of the 1990s a new initiative for educating the Orang Rimba was started by one NGO named KKI WARSI with the aim of providing an alternative form of education for the country's indigenous peoples. KKI WARSI has successfully introduced a public figure of Butet Manurung for the education campaign through media. Butet then with her own initiative launched an alternative education program called *Sokola Rimba* or Jungle School and decided to separate from KKI WARSI. From there, she started a simple form of education for the Orang Rimba children, close to where they were actually living. So the children could spend a few hours learning to read and write and calculate without having to go to schools in distant settlements. They could stay close to their parents and siblings (Manurung, 2007). Similar projects have also been undertaken with other groups in the Indonesian archipelago. This project has become quite well-known through the media. Butet Manurung received media attention and awards for her work. In 2014 a documentary film, titled *Sokola Rimba*, was made about her work. This was shown in Indonesian cinemas and it was also screened at various international film festivals (Riza, 2013).

Discussion

Already for a long time the fate of relatively small and dispersed groups of hunter gatherers has been described in terms of assimilation or extinction. Apparently there is not much difference whether the countries in which these people were still living were still colonies or already independent countries. Already for more than a century their disappearance has been predicted. In the Philippines, for instance, Dean Worcester wrote about the Agta hunter-gatherers that they were on their way to extinction (Worcester, 1898). Almost a century later similar conclusions were drawn with respect to other

indigenous peoples such as the Batak of Palawan who were, according to Eder 'on the road to tribal extinction' (Eder, 1993). In some cases governments felt morally obliged to provide some kind of protection but in most cases the process of assimilation left little opportunities for these relatively small groups. At the same time it is surprising to see that groups such as the Agta and also the Batak of Palawan and many other groups in similar conditions have been able to overcome the threats of extinction. They have done so through remarkable levels of resilience and by creatively shaping new futures for themselves, sometimes supported by external organizations or by a change in the perception of the outside world as a result of the global discourse on the rights of indigenous peoples (see for instance Minter, 2010).

What is somewhat surprising however is that on the one hand the predictions over a very long time have been quite persistent, while on the other hand, in many cases these groups succeeded in their survival by maintaining a lifestyle that many ethnographers and policy-makers would not have believed to be possible.

It is clear from the situation of the Orang Rimba as well as from many other cases in Southeast Asia and elsewhere, that the predictions about the projected futures of hunter-gatherers turned out to be wrong. In many cases these people not only survived in conditions that gradually became more harsh than what could be imagined at the time of the predictions, but they also turned out to be more creative, flexible and persistent in opting for continuation of their traditional lifestyle with a range of adaptations.

Apparently there is something erroneous in the way in which ethnographers, anthropologists and policy makers usually make statements about the future of these kinds of communities. It appears to many of them self-evident that a continuation of the present life style is basically impossible given the prevailing circumstances. From the early days of ethnographic writing on the Orang Rimba the choice was simply between complete assimilation or extinction. In the course of history the Orang Rimba have been able to resist to a large extent complete assimilation, by making new choices and adapting their way of life to



Figure 3.8: Moving to a new site in a heavily disturbed rainforest (Persoon, 1986).

allow them to remain at some distance from the Malay communities or the settlements of the transmigrants.

This ‘misreading’ of the changing futures of the Orang Rimba has of course an important methodological aspect. It may be ascribed to the lack of insight into how the people reflect on new threats and opportunities. Initially these may be interpreted in largely negative terms, as threats to their ways of life. People may consider themselves as victims, but this is a status that they cannot allow to last for a long time. Within a relatively short period they seek the opportunities in the new situation. But more importantly the ‘misreading’ of the changing futures may also be related to the lack of efforts to ask the Orang Rimba how in retrospect they have reacted to the changes in their environment and which strategies they have followed to create their modified way of living. Explicitly asking about the strategies in retrospect can be quite revealing in enhancing the understanding of the present situation. Discussions with people such as Tarib and other Orang Rimba during recent fieldwork have revealed how they perceive new conditions and how they create opportunities for themselves and their group members to create a new future instead of just being the passive victims of futures that simply unfold. Partial conversion to Islam, acceptance of cultivation of cash crops, use of modern devices and increased interaction with the outside world are elements of these conscious strategies which do not necessarily have to lead to complete assimilation. Asking more explicit questions about motivations behind former decisions and about perceptions of present conditions

may be a step forward to avoid this ‘misreading’ the changing future of the Orang Rimba.

Our interview with Tumenggung Nggrrip in Air Hitam area of Bukit Suban in the southern part of Bukit Duabelas reflects the complexity of social and cultural changes in the current situation. It sums up the current context of the Orang Rimba’s challenges and opportunities. Tumenggung Nggrrip says:

“Look at what has happened to us, Orang Asli. We are faced now with all the outsiders. The constant interactions with them in many cases turn out to bring better incomes, especially in the trading of rubber and non-timber forest products. However, in terms of ecology and health, the interaction can create worse situations. The encroachment into our forests is clearly visible and the pressure to the forest also has worsened in recent days. Our forest is decreasing right now. In the past, the outsiders could only reach the Pematang Kabau area. Meanwhile, in the Air Hitam area, there were no outsiders. Unfortunately, now, they can freely come and go into our forest. Some of them settled around us. For us, it is difficult, especially if we want to conduct our *melangun* ritual after the passing of our members. That implies to our shorter roaming territories as well. Sometimes they also compete with us while hunting wild animals since it is worth the money. Slowly but surely, we have to be ready to face the forest extinction and the existence of palm oil and rubber plantation. Moreover, we have difficulties to look for our traditional food so that we should eat like them with their modern food. In the past, we were not familiar with the ‘strange’ foods like cakes, instant food and beverages, snacks and other ‘modern’ food. We only knew natural food from the forest such as cassava, fruit, fish and meat. The stranger food we consume, the more diseases we get. I know that we can’t depend on the forest forever, but the forest is still the most valuable treasure of us. Forest is our identity, our culture and it is the place where our former family members are buried. If we lost the forest, how can we still be called the Orang Rimba?” (Air Hitam, personal communication 2013)

In short, one could say that there have been various types of predicted futures for the Orang Rimba.

They were expected to become extinct. They would completely assimilate into Malay society. Through a process of social engineering the government had planned a rapid transition from a hunter-gatherer society to a peasant community. Missionaries created small Christian enclaves in the middle of a dominant Muslim Malay community. With the support of human rights' advocates and some governmental officials in Jakarta they have also gained a new status: they are no longer 'just a primitive tribe' but they are now considered as one of the country's Indigenous Peoples with an interesting lifestyle which creates new opportunities for self-determination and territorial claims. This is possible of course because of the international discourse on the rights of Indigenous Peoples in which Indonesia still occupies an ambivalent position.

To a remarkable extent they are capable of surviving in dramatically modified landscapes. This does not mean however that they do not suffer from these environmental changes. They certainly do. Life has become more difficult for them in terms available food, places to go for hunting and collecting non-forest products. At the same time and as a result of the increased interaction with the outside world through cultivating cash crops, they can now avail of motor bikes, mobile phones and other products that have turned out to be devices that can be of great use for the Orang Rimba in their modified way of life. Once in a while they are facing real food shortages as in 2015 when all of sudden there was an rapid increase in mortality among the Orang Rimba, according to many as a result of hunger (The Jakarta Post. 2 April, 2015).

Overlooking the variation in lifestyle among present day Orang Rimba communities it is clear that all of them have retained a substantial degree of ethnic identity and a lifestyle different from the mainstream Malay communities. Even though they may be using devices from the modern world, even though they may to some extent be incorporated into the cash economy, this does not mean that they have completely lost their sense of identity and pride.

4. Environmental Degradation and Resource Extraction in the Niger Delta

Rights of Indigenous Peoples

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Environmental degradation within the jurisdiction of a state demands national environmental management, most often guided by international legislation. In the Niger Delta, the environmental degradation caused by oil industry operations and exacerbated by oil spills and gas flaring has led to a conflict situation. Following an environmental management approach, this paper seeks to identify the causative factors involved and relevant international solutions. The indigenous people at the centre of this conflict are in need of the protection which can be provided by international law. About 90% of Nigeria's gross earnings comes from petroleum production and export (Nigerian National Petroleum Corporation [NNPC], 1977). The focus of this paper is on petroleum extraction and its impact on the environment and the Indigenous Peoples of the Niger Delta region.

Through a systemic exploration of the facts, this paper concludes that petroleum extraction in the Niger Delta has resulted in the impoverishment of the indigenous people in the region. This is despite federal government intervention in the form of the establishment of national agencies such as the Niger Delta Development Commission (NDDC) and the National Environmental Standards and Regulations Enforcement Agency (NESREA). The impact of these agencies on the lives of the indigenous people has been insignificant. A review of these agencies might indicate a need for Nigeria to look inward for strategies to mitigate the high risk associated with petroleum extraction in the country. In other words, this paper is not concerned with the liability of the oil companies

which have essentially taken advantage of system passivity to devastate the environment in the oil producing Niger Delta, but on the responsibility of those national institutions which are meant to alleviate the suffering of indigenous people and to protect their environment.

This paper turns to all relevant international law to remedy the environmental crisis in the Niger Delta and, most importantly, to protect the indigenous peoples. The two instruments most relevant to indigenous peoples are therefore thoroughly explored, namely the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the 1989 International Labour Organisation's Indigenous and Tribal Peoples Convention C169 (ILO C169). Similarly, the paper relies on such sustainable development laws as the United Nations Convention on Biological Diversity (CBD) and the United Nations Environment Programme (UNEP) Rio Declaration on Environment and Development.

The Niger Delta Environment

The Niger Delta is the largest delta in Africa, covering over 35,000 square kilometres with an arc formation of about 350 km stretching along the Atlantic coast of Nigeria from the Benin to the Bonny Rivers. The Niger Delta is made up of four distinct ecological sub-zones: (1) the freshwater swamps and forests on either side of the Niger; (2) the coastal plains to the west and east of the freshwater swamps; (3) the salt water mangrove swamps south of the freshwater and coastal plain sub-zones, made up of mud and silt; and (4) the

sandy beach ridges just in front of the outer delta (Nzewunwa, 1980). This variety of ecological sub-zones is the source of a range of different resources for human exploitation.

This introduces the concept of environmental determinism which, though discredited by some according to Nzewunwa (1980), is an important consideration in this paper. It facilitates an understanding of the environmental context of a region (or its parts) as a prerequisite for analysing the prevailing ecological dynamics and economic patterns, and, in the case of the Niger Delta, appreciating its virgin environment. The fauna of a biotic community reflects the entire environment, especially its vegetation cover, which in the delta is typical of tropical Africa.

The traditional economies of the indigenous peoples are dependent on the exploitation of the natural vegetation and the fauna of the biotic community. Being naturally fertile, the soil is the primary factor in agricultural land use. This explains the traditional occupations of the indigenous people in this region as fishers, hunters and farmers, and emphasises their dependence on the natural environment for survival. They also rely on timber from the forests for building poles, logs and firewood, amongst others (Ikelegbe, 2013).

The crude oil and natural gas found in abundance in the entire region have overtaken all other resources in terms of production and demand, resulting in the devastation of the region affecting both the environment and the indigenous people who depend on it. Petroleum extraction is the primary factor in the environmental issues facing the Niger Delta.

The Indigenous Peoples

Indigenous Peoples generally have a special relationship with and use of their traditional land. Their ancestral land is of fundamental importance to their collective physical and cultural survival as peoples. Indigenous peoples have their own diverse perceptions of development based on their traditional values, visions, needs and priorities. They seek recognition of their identity and way

of life and their right to traditional land, territory and the natural resources in the sovereign state where they live (United Nations Permanent Forum on Indigenous Issues [UNPFII]) in order to enjoy political integration and participation. This also applies to the indigenous people in Nigeria including those living in the Niger Delta, which is the focus of this paper. Although there are over two hundred indigenous communities in the Niger Delta region, including the Gbaramatu, Oghoinbiri, Keme-Ebiama, Apoi, Kokologbene, Gbaruan, Ikwerre, Ilaje and Ogba/Egbema, only two of these have made efforts to attain recognition as an Indigenous People, namely the Ijaw (The Kaiama Declaration, 1999) and the Ogoni (The Ogoni Bill of Rights, 1990).

Sovereign Control of Land and Natural Resources in Nigeria

Globally, states have assumed sovereignty over the natural resources in their jurisdictions, Nigeria being one of them. This has been done in accordance with the Charter of the United Nations (UN) and the principles of international law propounded in the Rio Declaration (United Nations Environment Programme (UNEP) Rio Declaration on Environment and Development, 1992) as well as the earlier UN resolution on permanent sovereignty over natural resources (United Nations resolution 1803 [XVII] on the "Permanent Sovereignty over Natural Resources" 1962).

With the ideology of nation building being paramount in the Nigerian agenda following the country's independence in 1960, there was a need to harness all possible financial resources for infrastructural development. As a result, exploration of crude oil intensified and by 1967 the oilfields were responsible for nearly one-fifth of the country's federal revenue, a contribution which was expected to double over the next few years (Meredith, 2014). Nigeria's industrialisation was heavily dependent on oil revenue as the postcolonial period of agricultural economy was grossly inadequate. Industrialisation resulted in a move away from colonial trading patterns, ending the country's dependence on the range of agricultural commodity exports and manufactured imports, and introducing urban employment and

higher productivity (Meredith, 2014). This paved the way for Nigeria's economic success. The record of environmental disasters over time is evidence of the intensity with which the petroleum industry was driven for the purpose of revenue generation. With no legal regulation acting as umpire, one side (the Niger Delta region and its Indigenous People) lost out while the other (national and multinational corporations) gained.

National interest in the Niger Delta is derived from the constitutional provision which grants the federal government "the entire property in and control of all minerals, mineral oils, and natural gas in, under or upon any land in Nigeria, or in, under or upon the territorial waters" (s.44[3] Constitution of the Federal Republic of Nigeria, 1999). There is however an essential caveat in this provision which states that such properties "shall be managed in such manner as may be prescribed by the National Assembly." This caveat qualifies how the land that falls under such conditional provision should be managed. It is yet to be seen how the Nigerian National Assembly intends to uphold this legislative injunction to reduce the impact of the forceful acquisition of all that belongs to indigenous people, not only in the Niger Delta but throughout Nigeria.

Petroleum Extraction and Ownership of Oil and Gas Rights

Absolute control of land and natural resources in the state of Nigeria meant that the federal government controlled the oil industry. Under international oil and gas law, it is general global practice that ownership of valuable minerals is retained by the state, although the United States of America, where private ownership is the norm, is an exception to the rule (Smith *et al.*, 1993). Nigeria follows the rule of total ownership of valuable minerals. This is undertaken by the Nigerian National Petroleum Corporation (NNPC), portrayed in the details of partnerships with multinationals, and executed in the concession system administered under the Production Sharing Contracts (PSCs). Taking over the oil industry from the country's colonial rulers upon independence in 1960 was a great challenge

for Nigeria. The petroleum industry was in the firm grip of the colonial oil company Shell D'Arcy which commenced exploration in 1938 but only had a successful oil drill in 1956 at Oloibiri (NNPC – Oil Production, 1977). The first shipment of oil out of Nigeria took place in 1958 by the newly formed Shell-BP Petroleum Development Company of Nigeria Limited (Na'Allah, 1998). In 1973, the federal government, solely representing itself, succeeded in acquiring the first Participation Agreement with a 35% share in the oil companies operating at that time. The Nigerian National Petroleum Corporation (NNPC) was established in 1977 and took over all dealings with the oil companies. This gave Nigeria control of the industry by 1979 with a 60% equity share. By 1993, contractual obligations which allowed for greater participation by multinational oil companies decreased the NNPC's share to 55%, with 30% going to Shell, 10% to Elf and 5% to Agip (NNPC – History of Nigeria Oil & Gas). These amended contractual arrangements nonetheless upheld Nigeria's position of ownership and control of the country's oil industry.

Environmental Problems Resulting from Petroleum Extraction

Oil Spillage

An oil spill occurs when petroleum hydrocarbon is released into the environment, usually by accident, sometimes due to negligence, and most recently with criminal intent as with the blowing up of the Niger Delta oil pipeline. Other causes of oil spills are oil well eruption accidents at drilling; oil platform or production site disasters (blow-outs); oil tanker groundings or collisions (marine accidents); and pipeline ruptures or damage. Although all of these incidents result in massive releases of oil into the environment, they never result in permanent damage to the environment (Tavern, 1990), particularly if the spill is cleaned up as soon as it occurs. This however has not always been the case in the Niger Delta. An important observation made by the United Nations Environment Programme (UNEP) in a report on Ogoniland (UNEP Ogoniland Assessment, 2012) is that due to the high rainfall in the region, delays in cleaning up operations result in oil being washed away, covering farmland and almost always

ending up in the creeks. This leads to contamination of the land spreading to the water sources (UNEP Fact Sheet). Oil spills result in pollution of the environment with disastrous economic and social, as well as environmental, consequences.

In the Niger Delta, massive oil spills that spread through the rivers into the mangrove swamp forest zone have done great damage to the aquatic ecosystem. Between 1976 and 1996, a total of 4,835 spills were reported, amounting to a cumulative spill volume of 2,382,373.7 barrels of crude oil. It is also estimated that only about 15.9% of the oil was recovered, which means that 84.09% was lost into the environment (Ikelegbe, 2013). Oil spills in the Niger Delta have not always been cleaned up quickly enough which has resulted in soil degradation and water contamination.

The consequences of oil spills in the Niger Delta region can be listed as follows:

- (i) Decimation of the fish population. This is critical in the case of the rivers and streams of the Niger Delta where fishing is the main occupation. The Ijaw claim that their aquatic resources are being affected by external forces (Alagoa, Tamuno & Clark, 2009).
- (ii) Loss of mangrove forest. About one third of the Niger Delta is made up of wetlands which probably constitute the world's largest mangrove forest of 5,400 to 6,000 km² (Alagoa, Tamuno & Clark, 2009). Mangroves remain very important to the Indigenous People of the Niger Delta and the wildlife that inhabits the ecosystem.
- (iii) Water hyacinth invasion. This invasive plant which is spread rapidly by the wind clogs the waterways and makes fishing difficult.

Gas flaring and carbon dioxide emissions (climate change)

Gas flaring has a destructive effect on the humans, plants, wildlife and air in the immediate environment. The gas flared emits greenhouse gases such as methane and carbon dioxide (CO₂) which

contribute to global warming and thereby accelerate climate change and its attending impact on living conditions on the planet. The oilfields in the Niger Delta generate a great deal of carbon dioxide through gas flaring. The total carbon dioxide emission from gas flaring in Nigeria has been estimated to be in the region of 35 million tons per year, one of the highest emission rates in the world (Ikelegbe, 2013).

According to the NNPC, due to inadequate infrastructure for the utilisation of flared gas, in the late 1990s Nigeria still flared about 40% of the natural gas it produced and re-injected 12% to enhance oil recovery. The official Nigerian policy was to end all gas flaring by 2008 (NNPC Oil & Gas Reserves) but little has changed. The multinational oil companies in Nigeria have still flared 211.836 billion SCF (standard cubic feet) of gas, which represents 11.2% of their total gas production of 2.11 trillion SCF. This is according to statistics disclosed by the NNPC in its Annual Statistical Bulletin (ASB) for 2014 (Eboh, 2015). In another report, available data indicate that oil and gas companies operating in Nigeria burn between \$3.5 and \$5 billion yearly from the more than 257 flow stations in the Niger Delta. This translates into flaring of about 17.15% of the 95,471 metric tonnes of gas produced in June 2015 alone (Okere, 2015). Gas flaring is without a doubt a wasteful aspect of oil industry operations and has become a distinctive feature of the Niger Delta landscape, with many flares burning 24 hours a day and some having burned for over 40 years (AUS, 1999).

Environmental Degradation and Protests in the Niger Delta

Exploration and the production, transportation and marketing activities of oil companies have resulted in the environmental degradation of the Niger Delta, primarily through the impact of oil spills and gas flaring on terrestrial, marine and atmospheric life. Gas flaring is responsible for acid rain and contributes to the acceleration of global warming, while the emission of gases is injurious to plants and animals. Along with further toxic waste outflows, this hinders the nourishment of soil, flora and fauna, contaminates surface and ground water and inhibits the agricultural economy of the Niger Delta (Ikelegbe, 2013).

This environmental degradation has led to serious conflicts in the region which has witnessed violent protests (“Return of Oil Pipeline Bombings in N’Delta,” 2016; Akasike, 2016; Utebor, 2016). As expressed by Ikelegbe (2013), the Niger Delta today is an epic example of a resource curse, namely the exploitation of resources with no sense of environmental, social and sustainable development responsibility which has spawned poverty, socioeconomic disruptions, internecine conflict, violence, insecurity and instability. Since the late 1990s, the region has become a battlefield, with communal and ethnic groupings and militia engaging Nigerian security agencies and the military in bloody confrontations.

The Niger Delta’s crude oil resource has failed to benefit the lives of the Indigenous People as traditional owners of the land and resources, because it has not been managed prudently. In a recent report, the President of Nigeria lamented the country’s dwindling economic earnings from oil (Awoyinfa, 2016). The profligate tendencies of some of the Nigerian ruling class have nonetheless not abated (“Federal Lawmakers Should Disclose What They Earn,” 2016) while the Indigenous People of the Niger Delta are deprived of their rightful economic benefits. Raji (1998) asserts that the same resources that represent the powerhouse of national life also serve as a major agency for the dislocation and disorientation of the several million people inhabiting the areas in which they are produced. This dislocation and disorientation derives directly from two complementary and inter-related factors, namely the devastating impact of resource exploration on the environment and the cruel neglect of the people in the area by successive Nigerian administrations.

The Indigenous People claim that oil revenues are unjustly diverted to develop other parts of Nigeria while they, as the rightful owners, languish in environmental decline and poverty (Mekenkamp, Tongenre, Veen, 1999). The long years of neglect of the Indigenous People and the environmental calamity that has compounded their poverty and dislocation have been the source of much anger, frustration, disillusionment and alienation in the region (Ikelegbe, 2013). While

the resource-dependent Indigenous Communities struggle for survival and their cultural rights, oil corporations such as Shell, Chevron, Elf, Mobil and Texaco continue with their brutal exploitation of the oil resources (Mekenkamp et al, 1999).

The Ijaw Agitations

The Ijaw homeland is mainly situated in the Niger Delta, with settlements and communities close to the rivers and ocean. The culture and economy of the Ijaw are closely linked to their environment, with fishing being the primary occupation. The Ijaw claim that they are neglected by Nigerian authorities, probably due to the remoteness of their location or seasonally flooded forests being an excuse for administrative severance, and that as landowners they have not participated in any projects involving their lands and water sources (Alagoa, Tamuno & Clark, 2009). For instance, a case of neglect was reported in the Iko community in the state of Akwa Ibom where gas flaring and oil spillage from the Shell Utapete flow station devastated the environment, leading to a decline in crop yields, the decimation of the fish population in the Iko River and its tributaries, and complaints of respiratory ailments attributed to the pollution of the atmosphere (Okonta & Douglas, 2001). In 1987, Iko was left in ruins when the indigenous people protested against Shell’s negligence and the degradation of the environment (Mekenkamp et al, 1999).

The Ogoni Agitations

The primary target of the Ogoni people’s protests is Shell. They claim that Shell has not benefited Ogoniland in any way but has instead been responsible for pollution that has contaminated the mangrove swamps and farmland through seepage and spills and the lethal gases from flares that have burned day and night (Na’Allah, 1998).

The source of the oil spill which devastated Ogoniland was oil from a production site or oil wells, because oil spilled from a pipeline or oil well runs down the natural slope and evaporates or percolates into the ground (UNEP Ogoniland Fact Sheet). The failure to clean up this ongoing oil spill resulted in the

devastating contamination of the soil and water in the area which affected all forms of crops, plants and fish farming. The fact is that Ogoniland is a victim of oil pollution which has transformed the area into an ecological wasteland. With the intention of saving Ogoniland, the federal government of Nigeria invited the United Nations Environmental Programme (UNEP) to carry out a comprehensive environmental impact assessment (EIA) in the area. Hydrocarbons were found in the soil at depths of at least 5 metres, and in the drinking water sampled from 28 wells (boreholes for drinking water) in ten communities adjacent to contaminated sites. The UNEP report (2011) serves as a good guide for understanding the problem in the Niger Delta. It provides systematic and scientific evidence of the nature, extent and impact of oil contamination in Ogoniland. As summarised by UNEP Executive Director Steiner, the oil industry has been a key sector of the Nigerian economy for over 50 years, but the assessment report emphasises that many Nigerians have paid a high price for this. It is the UNEP's hope that its findings can catalyse not only significant environmental and social improvements in the region, but a strategic policy on how the oil industry there should function in order to truly benefit the lives and livelihoods of communities in the region now and in the future.

Reflections on this statement are in line with the view expressed earlier in this paper that national agencies ought to collaborate to actively implement laws to control the oil industry. For far too long, oil companies have been left to manage their affairs for and by themselves as though there were no functional laws in place to regulate their operations.

Poverty in the Niger Delta

It is a well-known fact that in any region of the world dominated by resource extraction, there is bound to be harm to the environment which, if left unaddressed, usually results in environmental degradation and poverty. According to Udofia and Udom (2011), the people of Iko mentioned earlier are not poor because they abuse their environment, but because of environmental degradation. This was the conclusion of an investigation into the relationship between environmental degradation and the

socioeconomic status of the Iko people of the Eastern Obolo Local Government Area of Akwa Ibom State in the Niger Delta region. The poverty that comes with environmental degradation and the exhaustion of natural resources can lead to violent uprisings. This is even more likely if resource constraints result in water and food shortages and affect the livelihood of residents. In this way, environmental degradation poses a threat to human survival and psychological well-being (Oluduro, 2014).

In summary, the result of the deprivations associated with soil contamination, water pollution, decimation of the fish population and the loss of mangrove forests is the undeserved impoverishment of the Indigenous People in the Niger Delta. Nigeria has a responsibility towards her Indigenous People in terms of eradicating poverty. Poverty eradication is a fundamental element of sustainable development, and heads of state and governments have resolved to establish an inclusive and transparent intergovernmental process for achieving sustainable development goals (SDGs), as contained in the outcome document entitled *The Future We Want* (UN Conference on Sustainable Development Outcome Document, 2012):

Democracy, good governance and the rule of law, at the national and international level as well as an enabling environment are essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger. We reaffirm that to achieve our sustainable development goals, we need institutions at all levels that are effective, transparent, accountable and democratic.

(The Future We Want, par. 10)

According to the United Nations, the eradication of poverty is a global challenge facing the world today and an indispensable prerequisite for sustainable development. International efforts to eradicate poverty could yield domestic dividends if governments honour their commitments. The importance of institutional effectiveness, transparency and accountability for the achievement of the SDGs raises questions about the functionality

of various Nigerian institutions and their expected impact in the Niger Delta.

The Conflict

The impunity with which Shell was able to destroy the land of Indigenous People in the Niger Delta is yet to be remedied. It is reported that Shell was active everywhere in the region, (Okonta & Douglas, 2001) and the reason is not hard to find. Since the inception of the crude oil industry in Nigeria, Shell has been in control and has under the participation arrangement maintained the lead among the oil companies in the joint ventures.

There is generally a causal link between natural resource abundance and civil conflict and this is evident in the Niger Delta (Oyefusi, 2007) where the environmental degradation caused by petroleum extraction has led to violent conflicts. The crushing of the leadership of the resistance movement known as the Movement for the Survival of Ogoni People (MOSOP) in the late 1990s and the violent repression by government forces of the Ijaw Youth Council (IYC) led campaign for resource control exacerbated frustration with both government and the oil companies (Obi & Rustad, 2011). With the return of democratic governance in 1999 and as the military retreated to their barracks, the way was paved for intensely militant resistance, and youth activism emerging as the vanguard of more daring and volatile demands (Obi & Rustad, 2011).

The Indigenous People, and particularly the youth, have taken up arms against oppression and deprivation. This paper seeks to affirm that violence and force are not the answer and proffers a legal solution which is achievable through a legislative process involving all stakeholders and aimed at formulating a legal framework for the protection of the rights of the Indigenous People who are at the centre of the Niger Delta devastation.

National Institutions that Impact on the Petroleum Industry in Nigeria

This paper focuses on four of Nigeria's national institutions related to the petroleum industry.

(i) Nigerian National Petroleum Corporation (NNPC)

The NNPC is the state oil corporation of Nigeria established by an act in 1977 to oversee the petroleum business on behalf of the government. In addition to its exploration activities, the NNPC was given authority over and operational interests in the refining of petrochemicals and transportation of products as well as marketing, and thus acquired a large stake in the petroleum industry. In its joint venture operations (JVO), the NNPC transacts under the Joint Operating Agreements (JOA) which is a basic standard agreement between the NNPC and operators (NNPC Joint Venture Operations) and which sets the modalities for operations. All parties share the costs of operations although only one of the partners is designated 'the operator'.

There are six joint ventures involving foreign-owned oil companies, and although these are operated by the oil companies, the NNPC reserves the right to become an operator. The six joint ventures are as follows:

1. Shell Petroleum Development Company of Nigeria Limited (SPDC)
2. Chevron Nigeria Limited (CNL)
3. Mobil Producing Nigeria Unlimited (MPNU)
4. Nigerian Agip Oil Company Limited (NAOC)
5. Elf Petroleum Nigeria Limited (EPNL)
6. Texaco Overseas Petroleum Company of Nigeria Unlimited (TOPCON)

In 1997, Shell's JVO accounted for 40% of Nigeria's total oil production from more than 80 oil fields. The company operates primarily onshore, on dry land or in the mangrove swamps, while other companies operate offshore in shallow water or in small onshore fields. No other oil company has the dry land coverage that Shell has.

While the NNPC's operations in the petroleum industry are entirely commercial, the industry is regulated by the Department of Petroleum Resources (DPR), a department within the Ministry of Petroleum Resources.

(ii) Department of Petroleum Resources (DPR)

The Department of Petroleum Resources (DPR) was established in the Ministry of Petroleum Resources in 1988 after having undergone various previous transformations.

The DPR ensures compliance with industry regulations, processes applications for licenses, leases and permits, and establishes and enforces environmental regulations. As such, it is the regulatory agency of Nigeria's vast oil industry and is responsible for controlling and supervising all the activities of oil companies engaged in oil exploration.

The DPR has a vital role to play in the issue under review. One of its functions is to supervise all petroleum industry operations carried out under licences and leases in the country. However, exploration and exploitation are not possible without impacting on the environment and the people in the community where operations take place. It is therefore one of the DPR's statutory duties to protect the land, the environment and the Indigenous People in the course of petroleum industry operations. This duty calls for loyalty to the nation as part of the DPR's institutional function to ensure that "Health Safety & Environment regulations conform with national and international best oil field practice." (DPR Functions: para.(iii)) If the DPR fails in this duty, fundamental questions arise about the entity's performance and professional ethos.

The National Data Repository established in the DPR to preserve and promote Nigeria's exploration and production data is backed by the National Data Repository Regulations (2007) (NDRR). The NDRR Art. 3 empowers the Repository to

(a) house for easy accessibility, oil exploration and production data and information under a common platform, and (b) provide the necessary database for optional evaluation and assessment of the potentials of the exploration and production basins in the country.

According to these two provisions, the public ought to have access to information about the

quantity of crude oil produced monthly, quarterly and yearly in Nigeria, and what quantity is in reserve for public consumption. The principles of transparency and accountability that should be instilled in the institutional ethos are germane to the goal of sustainable utilisation of natural resources. Lack of transparency in oil industry operations, by all stakeholders, makes data gathering almost impossible. People reportedly do not generally have any idea of the total number of barrels of crude oil produced in their localities nor the daily production rate (Ukeje *et al.*, 2002). It is important that the DPR collaborate with the agencies which are responsible for sustainable development and biodiversity in the country in order to enhance and uphold international best practice in environmental protection.

(iii) National Environmental Standards and Regulations Enforcement Agency (NESREA)

The NESREA was established by an act in 2007 as an enforcement agency for environmental standards, regulations, rules, laws, policies and guidelines. It is responsible for the protection and development of the environment, biodiversity conservation and the sustainable development of Nigeria's natural resources through general and environmental technology. This includes coordinating and liaising with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines. The NESREA is further expected to enforce compliance with the provisions of international agreements, protocols, conventions and treaties on environmental issues, including climate change, biodiversity conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine and wild life, pollution and sanitation, and other such environmental agreements as may come into force from time to time.

In terms of its environmental responsibilities in the Niger Delta, the NESREA has had little or no impact. The agency is mandated to represent the government in enforcing environmental laws in Nigeria, and most importantly in the Niger Delta with its petroleum industry and attendant environmental repercussions. The fact that the environment in the Niger Delta has

been so devastated despite the existence of such an agency is indicative of neglect and abandonment.

The NESREA must consult with and involve the indigenous people in the environmental protection of the Niger Delta as provided in ILO C169 Art. 7(4) which states that “[g]overnment shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.”

(iv) The Niger Delta Development Commission (NDDC)

The Niger Delta Development Commission was created in 2000 through an act which also repealed the Oil Mineral Producing Areas Commission Decree of 1998. In Art. 2(1) (b), the Act lists the Nigerian states which constitute the Niger Delta Oil Producing Region (NDOPR) as being Abia State; Akwa Ibom State; Bayelsa State; Cross River State; Delta State; Edo State; Imo State; Ondo State; and Rivers State. More importantly however, reference to the requirement that the representative of each member state be “an indigene” is evidence of the acknowledgement of indigeneity in dealings with the people of the region and an indication that Indigenous People have been identified in the region.

An important function of the NDDC according to s. 7(1) of the NDDC Act is to -

- (h) tackle ecological and environmental problems that arise from the exploration of oil mineral in the Niger-Delta area and advise the Federal Government and the member States on the prevention and control of oil spillages, gas flaring and environmental pollution, and (i) liaise with the various oil mineral and gas prospecting and producing companies on all matters of pollution prevention and control.

These statutory provisions make the NNDC responsible for the monitoring and close supervision of the entire oil industry in the Niger Delta. This requires a proactive reliance on harmonised international laws on effecting supervision and control of the industry and guidelines for exacting

compensation from erring oil and gas companies operating in Nigeria which will translate into the social, economic and environmental upliftment of the indigenous people and their communities. Such international laws to be considered include:

- (a) International Convention on Civil Liability for Oil Pollution Damage 1969 (1969 Civil Liability Convention).

As a signatory to this Convention Nigeria is obligated to adopt the law for the benefit of the indigenous people in the oil region who are repeatedly subjected to oil pollution damage. The 1969 Civil Liability Convention was amended by the Protocol of 1992 and is now the International Convention on Civil Liability for Oil Pollution Damage 1992.

- (b) International Convention on Oil Pollution Preparedness, Response and Co-operation 1990. Ratified by Nigeria in 1993, this Convention challenges established authorities such as the NDDC to put preventive measures in place for pollution emergencies.

Art. 3 on an Oil Pollution Emergency Plan states in Subsection (2) that “[e]ach Party shall require that operators of offshore units under its jurisdiction have oil pollution emergency plans, which are co-ordinated with the national system established in accordance with Article 6 and *approved in accordance with procedures established by the competent national authority.*”

Subsection (3) states that “[e]ach Party shall require that authorities or operators in charge of such sea ports and oil handling facilities under its jurisdiction as it deems appropriate have oil pollution emergency plans or similar arrangements *which are co-ordinated with the national system* established in accordance with Article 6 and *approved in accordance with procedures established by the competent national authority.*”

Art. 6(1) states that in terms of national and regional systems for preparedness and response “[e]ach Party shall establish a national system for responding promptly and effectively to oil pollution incidents.”

[All emphases the author’s.]

- (c) International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971.

This Convention elaborates on a compensation and indemnification system supplementary to the International Convention on Civil Liability for Oil Pollution Damage with a view to ensuring that full compensation is made to victims of oil pollution incidents.

- (d) International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969.

This Convention is aimed at the protection of the high seas and seeks in Art. 1(1) “to prevent, mitigate or eliminate grave and imminent danger to coastline or related interests from pollution or threat of pollution of the sea by oil, following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.”

Nigeria’s participation in these treaties indicates the intention to protect her people. The relevant agencies and national institutions in Nigeria need to realign with these international laws and make them effectively functional as interventions to protect the seas, coastline and general environment of the Niger Delta region, and particularly the indigenous people whose way of life has been negatively affected by oil pollution. These laws require adaptation and effective implementation through the collaboration of proactive national agencies in Nigeria.

The functions of the NDDC ought to be aligned with the concept of sustainable development (SD), and its operations and activities must impart the benefits of the SD principles in all their ramifications. The Commission’s obligation to comply with the principles of sustainable development is provided for in the NDDC Act s. 7(1) (j) whereby the Commission is expected to execute works and perform functions “that are required for the sustainable development of the Niger Delta area and its people.” This provision is both a positive indication of the acknowledgement of international law and standards and Nigeria’s readiness to protect the rights of the Indigenous People of the Niger Delta.

The Rights of Indigenous Peoples under International Law

- A. United Nations Declaration on the Rights of Indigenous Peoples, 2007 (UNDRIP) and the International Labour Organisation’s Indigenous and Tribal Peoples Convention C169, 2007 (ILO C169)

Despite the near universal endorsement of the UNDRIP and the adoption by consensus of the World Conference Outcome Document, many states still do not recognise the existence of Indigenous Peoples in their own countries and the rights of such peoples are not high on many political agendas (IWGIA, 2015).

This is a succinct description of the plight of Indigenous Peoples in Africa generally and in Nigeria specifically. It is the consensus among Indigenous Peoples that they should be protected by international law, a position justified by the adoption of two instruments, namely the 1989 ILO Indigenous and Tribal Peoples Convention C169 (ILO C169) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (UN General Assembly Resolution A/RES/61/295, 2007). The environmental degradation caused by petroleum extraction in the Niger Delta has diminished the value of life and the standard of living of the Indigenous Peoples in that region.

The fact that Nigeria’s Indigenous Peoples are completely reliant on the above-mentioned international laws for the protection of their rights and privileges calls for their adoption by the state. This is linked to Nigeria’s commitment to the UN and the ILO and is particularly in line with the United Nations General Assembly Resolution (A/RES/66/142, 2011 on the Rights of Indigenous Peoples) which exhorts states which have not yet ratified or acceded to the ILO C169 to consider doing so and to support the UNDRIP. In order to achieve the goals of the Declaration, the UN resolution urges states to take all necessary steps, including legislative measures in consultation and cooperation with indigenous peoples, to achieve the goals of the UNDRIP. This is an approach well suited to the legal remedy proposed by this paper.

The Indigenous Peoples of Nigeria cannot be denied the protection sought and secured for Indigenous Peoples by the UNDRIP. The General Assembly recognises and affirms that “Indigenous Peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples” (A/RES/61/295). The UN call for all nations of the world, and particularly those under the Charter of the United Nations to which Nigeria is a party, to “establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom” (Charter of the United Nations, p. 3) must be upheld. Thus, the United Nations proclamation that “the United Nations Declaration on the Rights of Indigenous Peoples becomes a standard of achievement to be pursued in a spirit of partnership and mutual respect” (UNDRIP, p. 4) portends a contractual obligation for Nigeria. The UNDRIP has become a reality in Nigeria for the protection of the rights of the country’s Indigenous People and in particular those living in the Niger Delta and who desire the right to self-determination and to their land, natural resources and development.

1. Right to Self-Determination.

The right to self-determination does not exempt Indigenous Peoples from the sovereign control or rule of law under state jurisdiction but allows them to decide on issues affecting their particular way of life. Art. 3 of the UNDRIP declares that Indigenous Peoples have the right to self-determination, that is, to “freely determine their political status and freely pursue their economic, social and cultural development”; while Art. 4 declares that in exercising this right, indigenous peoples “have the right to autonomy or self-government in matters relating to their internal and local affairs.” The preamble to the ILO C169 recalls the terms of vital international instruments on human rights, and recognises “the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live.” The

Indigenous Peoples have identified themselves as such and their right to do so ought to be respected and protected. The right to be identified as Indigenous Peoples flows into the right to self-determine on the development of what they believe belongs to them, such as their land and natural resources.

2. Right to Land, Natural Resources and Development.

In its preamble UNDRIP recognises the urgent need to respect and promote the inherent rights of Indigenous Peoples which amongst others are derived from “*their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources*” (A/RES/61/295). Similarly, ILO C169 Art. 7 (1) provides that

[t]he people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

ILO C169 Art. 14 provides that “(1) the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised; and that, (2) Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and guarantee effective protection of their rights of ownership and possession.” Most important however is that “(3) [a]dequate procedure shall be established within the national legal system to resolve land claims by the peoples concerned.”

It is believed that the right to land cannot be separated from the natural resources contained in and under the said land. Art. 15 of UNDRIP provides for the right of Indigenous Peoples to the natural resources associated with their lands which should be specially safeguarded, and their right to participate in the use, management and conservation of those resources.

The UNDRIP further provides for situations such as that found in Nigeria by stating that governments are to establish or maintain procedures for consultation with Indigenous Peoples before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands.

This is in tandem with UNDRIP Art. 26 which provides that

(1) Indigenous peoples have right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. (2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. (3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

In terms of this paper's recommendation that there be a legislative review, the UNDRIP directs on *legal recognition and protection of the land, territories and resources*, whilst the ILO C169 instructs that *adequate procedures be established within the national legal system to resolve land claims by the peoples concerned*. In this way, the two international laws proffer legislative directives on the rights of Indigenous Peoples which could be applied to the benefit of these people in Nigeria.

B. African Commission on Human and Peoples' Rights (ACHPR)

Through its Working Group on Indigenous Populations/Communities in Africa (WGIP), the ACHPR expresses confidence in the value of the UN Declaration on the Rights of Indigenous Peoples as a tool for ensuring the promotion and protection of the rights of indigenous peoples on the African continent (African Commission: Communiqué on the UNDRIP, 2007). The Commission is equally "mindful of the disproportionate impact of human rights abuses

upon the rural communities in Africa that continue to struggle to assert their customary rights of access and control of various resources, including land, minerals, forestry and fishing." This view was expressed in the ACHPR Resolution on a Human Rights-Based Approach to Natural Resources Governance, which also asserts that Indigenous Peoples cannot be separated from the development of the land on which they dwell as well as the natural contents of the land (ACHPR Resolution 224, 2012). In this Resolution, the Commission also recalls Principle 2 of the Rio Declaration which establishes state sovereignty over natural resources, in conjunction with Principle 1 which provides that "human beings are at the centre of concerns for sustainable development, which entitles them to a healthy and productive life in harmony with nature," and finally merges it with Principle 22 which provides for the involvement of local communities in environmental management and development in order to protect their identity, culture and interests. Drawing on the strength of these principles, the African Commission calls on State Parties to ensure the fulfilment of international human rights laws and standards when exercising sovereignty over their natural resources, and to establish a clear legal framework for sustainable development as it impacts on natural resources.

In effect, the ACHPR-WGIP underscores the challenges it faces in promoting the rights of indigenous peoples to land, natural resources and a safe environment, and affirms that for Indigenous Peoples, land is the basis of cultural identity and spiritual and social wellbeing, and not just a means of subsistence (WGIP Intersession Report, 2012). Highly encouraging and motivational is the clarion call by the Working Group for all State Parties to the African Commission to "(a) ratify the ILO Convention C169; (b) work towards adopting a law to promote and protect the rights of Indigenous Peoples, and (c) ensure the political and legal recognition of the Indigenous Peoples by applying regional and international standards" (WGIP Intersession Report, 2012).

The objectives of the ACHPR are a challenge to Nigeria as an active member of the Commission. Nigeria can also learn from the examples set by other African nations that have embraced the concept of

indigeneity for the progress and protection of their peoples. These include the following:

1. The enactment of a law by the Republic of Congo in 2011 to promote and protect the rights of indigenous peoples, which was a domestication of relevant provisions of the UN Declaration on the Rights of Indigenous Peoples (2007). The ACHPR WGIP was involved in the drafting and adoption of this law which is currently the only one of its kind in Africa.
 2. The Central African Republic is the only African country that has ratified the ILO C169, and has also adopted a national plan of action for implementing the provisions of the Convention.
 3. Burundi has established a quota system to ensure Batwa representation in the Senate and National Assembly as part of its efforts to achieve participatory governance.
 4. By court judgement, Botswana has recognised the traditional right of the San community to their lands in the fauna reserve of the central Kalahari. The court decisions are seen as good indicators even if the San are not specifically recognised as an indigenous community.
 5. The Kenyan Government's response to the African Commission's decision in the Endorois community case is a positive indication of the recognition of the right of Indigenous Peoples to their ancestral lands.
- C. International sustainable development laws: Sustainable use, gas flaring and environmental impact assessment

Indigenous peoples derive social, economic and environmental protection from laws on sustainable development, including those discussed below.

1. Convention on Biological Diversity (CBD)

The CBD is dedicated to the promotion of sustainable development. As discussed earlier, the petroleum extraction industry and all related activities and consequences are ruled by international law, and the fact that the repercussions are predominantly environmental places the larger proportion of remedial responsibility on environmental laws.

For instance, the CBD recognises that biological diversity is about more than plants, animals and micro-organisms and their ecosystems (CBD, 1992). It is about people and their need for food, security, medicines, fresh air and water, shelter, and a clean and healthy environment in which to live. The rights of Indigenous People in the Niger Delta can only be protected when all development projects in the region, whether economic, social, infrastructural or ecological, feature on the platform of international rules, laws and principles of sustainable development in all their ramifications. CBD Art. 26 states that

[e]ach Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

According to Art. 14(1) on Impact Assessment and Minimising Adverse Impacts, a Contracting Party is to

(a) introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects, and where appropriate to allow public participation in such procedures; and (b) introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account.

Among the objectives of the CBD are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising from the utilisation of genetic resources. The CBD further explains what is meant by sustainable use, namely that present use should not deny future generations the use of components of biological diversity. In other words components must be used in a way and at a rate that does not lead to decline over the long term.

Under the present dispensation in Nigeria, the use of the crude oil resources in the Niger Delta and the attendant excessive gas flaring, might well deny future

generations good use of the same components. The excessive oil production by companies in the Niger Delta is contrary to the principle of sustainable use of resources and has led to unregulated environmental abuse. After oil spillage, the greatest environmental hazard associated with the oil industry is gas flaring which constitutes an utter waste of natural resources. Natural gas is a by-product of oil extraction which is removed from the earth crust along with the crude oil, and there are various ways in which it can be managed. It does not have to be flared off and in many countries, very little gas is flared. Flaring is simply an economically convenient option for the oil companies because it is faster and cheaper to burn natural gas than to capture and use it (Tollefson, 2016). It is also cheaper for these companies to pay the minimal fine for flaring that is imposed by the Nigerian government than to implement alternatives (AUS, 1999) such as re-injection into the subsoil, storage for use as a source of energy by local communities or transportation for use in projects elsewhere.

Nigeria is an active party to the CBD and is up to date with reporting in terms of the National Report on Biodiversity required as an indication of commitment to the Convention and its objectives (CBD, 5th National Report, Nigeria, 2014). However, under the principle of sustainable use of resources, the indices should include how the country is managing the hazards of gas flaring, given that Nigeria is one of the most prominent gas flarers in the world (“Gas Flaring in Nigeria”). Nigeria ought to pay particular attention to CBD Art. 14(a) with regard to *environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity*. In order to achieve the objectives of the CBD, Nigeria must be willing to implement the provisions of the Convention which refer to the lives of the indigenous peoples in the sense of proving that, “human beings are at the centre of concerns for sustainable development” (Rio Declaration Principle 1).

2. The Rio Declaration on Environment and Development

Principle 17 of the Rio Declaration similarly states that “environmental impact assessment, as a national

instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment.” Taken together, CBD Art. 14(a) and Rio Declaration Principle 17 present a focus on projects that will adversely affect the environment and which ought to be subjected to proper scrutiny for the benefit of human beings who are the centre of sustainable development concerns and entitled to a healthy and productive life in harmony with nature as stated in Rio Principle 1.

Concerns about the *internalisation of the environmental costs* of gas flaring in Nigeria are presumably based on Rio Principle 16 which declares that “[n]ational authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should in principle, bear the cost of pollution.” The payment of fines levied on oil companies for gas flaring in the Niger Delta constitutes an abuse of this environmental provision on the payment of the cost of pollution by the polluter. Being fined for gas flaring appears to be a better option for the oil companies compared to alternatives (AUS, 1999:5). The monetary implications of gas flaring cannot be compared to the attending health hazards and impact on climate change, and polluters should pay for pollution in the proper sense of the word. The quantum used to assess the cost of pollution should equal that of the damage that will be done to the environment, not the present situation.

3. The World Bank, the Global Gas Flaring Reduction Partnership (GGFR) and the Zero Flaring Initiative

The gas flaring and carbon emission problems associated with oil production are marked for elimination as the World Bank has taken the lead in the fight against gas flaring through the Global Gas Flaring Reduction Partnership (GGFR). This is a public-private initiative involving international and national oil companies, national and regional governments, and international institutions. The GGFR is helping to increase the utilisation of natural gas resulting from oil production by removing technical and regulatory barriers to flaring reduction, conducting research and developing country-specific gas flaring

reduction programmes (The World Bank, 2005). Since Nigeria rates second highest on the list of top twenty gas flaring countries, the World Bank's Zero Routine Flaring by 2030 initiative is bringing hope for the environmental plight of the Niger Delta (The World Bank, GGFR). The initiative has been endorsed by approximately fifteen governments (excluding Nigeria), twenty oil companies (excluding the NNPC) and the majority (45) of development institutions (World Bank, Zero Routine Flaring by 2030). Although it is not a binding document, the parties to this initiative are very committed to performing with a view to eliminating most of the flaring and associated CO₂ emissions at oil production sites. Neither the Nigerian government nor the state oil corporation NNPC have yet endorsed the initiative, but given Nigeria's previous attempt to reduce gas flaring by 2008, one could expect this endorsement to come sooner rather than later.

4. United Nations Sustainable Development Goals (SDGs)

SDG 15 refers to the sustainable management of forests, combatting desertification, halting and reversing land degradation, and halting biodiversity loss.

As such, it directs on sustainable soil management. The recent growing awareness of the importance of soil is possibly why 2015 was declared the International Year of Soils (SDG 15). Through the proper utilisation of machinery provided by the United Nations, Nigeria was expected to commence biological remediation of the contaminated soils of the Niger Delta. The United Nations has declared that sustainable soil management is fundamental to achieving the Sustainable Development Goals, the majority of which reflect the pivotal role of soils in sustaining life and providing food and water (SDG 17).

The Legal Remedy

A. Indigenous rights under customary land tenure

The customary land tenure in the Niger Delta region is similar to that which exists in most parts of Nigeria, namely communal rather than individual ownership of land. The community and village heads

are considered the trustees of the people who jointly own the land (Burn, 1972). As a user, an individual family is entitled to the use and enjoyment of a portion of land for the sustenance of the household and for farming, but is not permitted under any circumstances to sell the land or even transfer it for use by another without the sanction of the chief as tribal trustee. Although the use of the land is granted to an individual by the chief or elders of the community, land is usually passed down from father to son through many generations without any form of title impairment or later users having any stronger claim to ownership than their ancestors before them (Burn, 1972). Communal ownership of land in the form of customary land tenure was in place during the colonial era as opposed to the absolute control of land introduced in Nigeria in 1978.

The Land Use Act passed in 1978 violates the rights of the Indigenous Peoples by denying them land tenure that preserves for future generations the unlimited ownership of their land by the community (Burns, 1972). Under this Act, all land in the territory of Nigeria's constituent states (with the exception of land vested in the federal government or its agencies) "is vested solely in the Governor of the State who would hold such land in trust for the people" (Land Use Act, 1978). This Act withdrew all land rights from the people and ended the era of customary land tenure. The land vested in the federal government or its agencies is under the jurisdiction of the Nigerian Constitution. Statutorily protected by s. 44(3) of the Constitution of the Federal Republic of Nigeria (1999), this vested land is described as being "the entire property in and control of all minerals, mineral oils and natural gas in, under or upon," and the Act provides for the compulsory acquisition of such land in Nigeria. The sovereign control over land and natural resources is thus derived from this provision, and the areas in which most of these lands are located are inhabited by rural communities of Indigenous Peoples.

This particular provision on land acquisition in Nigeria is both contradictory and unjust. While subsection (3) provides that all land may be compulsorily acquired from the Indigenous owners without compensation, subsection (1) stipulates that lands cannot be compulsorily taken without

negotiations for compensation. This takes us to the issue of social justice explained below. There appears to be no justice where the rights of Indigenous Peoples are violated with impunity. The UNDRIP has taken cognisance of this discriminatory treatment of Indigenous Peoples, not only in Nigeria but in every land and nation where they are found. Article 10 of the UNDRIP declares that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the *free, prior and informed consent* of the Indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” [Emphasis the author’s.]

It is obvious from the constitutional provision that deprives the Indigenous Peoples of their land that there is no plan in Nigerian law to compensate Indigenous People or to militate against the high risks they have been exposed to. This paper therefore calls for a constitutional review.

B. The Need for Legislative Review of the Nigerian Constitution

Lapses in Nigeria’s overall land law need to be reviewed but most particularly those the Constitution. The Indigenous Peoples of the Niger Delta who are most affected by the constitutional provision of s. 44(3) seek social justice. Social justice is an integral part of democratic governance and is often enshrined in national constitutions in order to establish a form of legal relationship between a state and its people. In Nigeria, the law of social justice states that “the Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.” (s. 14(1) Constitution, 1999) The rationale of this paper is based on the principle of social justice as it relates to the rights of the indigenous peoples of the Niger Delta to their land and natural resources. The constitutional provision on social justice, read together with s. 44 (3) of the Nigerian Constitution, calls for an urgent constitutional review to support the demand of the Indigenous Peoples for protection under the law, and in particular the protection of their land.

Recommendations for Remediation

To the government of Nigeria:

1. Nigeria should recognise and encourage representation and participation by indigenous peoples through an advocacy body, possibly called the Indigenous Peoples’ Forum, to afford them a sense of belonging and a platform for self-expression. The Indigenous People themselves would determine membership of such a forum through the process of self-identification.
2. Nigeria should act upon the resolution of the African Commission on Human and Peoples’ Rights (ACHPR) to establish a distinct legal framework for sustainable development in all its dimensions as it impacts on natural resources and the social, economic and environmental protection of the Indigenous Peoples of Nigeria.
3. Nigeria must adopt the United Nations Sustainable Development Goals (SDGs) as they affect indigenous peoples and establish a Sustainable Development Goals Policy (SDGsP) to actualise and raise the standard of living of her Indigenous Peoples.
4. Nigeria should ratify the International Labour Organisation Convention C169 and, in fulfilment of the purposes and principles of the Charter of the United Nations, adopt the UN Declaration on the Rights of Indigenous Peoples without further hesitation.
5. Nigeria should promulgate a law entitled the Nigerian Indigenous People Act to serve all existing indigenous peoples in all regions of Nigeria and their unique relationships with their land, resources and environment. In addition, the country should domesticate the two important international instruments on Indigenous Peoples, the previously mentioned 2007 United Nations Declaration on the Rights of Indigenous Peoples, and 1989 ILO Indigenous and Tribal Peoples Convention C169.

6. Nigeria must reform her institutions such that there is active enforcement of all relevant laws and instruments for the protection of the environment from the harm caused by petroleum extraction mentioned in this paper and any others. This reform should take into account the regulatory principles of inter-governmental financial institutions such as the World Bank Group and the African Development Bank.
7. National forest conservation areas and parks should be established in the Niger Delta, initially in the areas thus far unaffected and later in environmentally affected but remediated areas, with a view to ecological protection for future generations.
8. The Constitution of the Federal Republic of Nigeria 1999 should be reviewed to identify and provide for the interest of the Indigenous People vested in their land and natural resources, regardless of the sovereign control of the state. This should lead to the absolute repeal of the Land Use Act of 1978 which implicitly targeted the owners of indigenous land.

To the Indigenous People of Nigeria:

1. Wake up! It is not by war but by law! The African and international communities are behind you in your struggle. Seize and take advantage of the opportunities that exist.
2. Every indigenous community from all regions of Nigeria but particularly the Niger Delta, must establish a Formal Representation Team (FRT) to liaise, network and represent their community at the proposed Indigenous Peoples' Forum of Nigeria.
3. A vision-driven enlightenment campaign should be embarked upon that gains local recognition within each state of Nigeria as well as at national level.
4. The Indigenous Peoples' Forum of Nigeria must take their mission to the Working Group on Indigenous Population/Communities of the African Commission on Human and Peoples' Rights ACHPR WGIP).

5. The Indigenous Peoples' Forum of Nigeria must take their representation to the platform provided by the United Nations Permanent Forum on Indigenous Issues (UNPFII).

Conclusion

For the communities of Indigenous People in the Niger Delta, poverty is the obvious consequence of resource extraction and the associated environmental degradation, since their environment is rendered infertile and unproductive. The Indigenous People lose not only their means of livelihood but their sense of worth. Environmental degradation from oil and gas extraction takes away all that belongs to the indigenous peoples; their land, resources, ecology and health.

Furthermore, lack of political will on the part of the government and the institutional incapability of law enforcement agencies established primarily to oversee and regulate the protection of the indigenous environment has led to this catastrophe. Prevention is said to be better than cure, and in this instance, prevention would have been cheaper and saved more lives.

The entire gamut of petroleum industry operations in Nigeria has contravened the provisions of the Convention on Biological Diversity to which Nigeria is a Party. Art. 10 of this Convention on the sustainable use of components of biological diversity provides as follows in Subsection (b): "adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity." The enforcement of this provision by Nigeria's National Environmental Standards and Regulations Enforcement Agency (NESREA) would have drastically curbed the environmental abuse by multinational oil companies which, thanks to local institutional ineffectiveness, have failed to observe any form of environmental law in their Niger Delta operations. Subsection (d) of the same Article provides that States Parties are to "support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced". This is essentially the law of biological remediation that could heal the

land and the Indigenous Peoples of the Niger Delta if judiciously applied.

This paper submits that, with no further delay and in accordance with its recommendations, a legislative remedy that conforms to international law and legal standards could temper further environmental degradation and reduce poverty in the Niger Delta region of Nigeria.

5. Living in Contaminated Land

The Struggle for a Decolonial Environmental Justice in Contemporary Martinique and Guadeloupe

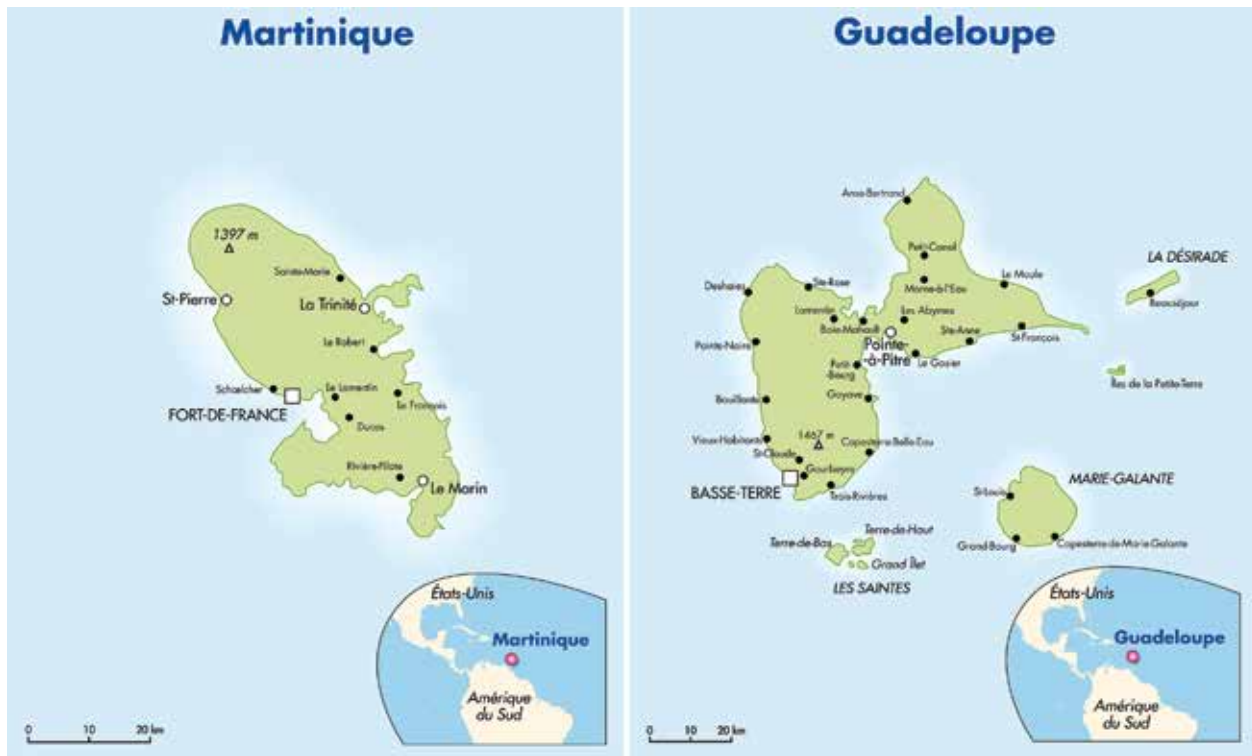
Malcom Ferdinand

This chapter presents the case of the enduring and dangerous contamination of the Caribbean islands of Martinique and Guadeloupe by chemical pesticides and the associated health risks for their inhabitants. It explores the cultural, social and political consequences of such contamination as well as the local demands for an environmental justice in these postcolonial and post-slavery societies. Such focus on the case of Martinique and Guadeloupe comes certainly at a counterpoint to a mainstream understanding of Indigenous Peoples. As Jansen & Pérez Jiménez clearly point out in this volume, an essentialist approach to the term “indigenous” has disturbingly shifted the focus to debates on “indigeneity”, that is, on whether one particular group displays the deemed essential features of being indigenous, and much less on the human rights issues at stake, that is, the situation of domination and oppression of peoples.

Indeed, based on the working definition of the “indigenous people” by rapporteur Martinez Cobo for the UN Working Group on Indigenous Population, a certain continuity should exist with “pre-invasion and pre-colonial” societies (1984). The ensuing slave trade and slavery from the 17th to the 19th century, and the forced migrations of indenture workers, led to a ‘creolized’ society with a population mostly composed of people of African descent, with nonetheless a smaller part of European and Asian (India and China). Since 1946, Martinique and Guadeloupe are overseas departments of France. That means that they part of France and the people there are French citizens.

The result of this colonization process is the fact that no social groups today “fit” indigeneity as perceived from the essentialist point of view. It follows then that when talking about Indigenous Peoples in the Caribbean, it has become common to only think about the pre-Columbian communities that are found on some Caribbean islands (Dominica, Saint-Vincent, Trinidad) and claim this historical continuity (Strecker, 2016). However, moving beyond this essentialist point of view and focusing on the subaltern situation of a group of people whose very presence is the result of colonization while constituting a minority within the national territory of France, allows one to observe the realities of Martinique and Guadeloupe and the people that inhabit these lands, making use of the frame set by the “UN Declaration of the Rights of Indigenous Peoples” (UNDRIP).

As this chapter focuses on the social and political impacts of environmental pollution, it is important to bear in mind that article 29 of UNDRIP stipulates the right of Indigenous Peoples to live in a healthy environment free from hazardous pollution. This declaration however, is not the first instance where Indigenous Peoples and other minorities have denounced their excessive exposure to environmental pollution. One of the key defining moments of the environmental justice movement in the United States took place in the 1991, at the First National People of Color Environmental Leadership Summit in Washington DC, where the principles of Environmental justice were drafted by various activists. The preamble of this declaration emphasizes the very same issues addressed by



Figures 5.1 and 5.2 : Martinique and Guadeloupe



Figure 5.3. A plantation in the South of Martinique.

different articles of the UNDRIP. Among other topics, it is a call to:

“ [...] to fight the destruction and taking of our lands and communities, [to] re-establish our spiritual interdependence to the sacredness of our mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural words and our roles in healing ourselves; to ensure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples [...]” (FNPCELS, 1996)

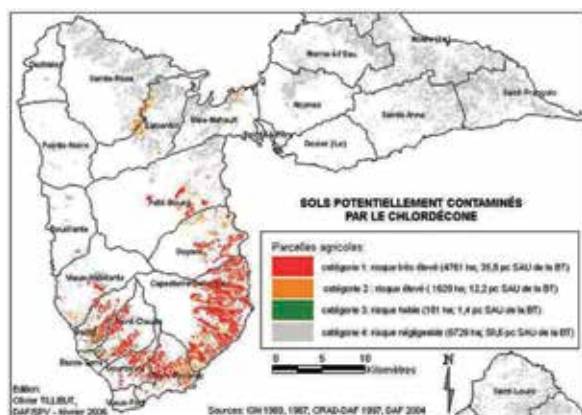
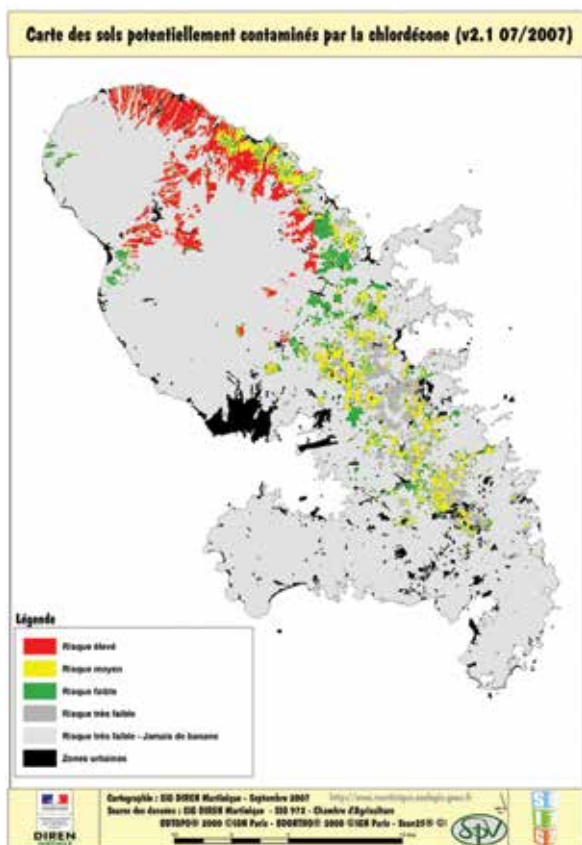
The close relations between indigenous movements and environmental justice movements require an approach that articulates both frameworks when one looks at environmental issues in these postcolonial and post-slavery societies in the Americas. Contrary to a technocratic approach that tends to disconnect environmental issues from their historical, social and political contexts, I suggest that environmental pollutions such as that of Guadeloupe and Martinique need to be understood in relation to the social and political issues associated to life on post-colonial and post-slavery societies.

Indeed, the historical heritage of these two former colonies and now overseas departments of France has left many questions regarding the contemporary relations to the land. How does one relate to the land when, as it was set up during colonization, most of the local agricultural production is exported, and most of the food consumed is imported? How does one relate to the land when a major part of it and of the economy is still controlled by a small group of people that recognize themselves as descendants of colonists and slave owners? What meaning then does the struggle for the preservation of the environment carry in these postcolonial islands?

These fundamental questions have been resurrected in the contemporary ecological struggles in both islands against the use of pesticides in agriculture. Due to the heavy use of pesticides in banana plantations over the past 50 years, these two islands have become heavily polluted with dangerous chemicals. One of the most dramatic illustrations of this is the general contamination of the land, the water, the food and the people by chlordane (CLD). This organochlorine was used as a pesticide on banana plantations between 1972 and 1993. The particular structure of this deleterious molecule gives it a persistence of up to seven centuries in certain soils. The (re)discovery of this contamination over the past 15 years has led to restrictions in local agricultural productions and local fishing activities. With no known technical and practical solutions to mitigate it, this contamination threatens to radically change the relations to the land. In this article, I will show how this particular issue brings forth not only environmental and public health concerns, but raises deeper concerns regarding the cultural and political bonds between the Guadeloupean and Martinican peoples and their lands.

The following results come from a series of field work trips that included interviews and observations in Martinique and Guadeloupe from 2011 to 2014. I have met and interviewed people that were directly engaged in the issue of CLD contamination including members of the State authorities, members of the parliament and the senate, local mayors and members of local NGOs, representatives of agricultural producers and representatives of fishermen in both islands.

Here, I propose a multi-layered approach. In order to understand the nature of this pollution, I will look at it from different perspectives, or different layers, where each layer brings its own sets of questions. First, I look at the scientific layer, establishing the extent of this pollution and its environmental and public health consequences. What is CLD? What are the ecological and sanitary consequences of this pollution? How does it affect the health of the people? Secondly, I will look at the anthropological



Figures 5.4 and 5.5 : Contamination of the lands of Martinique and Guadeloupe by CLD

layer pointing to some of the consequences of this pollution regarding the relations of the inhabitants to the land, to their environment and to their own bodies. How does this pollution affect current and traditional practices and relationships with the land, to local food and to the surrounding environment? Thirdly, I will look at the political layer. Placing this pollution within the postcolonial and post slavery context of Martinique and Guadeloupe, I will look at the political meaning of the struggles of civil society against this pollution. What does it mean for the people of these postcolonial societies to politically engage with this pollution? What political processes are at play with respect to the specific histories of these islands and their political relations to the French State?

Scientific Layer: a Long-Lasting, Generalized and Harmful Chemical Pollution

The past 15 years in Martinique and Guadeloupe have been the stage of the (re)discovery of the extent of the contamination of these islands by CLD. First fabricated in the United States in 1951, this pesticide, which comes from the same family as DDT, was used extensively in the banana plantations of Martinique and Guadeloupe from 1972 until 1993. Found under the commercial names of Kepone® and Curlone®, CLD looked like a white powder that was spread at the base of the banana plants in order to kill a particular weevil, a banana root borer (the *cosmopolites sordidus*). This weevil used to eat the banana bulbs, therefore reducing the yield of this all-year-round crop. A 6th of all the production of this molecule in the world (300 tons) was used on 21000 hectares of land in Martinique and Guadeloupe (Le Déaut and Procaccia, 2009: 2). Although it was used in the 70s, 80s and 90s, it is only at the turn of the millennia that the extent of this contamination has started to be acknowledged by the authorities.

This contamination presents three important characteristics. First of all, it is a long-lasting contamination. The particular property of this molecule and its affinity with the soils of Martinique and Guadeloupe gives it a strong remnance. The mathematical model predicts that this molecule

will remain in the soils from 60 years to up to 7 centuries (Cabidoche et. al., 2009). Secondly, this contamination is generalized. Indeed, not only the lands on which the CLD was used are contaminated, but the whole catchment areas and ecosystems of these islands are also contaminated including the waters, plants, animals and humans. Nowadays, the equivalent of 25% of the land used for agriculture in Martinique and Guadeloupe is contaminated by this molecule (Le Déaut and Procaccia, 2009: 20). All of the water sources of Martinique used to provide water to the inhabitants are located in contaminated zones (Beaugendre, 2005: 45). Similarly, 80% of the water resources of Guadeloupe are located in Basse-Terre where the banana plantations are mostly concentrated and most the CLD contamination is located. A “stable presence” of this molecule has been detected in river waters, water catchments and boreholes (Beaugendre, 2005: 47).

Furthermore, this molecule is found in foods both animal and vegetal. A study called RESO conducted in 2006 and 2007 found that approximately 1 in 10 aliments was found to have CLD in it (AFSSA, 2007). This rate varies depending on the type of food. It is particularly present in root vegetables (18, 4%) including dasheens, carrots, yams, sweet potatoes, Caribbean cabbages but also in cucurbits comprising the cucumber and the local pumpkin (AFSSA, 2007: 16). It has also been found to a lesser extent in some aerial fruits and vegetables such as avocados and soursops. This molecule has been found in seafood including various species of fish and shellfish, and in meat including beef, eggs and dairy products (AFSSA, 2007: 67-68). In addition to land, water and food, the CLD is also found in humans. A study aiming to estimate the presence of CLD in pregnant women found that 90% of the tested women had CLD in their bloodstream. 40% of them had CLD in their breast milk 72 hours after having given birth (INSERM, 2004). Similarly, a study aiming to investigate the effect of CLD contamination on male fertility found that 88% of men tested had CLD in their bloodstream (Multigner et al., 2006).

Thirdly, and perhaps more importantly, this molecule is *harmful*. CLD has been found to be both a

carcinogen and an endocrine disruptor. It becomes harmful both from acute exposure and chronic exposure as is the case of the French Antilles. The sanitary consequences of acute exposure to CLD were dramatically revealed in 1975 when the Kepone-making factory of Hopewell in the State of Virginia suffered a major leak. Aside from the pollution of the nearby river, the James River, the leak of Kepone in the factory induced sanitary effects known as “Kepone syndrome” on the workers. These workers had neurological troubles including shaking of the limbs, loss of motor coordination, mood and short memory disorder as well as anarchic movements of the eye-ball. They also suffered from testicular problems inducing a temporary reduced sperm quality (Newhouse et. Al., 2009).

The deleterious effects of the chronic exposure of the inhabitants of Martinique and Guadeloupe have been revealed in recent medical studies. CLD affects the cognitive development of young infants. In 2012, a study found that “pre- and postnatal low chronic exposure to chlordecone is associated with negative effects on cognitive and motor development during infancy » (Kadhel P. et al., 2012: 79). This study also found in 2014 that CLD was linked to reduced lengths of gestation and increases the risk of premature births (Kadhel P. et al., 2014). CLD also increases the risk of occurrence of certain cancers. A study by the Martinican association for epidemiological research on cancer found that associative links are suspected between professional exposure to CLD and the occurrence of multiple myeloma (Dieye et. al., 2009). Finally, the Karuprostata study showed that exposure to CLD increases the risk of prostate cancer (Multigner L. et al., 2010). It is important to bear in mind that Martinique had the highest rate of prostate cancer in the world in 2012 (Ferlay et. al. 2013)!

The Burden of Diseased Lives: Ecological Domination and Violence

Having established the nature of this molecule, listing scientifically the extent of the contamination and its sanitary consequences, it is important to extract ourselves from the scientific language and question the way in which this pollution affects the

lives of the people of Martinique and Guadeloupe. Contrary to spectacular pollution such as oil spills or dangerous events such as radioactive leaks and nuclear breakdowns, this pollution remains invisible to our senses. Not only is it invisible in the sense that we do not see, smell, feel, taste and much less hear it, but also the relationship between one's contamination and one's health effects is not intuitively apprehensible. How does this invisible pollution impact on our lives? What does it mean to have CLD in your own blood?

The starting point in understanding this pollution is to recognize that it is above all an infringement on the bodies and the health of the people of Martinique and Guadeloupe. In order to understand the fundamental aspect of this pollution, here is the testimony of one activist in Martinique, Mr. Faix, who actively protested against this pollution with a local NGO:

“The Author _ How have you encountered the issue of CLD ?

Mr. F._ Well, it is very simple. I was at the American hospital [in Martinique]. I was coming out of my colon cancer, when they told me that D. and E. [two activists and writers engaged in the struggle against CLD] wanted to get in touch with me. Then, I had also just lost my father to brain cancer. And then, when I learned the reason of their call [talk about CLD], knowing that my father was born and grew in the town of Lorrain, the kingdom of the banana plantations and that me, myself... Well, I was touched in my own flesh, I really felt that this issue concerned me. [...] They helped me understand the relationship that could exist between what had happened [and] what *I was living in my family and in my flesh*”¹

As Mr. Faix expressed here, the chronic exposure to these chemical pollutants is first of all a damage to the body, to the flesh of the inhabitants of these islands. This pollution is lived within families and within the very flesh. The ecotoxicologists use the expression *body burden* to designate the quantity of toxic chemical molecules detectable within the

human body at a given time (Beyond Pesticides, 2016). The term *burden* emphasizes the burden of having all of these molecules in one's blood. However, we have to bear in mind that the burden does not lie in the action of carrying these molecules in the body as if they were really heavy. The burden lies in the consequences associated with the presence of these molecules, that is in the induced morbidity and the difficult day to day realities of diseased lives.

The tardiness of cognitive and motor development of early childhood, the rise of premature birth, the high rate of certain cancers become the manifestation of the burden of diseased lives in Martinique and Guadeloupe. By a scientific calculus, the World Health Organization manages to give an idea of this burden in terms of time lost by estimating the *Global Burden of Disease*. “This time-based measure combines years of life lost due to premature mortality and years of life lost due to time lived in states of less than full health” (WHO, 2016a). The global burden of disease associated with environmental pollutions such as CLD in Martinique and Guadeloupe becomes the *Environmental Burden of Disease* (WHO, 2016b). Even if no such calculus has been conducted in Martinique and Guadeloupe, it is important to note, before any political or social analysis, that this chemical pollution induces a body burden, a burden that derives from the diseases and sickness that this molecule has caused and still causes in Martinique and Guadeloupe, as Mr Faix revealed.

Secondly, not only is this pollution a body burden, but it becomes also the manifestation of certain relations between people within civil society and the State deriving from the way these islands are inhabited. It is the manifestation of what I call an *ecological domination*. If the body burden is primarily a relationship between one's self and his or her body, by *ecological domination* I want to emphasize that this contamination demonstrates certain relations between peoples, the agricultural industry and the State authorities. By the expression *ecological domination*, I don't want to refer to the domination of the ecosystems of the island over men. The chemical pollutions of the French Antilles are in no way the result of a dominating nature. This pollution is not either the result of particular characteristics

1. Interview with Mr. Faix, member of the organization « Non au CLD », Fort-de-France, Martinique, October 2014, translated into English by the author.

of the nature of Martinique and Guadeloupe, as some elected officials of the French parliament and Senate have argued (Le Déaut and Procaccia, 2009: 11). By ecological domination I mean the particular configuration of these Martinican and Guadeloupean societies by which a life in a dangerously polluted environment has been imposed on a people.

Here, this configuration lies in the monopolistic nature of the banana production on these islands. The economic power and domination of a few holders of the banana industry, imposes on the many a particular quality of the environment on which they had no say. The economic power of a few « Béké » families, that is those who claimed to be descendants of colonists, becomes an ecological domination (Cabort-Masson, 1992). With their economic power, they are able to shape the landscapes of these islands and to modify the chemical composition of the environment. It is important to realize that while this economic power manifests itself in a certain ability to affect the landscape, it is really a relationship between the owners of this banana production and the inhabitants of the islands.

Thirdly, the result of this ecological domination is the experience of *an ecological violence*. Although this *ecological violence* touches people in their own flesh, one needs to think of this type of violence in a rather different manner than classical conception of violence. As Rob Nixon argues, perhaps one of the first characteristics of this violence is its long temporality (2011). This type of violence is not equivalent to the physical aggression on the street or the shot of a gun. It takes place over a longer period of time. However, contrary to the theory of *slow violence* of Nixon, it is not just the temporality of this violence that is different. One of the fundamental differences is the absence of stage on which actors of this violence (aggressor and victims) can recognize one another. This violence does not have scenes and the identification of the relations between the polluter and the victims become more difficult. The recognition of the impact of this molecule on one's self as well as the perpetrator of this infringement is more complex. Therefore, the role of the writer/activist highlighted by Nixon becomes important. That is, this type of violence requires the construction of a narrative which links the pollution, the exposure and

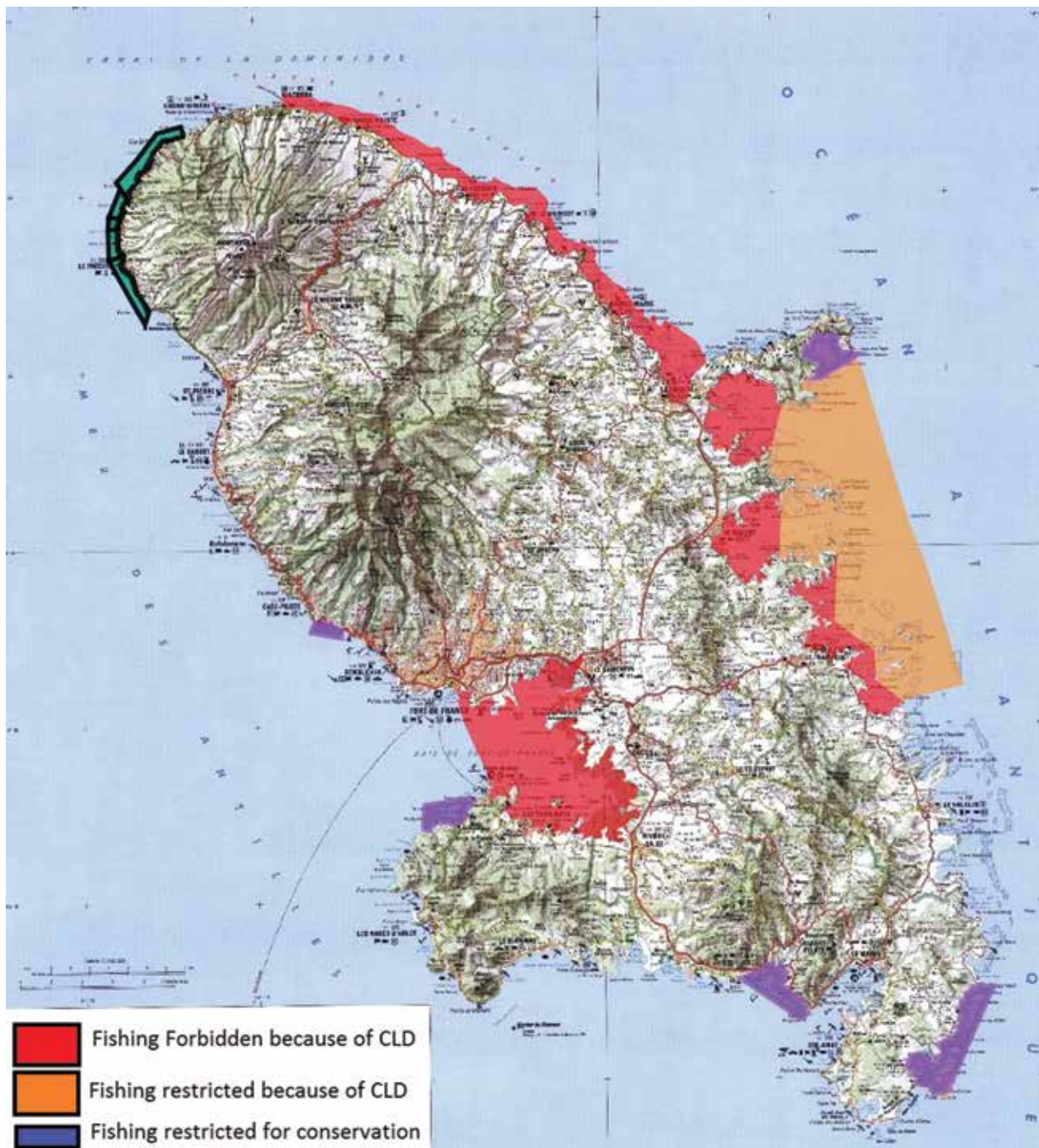
the adverse health effects, as Confiat and Boutrin have done (2007). As a result, it is not just the long period of time over which this violence takes place, it is the long exposure, the long time before the disease and cancer develop, and the long time of living with this burden. Because of the complex nature of this pollution, because of its invisibility, because of its temporality, this chemical pollution is the manifestation of a sneaky yet dire ecological violence.

Anthropological Layer:

Alienation from the Land, the Rivers, the Coastal Seas and our Bodies

In addition to the ecological and sanitary consequences of this pollution, in addition to the ecological domination and violence that are at play on these islands, it is my argument that this pollution conveys important anthropological consequences which have gone unnoticed by the scientific community. What does it mean to have the whole ecosystem of the island on which you live contaminated by a dangerous chemical molecule? Understandably, there has been a lot of research done in the field of hard sciences to define and characterize this pollution. However, what is more disconcerting is the fact there has not been any social or political analysis of this pollution from academics. An absence that was already pointed out by the sociologist Ulrich Beck regarding this type of pollution (2001). Nonetheless, this pollution impacts the lives of the people on these islands on an anthropological level in at least two different ways.

Firstly, this pollution has affected agricultural and fishery production inducing an alienation from the land. Indeed, after the rediscovery of the contamination in the early 2000s, the contaminated land could no longer be used to cultivate root vegetables such as sweet potatoes and yams. As a result, in some parts of the islands, producers, some of whom never cultivated bananas nor used CLD, found their land contaminated and are no longer able to cultivate root vegetables. Furthermore, as this land pollution became generalized, inhabitants who used to cultivate root vegetables in their traditional creole gardens, had to reduce their consumption of these products in order to reduce their contamination and

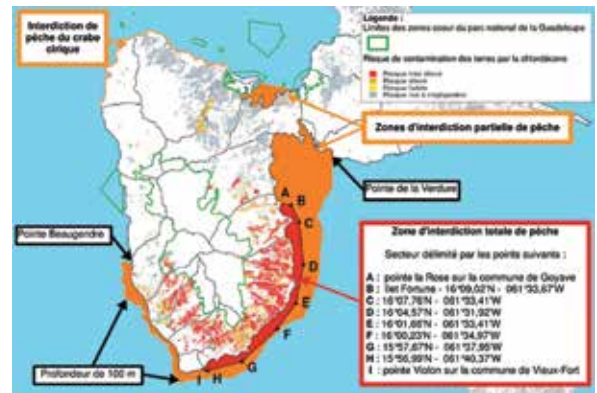


Figures 5.6: Fishing ban and restrictions due to CLD in Martinique

their effects. In 2008 and 2009, the Jafa programs (acronym for family gardens) from the Regional Health Association in Martinique and Guadeloupe respectively, estimated the exposure to CLD from self-production and consumption, and advocated to reduce the daily consumption of root vegetables. In addition to the economic loss, it is also an alienation from a vernacular relationship with the land. The unfair irony of the situation is that the crop that created this pollution, the banana industry, is still free of contamination. Because of the particular property of this molecule which remains bound to soils, most (not all) aerial fruits and vegetables such as bananas are free from CLD. It means that the production that is responsible for the long-lasting, generalized and harmful pollution of the whole ecosystems of Martinique and Guadeloupe, including the very bodies of their inhabitants, can carry on freely as if nothing had happened. The unfair nature lies in the fact that those who had not used the CLD pay dire consequences, whereas those who caused the pollution can pursue their economic activities undisturbed.

There is also a symbolic significance to the fact that in some areas this pollution prevents the production of yams, sweet potatoes, dasheens and not banana production. Indeed, whereas only 5% of the bananas (Cavendish) produced on the islands are consumed locally, root vegetables are an essential part of the diet of Martinicans and Guadeloupeans (Ministry of Agriculture, 2011). Of course, those who tend to reduce the importance of this pollution would say that there are other places on the island where these root vegetables can be produced. However, the very fact that these vegetables *might* be contaminated, and that some people have to reduce their local production and consumption shows that this pollution also affects these traditional relations to local food and local meals.

Moreover, in the same way that some households depend upon the cultivation of these root vegetables to complete their everyday meal, the reduced production of root vegetables also exacerbates the dependency of these islands on imports to survive. The contemporary agricultural production is dominated by monocultures of exportation (banana, sugar cane). The economy of these islands is still governed by this colonial principle where most of



Figures 5.7: Fishing ban and restrictions due to CLD in Guadeloupe

the locally produced food is exported whereas most of the food consumed is imported. Collectively, the local production of root vegetables has been on the decline for the past 20 years. This production, an essential part of the Martinican and Guadeloupean diet, does not manage to cover the needs of the population. In Guadeloupe, the production of yams, Caribbean cabbage, “taro” (a local variety of yams) and cassava, plummeted by 60% between 1981 and 2007 (Agreste Guadeloupe, 2009). The production of local fruits and vegetables must be supplemented by a third of import (Ibid.). In Martinique, 2282 tons of root vegetables were produced in 2012, whereas 8589 tons were imported (Agreste Martinique, 2013). In other words, in 2012, Martinique imported 80% of the root vegetables eaten locally. In short, the economy that led to this ecological and sanitary disaster is one where the inhabitants do not collectively live off the land. In preventing the production of root vegetables in some areas, in consolidating the banana production on contaminated land, this pollution affects the very ability of the people of Martinique and Guadeloupe to provide for themselves, further exacerbating their dependence on importation to live.

A similar alienation takes places regarding the fishing practices and industries in rivers and along part of the coastal areas of Martinique and Guadeloupe. Indeed, CLD has spread through rivers and mangroves, and has contaminated crabs and coastal fish. From 2009, fishing has been forbidden in Martinique and Guadeloupe in rivers and part of the coastal areas by numerous prefectural decrees. These prohibitions, although temporary in a long-

lasting pollution, have important economic impacts on local fisherman. No longer able to fish in their traditional areas, some fishermen either have to go to other fishing zones, increasing the number of fishermen per area, or have to navigate further at sea, increasing their working cost with the added fuel necessary. Some have had to cease their fishing activities entirely. Not only do the fishing bans constitute an economic loss, but they also induce a rupture in the relationship to a familiar environment, as Mr. Roger testifies. A fisherman for more than 30 years, Mr. Roger can no longer access the coastal zone of the mangrove of Genipa located at the center of Martinique, facing the Caribbean Sea. Like his father, also a fisherman, this is the place where he used to do 90% of his fishing activities. Mr. Roger recalls this ban metaphorically in terms of a conjugal relationship that had to be cut short:

“Mr Roger_ That is to say, I am not against the idea of saving human lives. If it is true that it is polluted, it is polluted. I understand that. But it is not easy to accept... You know, when you have been fishing all of your life or half of your life in your zone, and suddenly they cut your bond to this place... For example, you are with a woman and they separate you. They don't want you to love her anymore... you see? You have to separate. You have to do it...”²

As expressed by Mr. Roger, a number of fishermen and other inhabitants have been alienated from their rivers, their mangroves and their coastal fishing zones. Aside from the economic impact of this pollution on the fisherman, it has induced a *radical change in the landscape*. Boats no longer navigate in these bays to bring fish as they used to.

In response to this alienation from the land, fishermen both from Martinique and Guadeloupe have protested and demonstrated. In December 2012, the fishermen of Martinique blocked the port of the island until the government decided to provide some compensation, putting forth the injustice of their situation. They are not the ones who polluted the land and the waters, yet it is their economic activities that are affected.

Similarly, fishermen in Guadeloupe conducted a number of protests in December 2013, including road blockades in the town of Sainte-Marie. Nonetheless, no financial compensation can mend this rupture in the relations to the mangroves and to the rivers.

Secondly, this alienation from the land finds echoes in one's relationship to one's own body. With respect to men, although medical studies have shown that there should be no adverse effect on fertility, the very fact that this pollution increase the chances of prostate cancer, a cancer whose treatment affects the ability of men to procreate, has great symbolic importance. Some activists see this as a form of “genocide by sterilization”. In their open letter of April 20th of 2014, the president and vice-president of the local Guadeloupean NGO Envie-santé, the husband and wife Joelle and Philippe Verdol spoke of a “triple genocide”:

“Recent epidemiological studies have confirmed that our peoples of Guadeloupe and Martinique are currently enduring a triple genocide: by cancer, by degeneration (malformations) and by sterilization (Verdol, 2014)”

One of the more dramatic examples of this lies in the way this pollution affects the relationship between a mother and her children. Madame Savé, a mother and member of an ecological organization of Martinique had this to say:

“But this issue of CLD scares me. It scares me. It hasn't been a long time since they started using coal to filter this poison out of the water for consumption. I lived in Basse-Pointe. Basse-Pointe is one of the towns where CLD was used, even overused. So it scares me. The fact that I lived in Basse-Pointe, that means that when I was breastfeeding my children, even if I had left Basse-Pointe and I since live in Lamentin, well, I was poisoning my children. I have poisoned my children. My stepfather told me that I was poisoning my children, and not to breastfeed my children. So, it is true, that it scared me. I poisoned my children. And there are cells that are already rotten in his body, and it's worrying. It's worrying.”³

2. Interview of Mr. Casius et Mr. Roger conducted with Sylvia Berté, Trois-Îlet, Martinique, May 2012, translated in English by the author.

3. Interview with Mme Savé, Lamentin, Martinique, August 2011, translated by the author

The fact that this pollution may find itself in the milk of a mother when she feeds her baby instigates fear and mistrust in breastfeeding. It is important to note that the way this pollution affects breastfeeding does not correlate to the stealing of a mother's milk as Toni Morrison depicted in her famous novel *Beloved*. Morrison tells of a scene where an enslaved mother is pinned down by two white men and has her milk stolen. What is at stake here is a rather more radical theft. It is the very ability of the milk of the mother to be milk, its ability to be the nurturing liquid to her child, that is at stake. This is one of the most scathing truths about this pollution: *it affects the very nature of the nurturing aspect of the mother child relationship*.

Again, critics who attempt to minimize the importance of this pollution would bring a bunch of figures and scientific facts stating the number of hectares free of contamination, the medical studies that show no effects on male fertility, the States' measures and efforts to limit the contamination. However, all of these political measures and scientific studies do not erase the fact that an *irremediable doubt* has been put in place via this pollution. A doubt on the very nurturing nature of the land, some of its products as well as the nurturing relationship to the body. This doubt is exacerbated both by the nature of this pollution which is invisible and the difficult access of the population to means of verification of the presence of CLD. To this day, although most of the population is contaminated, it is not possible for the inhabitants to have their own blood tested for CLD. This monopolization of the scientific methods of verifying the presence of CLD in the blood, has put scientists and experts in a particular dominant position regarding the relations of people to their own land, rivers, mangroves and their own bodies.

Political Layer: Struggle for a Decolonial and Environmental Justice

So far, I have described this particular chemical pollution, its reach and the way that it affects the inhabitants of Martinique and Guadeloupe. It is important now to relocate this pollution, its causes and its consequences, within the specific political and historical context of these two former French colonies. These postcolonial and post slavery

societies present a social and political context that bears the legacy of slavery and colonization within which this pollution takes places and assumes meaning. This pollution was no accident.

On the one hand, since 2006, a number of civil society organizations in Martinique and Guadeloupe have taken political and legal actions against the State of France. Three main criticisms are directed at the French State pointing to its responsibility. First of all, State responsibility, and particularly that of the Ministry of Agriculture, is raised for having authorized the use of CLD from 1972 to 1993. The State authorized the use of this molecule that was known at the time to be dangerous. Not only was this molecule classified as a probable carcinogenic in 1979 by the IARC, but France authorized it even after the USA banned its use in 1978, following the Hopewell factory incident. Second, the State is at fault for the time it took to acknowledge the pollution and take the necessary measures to protect its citizens in Martinique and Guadeloupe. Reports from scientists as early as 1977 (Snegaroff) and 1980 (Kermarrec) pointed out the dangerous level of this pollutant in the soil and rivers. Yet the State only started taking action in 2001. Third, the State is also seen as at fault for the way it decided to deal with this pollution. It uses a method called Maximum Residues Levels (MLR). In 2003, members of the National Agency of Health derived values of (MLR) below which the concentration of CLD would be deemed harmless. These measures have been criticized by NGOs because they don't take into account the cumulative effects of the multiple molecules that inhabitants are exposed to. More importantly, beneath this way of dealing with this pollution lies a philosophical choice: the choice of intoxication. There, the State made the authoritative choice (without consulting the public) that it was acceptable to be exposed daily to CLD and live with it in our own blood.

On the other hand, these mobilizations from civil society organizations not only point to the responsibility of the French government and State, but also criticize a discrimination at play, claiming that this contamination results from the mutual colonial history of these islands and France, where inhabitants of Martinique and Guadeloupe do not

receive equal consideration from the French State. Evidence of this colonial discrimination is advanced by these activists. First, the simple fact that although authorized in all of France, it was only used in Martinique and Guadeloupe, gives rise to the belief that this would not have taken place in mainland France. Secondly, evidence of these discriminatory practices are pointed to regarding the way the use of CLD was banned. In 1990, the Commission of Toxics in charge of evaluating the sanitary compliance of pesticide products decided to remove this product. According to the law, agricultural producers had two years to empty their leftover stock. However, after these two years, the Ministry of Agriculture still gave two more illegal extensions to the producer to keep on using this product. At that point, CLD was formally forbidden in all of France but still authorized in Martinique and Guadeloupe. Since 2006 and 2007, different local NGOs took this matter to court. The case has yet to be decided. Like the environmental justice movement in the United States of America, the inhabitants criticize their unfair exposure to chemical pollutions (Bullard, 1990). The complaint filed by a local ecological NGO of Martinique called Assaupamar stipulates that:

“[...] nothing could justify that the public powers authorized as they did, the commercialization and the use on the Martinican and Guadeloupean soils of these toxic and dangerous products forbidden within main land France”

(Assaupamar, 2007)

These organizations want justice and want the people responsible for this pollution to be recognized and held accountable.

This quest for environmental justice in the French Antilles has two aspects to it. One of them is the actual mitigation, the “reparation”, that includes devising a way to depollute the land. Although no feasible technical solution has yet been found, this aspect has been addressed by the government. Three inter-ministry plans have been put into place that amount to 94 million euros. Scientific research has started looking at the effects of such pollution and searching for methods to decontaminate the land. However, the other aspect of justice, the “recognition

of a wrongdoing”, of a fault, has still not been addressed. I argue that the public recognition of a wrongdoing, be it that of the State or of some other groups or persons, is very important to restore the trust that the inhabitants have in the French State. A legitimate question can be raised as to whether the French State system is able to be just and fair regarding its own mistakes in this debacle. In this respect Joelle and Philippe Verdol have asked for a special investigation by the UN, the WHO and WFP (Verdol, 2014: 17), while Harry Durimel, a lawyer and president of the green political party of Guadeloupe, has filed a petition to the European parliament.

Nevertheless, the quest for the recognition of a wrongdoing by the French State goes beyond the unique issue of pollution. Indeed, this quest for recognition of a wrong is to be seen from the postcolonial context of these islands. The departmentalization of these two former colonies, which was supported and defended by the late Aimé Césaire, was in essence a law granting equal political and social rights to the citizens of Martinique, Guadeloupe as those in mainland France. Contrary to other former colonies of the Caribbean who chose independence, the path to decolonization for Martinique and Guadeloupe was one of equal rights and equal consideration within the same political State. In other words, in their particular history, the establishment of equal social and political rights was the seal of decolonization. As a result, the quest for justice from this pollution is not solely a quest for the recognition of the wrong doing of the French State with respect to the people and their environment and for the right to live in a healthy environment. It is also a quest to pursue this equality proclaimed 70 years ago, to pursue this decolonization. A quest to verify that these islands are no longer colonies. In other words, it is a struggle for an *ecological emancipation*, which is the right to live in an environment that is not polluted by dangerous chemicals and a struggle for a *decolonial environmental justice*.

Rethinking the Way we Inhabit the Earth: Decolonizing the Imagination

In addition to the ecological emancipation and the decolonial environmental justice at play in this chemical pollution, these demonstrations and justice

actions also give rise to a fundamental question regarding the way the lands of these islands have been inhabited and their respective economies. The colonialization process in the 17th century laid the principle that the main use of these islands would be to produce monocultures that would be exported solely to France. Although major political and social changes have taken place since the 17th century, including the abolition of slavery in 1848, the departmentalization in 1946 and the decentralization in 1982, one needs to realize that this principle has not really changed on the ground. One cannot avoid the fact that this agricultural economy is responsible for arguably the most dramatic pollution of the history of these islands. In the face of this situation, so far, the reaction from the politicians and authorities has been to carry on as before, aiming this time for an “ecological banana”. This contamination has been seen only as a scientific mishap that not does require us to change the way we go about doing our economy or living on these lands. Activists on the other hand have argued that there is a need to diversify the agriculture and change this dependency on monocultures. That is surely one of the major challenges looming ahead for Martinique and Guadeloupe. Ultimately these struggles force us to rethink the way in which we inhabit the land. It forces us also to rethink more precisely what the colonization process is. We know that the colonization and slavery that took place on these islands and in many parts of the Caribbean involved genocide, political domination, enslavement, a certain economic order that induced environmental degradations. But it is also important to realize that the colonization was also the political, social and anthropological engineering in a particular manner to inhabit these lands, of a particular image of these islands.

The colonial image of these lands depicts them as mere gardens for the mainland. Most disturbingly, the people have been led to believe that this is the only way that these islands can be inhabited. The people have been led to believe that the only economy possible is one of intensive agricultural production, while not being able to provide for themselves. It is in this respect that the history of slavery of these islands

becomes important to understand the political stakes at play in this environmental justice movement. Claiming the right to live in a safe environment, claiming a political responsibility for the land, is also a way to make this land and its ecosystem your own. That does not necessarily mean that only one social group can claim ownership of the land. The political responsibility for the land shown in this decolonial environmental justice movement goes beyond the important issues of property. The very fact that some people engage in this pollution, means that they intend not to forsake their islands nor their health to the capitalistic interests of a few. It means that they intend to care for the land on which they live which, as Frantz Fanon put it, “for a colonised people, [is] the most essential value because the most concrete one [...]: the land that must provide bread and, of course, dignity” (1961).

Decolonization is not solely a political act. There is a need in the French Caribbean for a decolonization of the imagination, a decolonization of the way we see ourselves in the world and the way we inhabit these islands. This is surely the alternative I wanted to point out in this article. Otherwise the authorities and civil society will continue to collectively inhabit these lands the way it was devised since the 17th century colonization, which, so far, is the case. Or this pollution will be seen as a springboard to rethink the way we, descendants of slave owners and descendants of slaves, citizens living in the Antilles and citizens living in mainland France, live together and build a common world that our children will inherit. This is the decolonial task at hand on these islands: to rethink both the way we live together and the way these islands are inhabited in a way that brings dignity to those as Césaire wrote, “without whom the earth would not be the earth” (1939).

6. Contemporary Contentions of Ancestral Land Rights Among Indigenous Kin-Groups in the Mentaway Islands of Indonesia

Juniator Tulus^{1*}

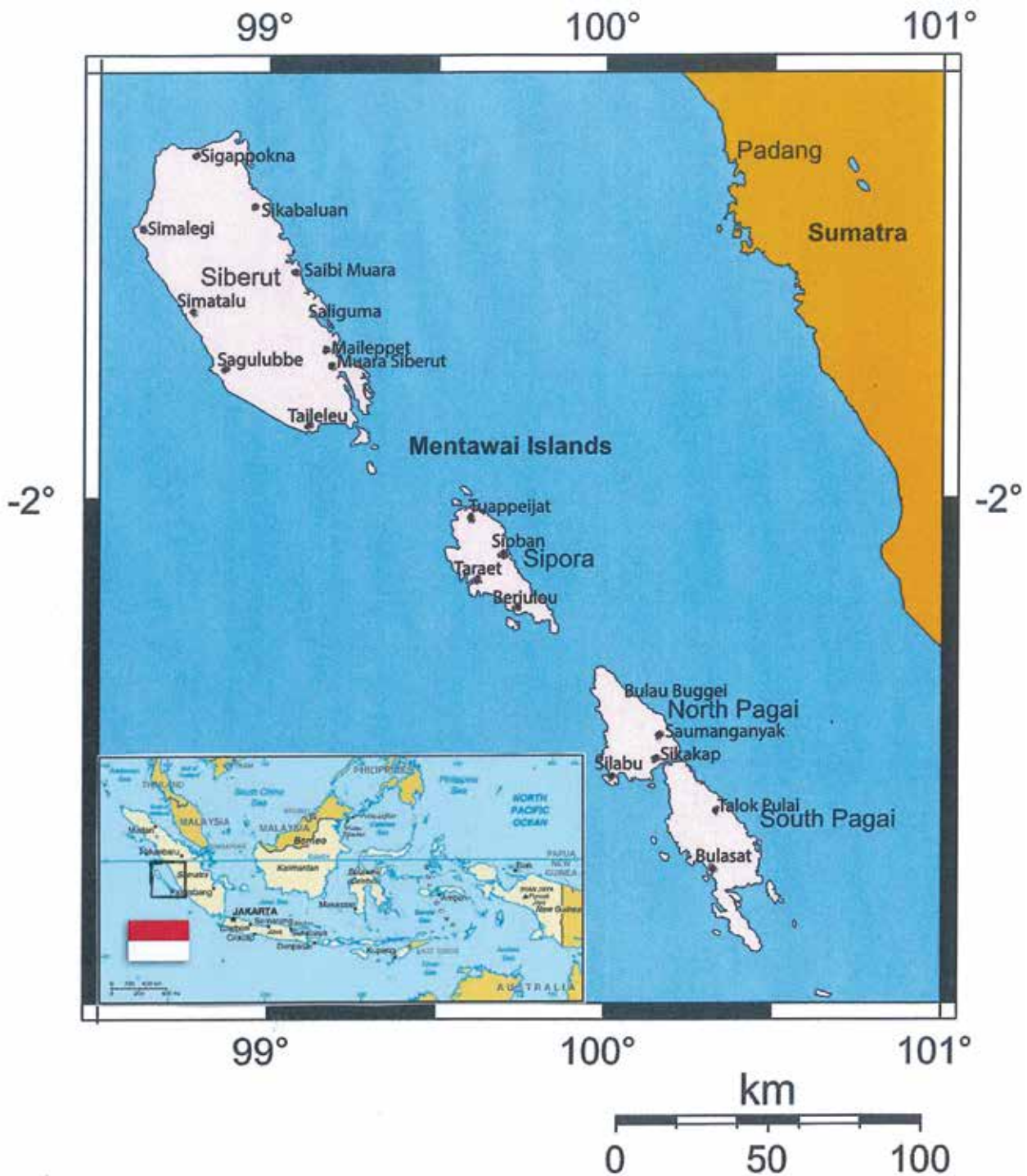
In traditional settlements of Indonesia, local communities usually have several dogs for different purposes. People train their dogs to hunt animals in the forest by running faster and skilfully catching prey. In order to fulfil this purpose, people feed dogs irregularly so that they remain skinnier and lighter. In Mentawai, a ritual is about to come to an end when numbers of adult members of a kin group go to hunt deer, wild boars, monkeys and large birds in the forest. Hunters bring dogs along in order to catch animals that have been shot, since these animals may still run away while the broken poisoned arrow tips in their body are working to paralyse them. The dogs go after them and catch them before the hunters arrive to collect the animals. Upon returning home from the forest, a kin group conducts a festivity to celebrate the closing ritual, and the dogs are given bones with a little flesh from the hunted animals. The hungry dogs fight to get the biggest bone and secure it from other dogs by showing their canine teeth and an angry face.

This metaphor illustrates the situation in different aspects of social life among the Mentawai people living in the Mentawai Islands of Indonesia (see Figure 6.1). When people argue and even fight each other in order to get a share of any precious things or advantageous circumstances, Mentawaians say

‘dogs fighting over a meaty bone.’ This saying is appropriate to illustrate the current situation of disputes regarding land rights in the Mentawai Islands between the local people, government and commercial companies. Behind this idea, there is a simple and hidden purpose, which is the strategy of survival and sustainability.

People establish different strategies to survive; some migrate to other places for a better livelihood, while others defend their property and heritage in order to secure their current settlements. Mentawaians and migrants from other places in Indonesia are seizing new opportunities from the current developments offered by the newly established district government in the Mentawai Islands. Agriculture, tourism, trading opportunities, the construction of better infrastructure and appointments as government officials all offer great chances of employment for those looking for a better and promising economic future. The Indigenous People and migrants need sites on which to build new houses and open new gardens. The local government is planning to extend villages and open new branches of the economy in order to meet the demands and hopes of the people. Mentawaians and migrants go in search of and buy plots of land; however this process is not so easy. The land in Mentawai embodies a minefield of complicated problems. Landowners do not have written documents to prove their actual claim to the land. They only have stories telling that they have a piece of land from their ancestors. Due to the lack of documents

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Figure 6.1. Mentawai Islands¹⁷¹

and the fact that landowners do not stay on their own land (as they may have left their land long ago), others can simply claim the unattended land and attempt to sell the land to buyers. This is just one situation that is presenting problems involving different people in conflicts over land rights.

If the region is to develop, the District Government of the Mentawai Archipelago needs access to the land in Mentawai. The provincial government situated in Padang and the central government located in Jakarta have allocated areas in Mentawai for different purposes (Darmanto and Abidah, 2013; Persoon, 2003). At the district level, the District Government of Mentawai Archipelago needs to negotiate with provincial and central governments before being able to implement its governmental programs, building roads to connect villages in Siberut Island for instance. It seems that different levels of government have vested interests, and the government more often than not ignores the interests of local people in order to avoid long-lasting conflicts of interest of different parties: government and Indigenous Peoples. Most of the decisions made regarding managing the natural resources in Mentawai are made without the consent of the Mentawai people – who are the indigenous owners of the land by right of their culture and custom as the native inhabitants of the Mentawai Islands. Most of the areas assigned by the government in the Mentawai Islands have been set aside for producing forests in order to engage in large-scale logging concessions, or extensive oil palm plantations in particular localities.

Certain large-scale logging companies such as PT Minas Pagai Lumber obtained a natural forest production permit from the Forestry Ministry in October 1995 and are allowed to exploit 83,330 hectares on South Pagai Island for a 20-year term. The permit was extended two years ago for a further 45 years (see Figure 6.2). PT Salaki Summa Sejahtera was also issued a forest cultivation

permit in October 2004 to exploit 48,420 hectares in the northern part of Siberut Island for a 56 year period. This has all happened even if an area of 95,500 hectares has been allocated as a national park in the western part of Siberut. Furthermore, these large-scale plans leave relatively small areas allocated for traditional land uses. Any policy which would affirm the accumulated rights of indigenous Mentawai people to their ancestral land are more often breached than observed. That is why Mentawai people currently feel threatened by the potential loss of their rights to plots of ancestral land as a consequence of the decisions made by the provincial and central governments. The district government seems incapable of mediating the aspirations of the Mentawai people in their efforts to exercise their rights and reclaim their ancestral land. These government agencies unilaterally decide what is to happen on Mentawai ancestral land and territories and the Mentawai people only have stories to tell in order to defend their rights to land ownership.

Mentawai kin groups have been fighting to recollect and retell stories of their ancestors pertaining to their land which might allow them to define their rights to their ancestral land, in order to reclaim their sites that have been plotted by the state for various purposes. The process is not simple as Mentawai society consists of more than 200 different kin groups. Five to eight of those kin groups are connected with each other through the same ancestors and ancestral land. Yet each kin group has ten to fifteen extended families in a valley and each of the kin groups has a family story recounting that particular kin group's historical particulars. Each story has a title so that it is easily remembered by its members. Pertinently, the title of a family story is frequently used to distinguish one kin group from another. A typical story contains the kin-group's origins, its connections with other kin groups and an enumeration of the plots of ancestral land which belong to that particular kin group. As some groups share the same ancestral connections, they also share the same collective identity. Therefore, a family story recounts the ancestral connections between several different present-day Mentawai kin groups. These present-day kin groups trace their ancestors to those who founded and claimed plots

2. The original map is taken from https://commons.wikimedia.org/wiki/File:Mentawai_Islands_Map.png and <http://img1.123freevectors.com/wp-content/uploads/new/map/052-free-vector-map-of-indonesia.png> accessed in February 2016, and it has been adjusted by the author by adding several local names to suit the requirements of this paper.



Figure 6.2. Freshly cut timber by PT. Minas Pagai Lumber Corporation from the forest of Pagai Islands. The picture was taken by the author in 2015.

of land in particular places in the Mentawai Islands before Mentawai was proclaimed as part of the Indonesian unitary state in 1945.

Taking note of this situation, I have addressed a number of relevant questions in this paper, namely: To what extent does government policy on land use provoke current conflicts over land in the Mentawai Islands? What are the core issues in the occurrence of conflicts over land in the Mentawai Islands? How does a family story connect one kin group to another? What kinds of collective particulars does a family story reveal about these linked kin groups and their land? How does the family story preserve historical family particulars in accordance with land ownership? In short, what is the significance of family stories for Mentawai kin groups in connection to land ownership? Moreover, how can the land conflicts be possibly solved? In this chapter, I describe and illustrate how the conflicts take place by explaining the system of land rights and land management in Mentawai.

Methodology

The majority of data presented here is derived from my PhD project at Leiden University in the Netherlands between 2003 and 2012, in order to understand the correlation between oral tradition and contemporary land conflicts in Mentawai. I also have additional new information gathered in Mentawai while I hold a position as a research fellow at Nanyang Technological University in Singapore. Methodologically, I followed suggestions discussed by Bernard (1994) and Briggs (1986) by interviewing different people and consulting members of kin groups to obtain information about storytellers who would be able to tell me their family stories during fieldwork.

I spent several weeks in a village called Saibi Samukop on Siberut Island and interviewed members of different kin groups in order to understand several cases of land conflicts that occurred there. Members

of the selected kin groups advised me on which individuals or storytellers I should get in touch with to obtain information about particular land conflicts in the village. Information gathered from a kin group was compared to information from other kin groups involved in land conflicts. By collating all of this information, I attempted to understand the central problem of the land conflicts. I also collected their ancestral stories concerning their claims on land in the village.

Mentawai Islands

Mentawai is the name of an ethnic group and a group of islands situated off the western coast of Sumatra in Indonesia. Mentawai has been an oceanic archipelago for 500,000 years, separated from the mainland of Sumatra by a deep Mentawai basin and from adjacent islands off the west coast of Sumatra; such as Nias in the north and Enggano in the further south (WWF, 1980: 3; Whittaker, 2009: 73). Mentawai consists of four main islands - a larger island in the north called Siberut, a smaller in the middle of archipelago called Sipora, and two islands separated by a strait in the south called North and South Pagai. This archipelago is completed by several islets, located about 100 miles off the west coast of West Sumatra. The total landmass of the archipelago is 6,011 square kilometres. It is now recognised as a young district government in West Sumatra province, after a long diplomatic process initiated by Mentawai students.

There were particular Mentawai students who persevered to gain their political and land rights. After years of political lobbying, the voice of Mentawaians was heard in 1998. After the fall of Suharto in May 1998, the Mentawai students made use of the moment to urge the transitional government of President Habibie to recognize Mentawai as a new district (I:³ *kabupaten*) of Indonesia. According to Indonesian Law Number 49/1999 (I: *Undang-undang Nomor 49 Tahun 1999*), Mentawai Archipelago was formed as a new district of West Sumatra Province on 4 October 1999, being separated from Padang Pariaman. The government promised a change for

better governance by delegating part of its authority to provincial and district levels. Under the new policy and after the *reformasi*,⁴ the Indonesian government granted regional autonomy (I: *otonomi daerah*) giving provincial governments in Indonesia extensive authority to run their provincial territory within the context of the unity of the Indonesian state. Furthermore, as part of the political agenda of *reformasi*, the Ministry of Agriculture would also acknowledge Indonesian ethnic groups' traditional land. Ancestral lands are now recognized by the state as kin-group land (I: *tanah ulayat*). This is stated in the Law of the Indonesian Ministry of Agriculture / National Head of Land Tenure Number 5 /1999 (*Peraturan Menteri Negara Agraria/Kepala Pertanahan Nasional Nomor 5 Tahun 1999*) (see Kansil and Kansil, 2002).

The district government of the Mentawai Archipelago has been attempting to speed up regional developments in the area by providing better infrastructure, including roads and marine transportation; and improving other governmental facilities such as schools, medical centres, etc. These efforts are being executed to fulfil the Mentawai people's request for more progressive development; since the district government of Padang Pariaman had dragged its heels in the development of the region for many years after Mentawai became part of Indonesia in 1945. Indifferent to introducing progress, the district government of Padang Pariaman eagerly exploited the region. Different organizations were encouraged to make a contribution to finding better approaches to handling the Mentawai region (see Persoon and Schefold, 1985).

In 2002 there were 65,765 people living in Mentawai (Tulius, 2012a: 52). According to unpublished data from the Department of Population and Civil Registration of the District Government of Mentawai Archipelago in 2014, at present 88,000 people are living there. Migrant numbers are relatively low, the majority being civil servants and merchants from Sumatra and other places in Indonesia. The total population has increased quite significantly in the

3. I use 'I:' for Indonesian translation and 'M:' for 'Mentawaians.'

4. *Reformasi* is a political term used in Indonesia for change in the Indonesian government after President Soeharto was urged to step down by students protesting in May 1997.

last decade because of better formal education and healthcare services. Child mortality has dropped significantly as public health services and other health programmes run by the local government and non-governmental organizations, who conduct active health education programmes and promote a healthy life-style.

Mentawai People

Scholars have long been attempting to solve the question of where the Mentawaians' ancestors had come before they occupied Mentawai Islands. Schefold (1988, 1989) has looked at the cultural characteristics of the Mentawaians in order to answer the question. He presumed that Mentawai ancestors might have commenced to live in the islands two thousand years ago. The Mentawai ancestors came from mainland Sumatra directly or indirectly (via Nias) to one of Mentawai Islands. A recent research result of genomics by the Eijkman Institute in Jakarta indicates that Mentawai deoxyribonucleic acid (DNA) does not show a strong correlation to the neighbouring genomes of people living in Sumatra and Nias.⁵ However, it shows a correlation to its ancestral genetic connection with people's DNA in Taiwan.

By studying mythical stories of Mentawai origins I have been trying to answer the same question (Tulius, 2012a, 2012b). Results of the studies conclude that Mentawai ancestors were not from the same origins. Different groups of people commenced to live in the islands after they left their places of origin, and came through different waves of migration. They arrived at different places in Mentawai Islands, and at a later stage of migration they met each other there and merged to establish an ethnic group currently known as Mentawai. They might have arrived in the Mentawai Islands prior to the expansion of Austronesian societies; however, Pampus (1989a; 1989b and see also Fox and Sather, 1996 and Fox, 1995) argues that the Mentawai language resembles Austronesian spoken societies that populate various places in Southeast Asia.

The stories of origin of the early inhabitants of the Mentawai Islands do not indicate any time of arrival of the early inhabitants; hence, the stories are not reliable historical sources. However, a lot of information in them can be used to understand the past of the early inhabitants of the Mentawai Islands. By analysing family stories of origin, we may conclude that the current Mentawaians were formed from diverse groups who came to live in the Mentawai Islands from various places of origin. This resembles the situation among the Cook Island population as described by Siikala: "The origin narratives which at the same time tell about the migration of the original ancestors from the mythical homeland to the present day islands and give their genealogies, create the qualitatively separate island populations" (Siikala, 1996: 45).

Four main islands are mostly covered by tropical rainforest comprising tens of inhabited villages. Mentawai people do not live on small islets permanently. Rather they visit the islets irregularly as they have clove and coconut gardens there. Small islands are also used as places to hide from rough waves of the sea during fishing. In the months of July and August, it is crab (*anggau*) season and the Mentawai people go to the islands to get crab. In the course of time, some small islands have also become attractive surfing spots for international surfers from America, Brazil, South Africa, Europe, Japan and Indonesia itself. They come to enjoy their holiday or attend an international surfing competition. Some locals and foreign entrepreneurs work together to build homestays and resorts for surfers. Land becomes precious heritage for sale.

Mentawai people divide Mentawai Islands into valleys by using rivers as borders of each valley. Rivers and valleys are given names and they are also used to address groups of people living in the valleys. The names of those valleys and rivers are also adopted to identify dialects spoken in each region. Riverbanks are ideal sites to build traditional, communal houses called *uma* in irregular distances from each other in order to easily transport goods from their garden and enable them to move around by means of a dugout canoe. Mentawaians usually open settlements located near the coastline and upriver places.

5. The research is still an on-going process of obtaining new sample collections in other places within the island of Siberut, to be compared with data collected a decade ago. I participated in the research team during the data collection.

In early contacts with the outside world about four centuries ago, Mentawai and Sumatran people met each other in traditional villages of four main Mentawai islands located near the coastal areas. By means of sailing wooden boats called *biduk*, Sumatrans came to Mentawai to bring tobacco, sugar, rice, metal tools, garments, and cooking utensils. In Mentawai, the Sumatran merchants exchanged those goods with different natural products such as rattan, timber and agricultural products (Coronese, 1986; Spina, 1981). Some particular kin-groups of Mentawaians currently live in coastal areas while others chose voluntarily or were forced to live in government villages within the interior of the islands such as upper-river villages.

Most of the time, the landowners (M: *sibakkat porak*) of the places initiated the opening of new settlements, so that the people were recognized as the owners of villages (M: *sibakkat laggai*). The newcomers in the village recognised the landowners and owners of the villages by asking them. At a later stage, the newly built settlements expanded into larger villages. The government came to officially recognize the settlement as a village if it had governmental structures and infrastructural facilities such as schools, religious buildings, medical centres, main roads and other public facilities.

In Mentawai, there are no mountains, but some hills which peak at 300-450 meters above sea level. White sandy beaches are mostly located in the southern part of the islands, and bays and capes illustrate the shape of the islands. Mentawaians map topographical surfaces of the islands and adjust themselves to them, while also exploiting resources in the natural environment. Most hilltops are preserved as the hunting ground for apes and the lowlands to hunt for wild boars, deer and particular birds. Mentawaians look for medicinal plants, starting from those that surround their house, then they expand to search for medicine plants in lowland places up to hilltops. They cultivate swampy areas by planting sago and coconut palms. Banana and other fruit trees are planted in foothills and flat ground.

According to the 2014 statistics, there are about 88,000 people who inhabit the Mentawai Islands.

The majority of the Mentawai population is Mentawaiian, and other inhabitants are migrants from Sumatra, Java, Nias and other places of Indonesia. The total population is less compared to Nias and Bali, but the islands are similar in total landmass. The population growth of Mentawaians is not as rapid as the islands of Nias, which has a population of 756,338 inhabitants on the island, according to the 2010 Census.⁶ This is also comparable to Bali, with a population of 3,890,757 in the 2010 census and 4,148,588 as of May 2015.⁷ Several factors impeding the population growth in Mentawai are incidents of malaria, cholera, tuberculosis and other diseases.

According to Schefold (2007), about a century ago, Mentawai people were still practicing headhunting rituals. With a small number of people living in a place, one individual mutilated by a group of headhunters was significant enough to reduce a number of inhabitants in a region. Yet another important factor is that the Mentawai Islands are located in the faultline of the Sunda shelf, and the islands are frequently affected by deadly earthquakes and tsunamis. In historical records, it was noted that great earthquakes affected the Mentawai islands in 1797, 1883, 2007, and 2010 (Natawidjaja, at. al., 2006; Tulus, 2012a). These earthquakes also caused tsunamis which are lethal. For instance, about 500 people died in the 2010 tsunami in Mentawai.

Mentawai society is divided into several valley communities that are identified by the name of the island and river where they live. The main categories of communities in Mentawai are Sabirut for those who live in Siberut, Sakalelegat for those who live in Sipora, and Sakalagat for those who live in North and South Pagai. Then, there are also groups of people⁸ who live in the island groupings of valleys or rivers.

6. <https://en.wikipedia.org/wiki/Nias>, last accessed on 1 February 2016

7. <http://www.citypopulation.de/Indonesia-MU.html>, last accessed on 1 February 2016.

8. There are Sabirut living around Katurei Bay and near Muara Siberut; Tasila-koinan living in Salappa and some in Saliguma Bay; Samukop living in Saibi Samukop; Tarisilogui living in Sirilogui; Sakabalan living in Sikabalan, Pokai, and Malancan, Saterekan living in Sirilanggai and adjacent villages; Saaleji or Samalegi, living in Muara Simalegi, Betaet and small settlement up river of Simalegi; Samatalu living in Lubaga, Sapokka, Limau and some small hamlets; Sapaipajet living in Paipajet river; Sarereiket living in Rogdok, Madobak, Ugai and Matotonan; and Tasirilelu living in Tailelu river.

This system of identifying the name of the community can also be found in Sipora and Pagai islands; and yet, there are several kin groups⁹ in a valley. Today, some of those kin groups share the same former ancestors before existing as independent kin groups. Currently, Mentawai people exist in more than 200 kin-group names through the process of migration and “splitting” from each other after experiencing conflicts within their ancestral families.

Kinship is strongly connected with land ownership in Mentawai. Different kin groups can easily be differentiated from each other by referring to particular ancestors as well as by certain plots of ancestral land. In the early migration history of the Mentawai people, ancestral families left their homeland in order to avoid severe conflicts among them and their neighbouring families. In the course of migration, they came to new places and plots of land without owners. People gave names to the places in order easily to identify them. They claimed those plots of land by planting and extracting natural resources in those places. On the land, people erected their communal long houses which stand on wooden pillars, as well as built small houses for animal husbandry and a canoe storage area.

They also opened their gardens by planting coconut, sago, taro, banana and more recently, cash crops such as clove, cocoa, and nutmeg. They preserved a forest near their home for hunting grounds. They were and still are collecting housing materials and valuable forest products from the forest. They do not allow other people to simply exploit their forest without first asking for permission from them. If other families want to collect forest products such as rattan for selling, they have to pay a royalty (M: *palaju mone*) of a certain percentage of the total sales. It may seem that land use and the exploitation of forest products are managed quite well in Mentawai since ownership is organized by tradition. I will explain this matter further in the next section after discussing some laws, rules and regulations regarding land rights and Indigenous Peoples.

9. Those kin groups are for instance Siriratei, Sakatsila, Sakailoat, Sagaragara, Satoko, Sakairiggi, Salabi, Saguruk, Sanene, Sangaimang, Sageileppak, Saruru, Sakulok, Sakerebau, Sakeru, Siritoitet, Sanakkat, Sakalea, and Salakkau living in Saibi Samukop.

Material and Immaterial Concepts of Landownership

As a general understanding, culture consists of both material and non-material or immaterial elements. The concept of material culture is adopted here to explain both the material and immaterial dimensions of landownership. Material culture is a term developed in the late 19th and early 20th centuries that refers to the relationship between artefacts and social relations. Material culture refers to the physical objects, resources, and spaces that people use to define their culture. These include homes, neighborhoods, cities, schools, churches, synagogues, temples, mosques, offices, factories and plants, tools, means of production, goods and products, stores, land and so forth. According to Claude Lévi-Strauss (1963), material culture reveals a deeper level of structure and meaning that is not attainable in fieldwork.

In material culture, particular ideas of people are hidden that can be figured out by asking them to explain the purpose and meaning of producing material culture. Then, there is particular way of interpreting the material culture that also comprises meanings so that we can attain and understand people's culture in an extensive way. All of these physical aspects of a culture help people define its members' behaviors and perceptions. In her study among Kodi in East Sumba of Indonesia, Janet Hoskins (1998) gives obvious examples that objects ventilate particular ideas and the complete meanings of the production of objects. She gives a clear example of material culture taken from Kodi in Sumba of Indonesia. “Kodi cloth is the most famous export of the western part of the island. It does not have the large figures of lions, unicorns, skull trees, and deer that represent the glory of the royal families of Eastern Sumba, but its complex design with diamond-like nets in the centre and undulating lines at the side, is representational in a more abstract format” (Hoskins, 1998: 83). Hoskins had the opportunity to come and listen to the royal family members telling a story so that she understood the complex ideas of those representational symbols and cultural connections between Sumba and India in the object. Objects guide people to tell us about their lives. The

story comprises people's ideas of something such as a piece of land. The meanings and ideas of the lives that are hidden in the objects and places can help people remember them in stories. This is a notion of context. Julie Cruikshank (1992) notes that the notion of context became increasingly important because it exacerbated the contradictions inherent in collecting detached assemblages of objects and narratives to represent something as complex as culture.

Non-material or immaterial culture includes any ideas, beliefs, values, morals, ethics and norms that shape a society. In relation to beliefs, immaterial culture comprises how people respond to religious topics, issues, and events, existing entirely in the symbolic realm. A concept of space and imaginative territorial terrain can also be assumed to be part of the immaterial concept of landownership. This immaterial concept of landownership is explained by the cultural concept of semiotics. This resembles the notions discussed by Clifford Geertz (1973) in his famous "the interpretation of culture." Geertz (1973: 5) defines the concept of culture as... "essentially a semiotic one." By means of an obvious concept of something, people may have a similar understanding of what the purpose of a concept is.

Regarding material and immaterial concepts of land and landownership, notions of "place" – I refer to this term in order to represent the material concept of land and landownership – and "space" – I refer to this term in order to represent the immaterial concept of land and landownership – discussed by Tim Ingold (2009) is practically relevant to this paper. Ingold explains that human beings have drawn a living from the land, not from space. Farmers plant crops in the earth, not in space. By bringing several examples of place to the fore, Ingold (2009) emphasised that land, soil, ground, and earth is not a space. In reality, people can move from one border to the other in order to measure the size of their land and they claim the place that has been measured. This measurement can be put onto a map. The map is material culture and the land indicated on the map is seen as material land. This resembles the idea I propose here that land is a material culture as it can be cultivated, planted and pastured.

Conversely, the concept of space represents the immaterial aspect of land. "Space... cannot truly be inhabited at all" (Ingold, 2009: 29). Landowners imagine to have a piece of land located in particular areas of their domain as if they were at the place, standing on the ground of their claimed land. The idea is a source of imagination and it is immaterial culture. In order to understand a position of the land mapped mentally, people create a concept, which is an abstract format. They create a mental map to imagine the complex components of their land. People can put their understandings of the land into written texts and narrated stories. The explanation given to describe the land and its ownership is seen as immaterial.

Material and Immaterial Concepts of Land in Indonesia

Land is regarded as both private and communal property with regard to ownership in Indonesia. It comprises of two concepts: material and immaterial. On the one hand, land is about the physical ground or physical entity-terrain or soil where we can cultivate, plant something, grow plants, and build buildings. I call this "material land" (I: *fisik tanah*). On the other hand, land is also about territories, sites, zones, domains and areas. Land comprises an abstract concept of place and I call this "immaterial land" (I: *kawasan*). Both concepts intertwine in describing a territorial terrain. The concept of material land features the land as an area with borders and physical complexities; while the concept of immaterial land illustrates the land as an artificial and imaginative territory. The Indonesian government controls its territorial state, including territorial space on the land claimed by Indonesian ethnic groups. In particular areas where natural resources are rich, the government frequently refuses to acknowledge that particular plots of land belong to ethnic groups. The government allocates territorial space for particular purposes and considers less the land of territorial space as the property of the local people.

The relationship of both concepts with land control and ownership in Indonesia originates in historical matters of land, as well as the power and authority of people in control of the land. Before the existence

of a state, a stretch of land, especially in regard to its physical features, was cultivated and sought out by those who wanted a suitable site for living, as also described by Ingold (2009). Mentawai people also controlled the area by placing their possessions on the land. Another strategy of landowners was to state an immaterial feature of material land they owned by recollecting the name of the land including its recognizable borders while mentioning it to others. These landowners took care of the material land when they visited the land and cultivated the ground.

After Indonesia was established as a unitary state in 1945, Indonesian territory and state borders were declared so that other nations would not try to claim the land. However, even if the State took control over the territories, it does not always mean that they have rights to the land and particular territories. The Indonesian state should also respect the ownership of local communities on the land that has been claimed as the property of the communities. Another fact is that the Indonesian government will only officially recognize a particular area of land as the property of an individual or group of people, if a person or group of people in Indonesia has official documents stating their land ownership. Meanwhile, communities keep material land without holding documents stating their land ownership. In the context of immaterial land, the government's role is to control land and protect other natural resources in Indonesia through laws and regulations, so that the government may have access to material land. The State has (immaterial) rights to control and own the territory of Indonesia, even if Indonesian peoples have presumably claimed the material and immaterial land as their ancestral property. But as Indonesian citizens, Indonesian societies have to obey rules of the State. Their land ownership must be in correspondence with the State laws and regulations. However, this is an ideal that often causes conflict of interest between both parties. The government wants to control natural resources in order to be able to generate state income, but on the other hand, local communities need to have rights to their natural resources since they believe they have had the land and natural resources before the State was even established. The position and possession of the Mentawai communities are weak as they do not in fact hold any official documents. And yet the

government does not acknowledge the claim made by the communities by relying on essential information composing their family stories.

The dilemma lies in the fact that kin groups collectively own most land in Indonesia without a formal document; what they do have are family stories which comprise of information of how they have rights to the land they claim as theirs, mainly from how their ancestors who first found and claimed the land. For the Mentawai people, land unifies related kin groups living in different places. Therefore, they have a responsibility and must take good care of family relationships and their ancestral territories. The Indonesian government is an agency that regulates land use and manages the control of natural resources for the greater interest of the Indonesian people. Yet the State does not have the right to be the complete master of the land because there are properties held by a group of people or individuals as their heritage. This claimed property was also inherited from the Mentawaians' fathers or through transactions that occurred between the previous owners and the current owners. The kin groups cultivated the land and managed it for their subsistence. So in regard to the concept of immaterial land, on the one hand the Indonesian government makes policies related to land uses or areas that are in the territory of the Republic of Indonesia. Land controlled by the State is often at odds with the Indonesian community ownership of a land plot, because Indonesian communities believe that rights to a physical plot of land is received from their ancestors.

State policies do not always consider the interest of local people. For example sometimes, due to the political need of income for development, the government may simply ignore the local people's protests against an extensive logging concession. The government gives rights to logging companies to exploit dense forests in order to get revenues from forest products. Powerless local communities cannot defend their land from a decision taken before them by the government. They have to be cooperative in order to get a little share of profit from logging companies, or they must stay outside of the business and look upon the trees on their land being cut

down by chainsaws and pulled out from the forest. Several local non-governmental and international conservational organisations provide support to the local communities and conduct campaigns in order to stop the extensive exploitation and to help Indigenous Peoples reclaim their rights.

The United Nations on Land Rights

The United Nations (UN) frequently organises different international meetings that involves many countries (including Indonesia) in order to find solutions of particular global issues such as deforestation, global warming and Indigenous Peoples rights. Convention 169 of the International Labour Organization (ILO) of 1989, which is also known as C169 is an example of a document containing elaborated rights of Indigenous Peoples.¹⁰ There are also similar points mentioned in the United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007.¹¹

Seven articles (Article 13 to 18) in Part II of C169 and five articles (Article 26 to 30) of the UN Declaration on the Rights of Indigenous Peoples intrigue me, as those articles expand on land, land claims, and land rights. Those articles are relevant to the current situation of Mentawai communities in Indonesia. For instance, Article 14 paragraph 1 states, as follows:

The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect (ILO, 2003: 96)

This is equivalent to Article 26 of the UN Declaration on the Rights of Indigenous Peoples, which states:

1. Indigenous Peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous Peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous Peoples concerned (United Nations, 2008: 10).

These points are obvious and create a legal foundation towards the rights of Indigenous Peoples to their land and culture.

Paragraph 2 of Article 14 states, “Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession” (ILO, 2003: 96-97). The last point of this article is interesting to notice as well because several conflicts over land in Mentawai require adequate procedures in order to solve the conflicts and to ensure that rights of Indigenous People are granted. It is stated, “Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned” (ILO, 2003: 97). This last point directs me to discuss some issues of land claims that involve different kin groups of Indigenous People.

If governments around the world were to apply these UN documents to ensure the rights of Indigenous Peoples, it would not guarantee a solution to Indigenous Peoples’ problems. There are many other problems existing among local communities. They have to resolve those problems amongst themselves before the State interferes; yet perhaps the State can mediate how communities solve their problems. Nevertheless, the UN documents provides a very good foundation to guide States in their treatment of Indigenous Peoples.

10. http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/instructionalmaterial/wcms_088485.pdf

11. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

Indonesian Indigenous Peoples and their Rights to Land

Indigenous Peoples with a diversity of cultures live in different places of the archipelago of Indonesia. According to scholars, after leaving their place of origin in Formosa (currently known as Taiwan), Indigenous Peoples arrived in the Indonesian archipelago about 4000-5000 years ago. Some groups of Indigenous Peoples have been living there in isolation for about 2000 years (Bellwood, 2007: xi-xii; Schefold, 1989). These Indigenous Peoples established particular cultural characteristics which can be distinguished from one another. They created local social structures and customs in order to manage their societies and utilize the natural resources. At that time, there was no Indonesia yet.

In 1600s Europeans explorers sailed the globe and arrived at the islands we currently know as Indonesia. For about 350 years, the Dutch ruled and governed the archipelago after taking down some local rulers. Thereafter, in 1942 Japan took over the colonial power for three and half years. The Japanese did not build a strong economic foundation and did not exploit natural resources in Indonesia either. Conversely, the Dutch colonizers did build a strong economy by extracting natural resources, and the Dutch influence is currently and obviously seen in Indonesia.

During colonialism, land and natural resources were managed under multiple governing systems led by local sultans, local kings, other local leaders, as well as colonial rulers. The colonial government, to some extent, recognized the existence of local customs for managing the land and the use of natural resources; but the colonial powers also denied acknowledgment of the local customs to be considered and included in written laws and governmental rules. Instead, the Dutch colonizers succeeded to control those powerful local authorities in order to increase their influence within the archipelago. This was done to gain access and exploit natural resources in order to fulfil the needs of the colonial government.

The process to gain independence by 1945 was very long, since it required the Indonesian Peoples

living in different islands, Indonesian guerrilla fighters and political elites to come together and proclaim Indonesia as an independent state. Political elites from different ethnic groups united all ethnic groups to be Indonesian citizens, and that is how the government of Indonesia was formed. Unity in diversity (I: *Bhinneka Tunggal Ika*) became the motto of the country. Indonesians composed a constitution called Indonesian Constitution 1945 (I: *Undang-undang Dasar Negara Republik Indonesia Tahun 1945*) to create guidelines in managing the newly established state.

As written in the Indonesian Constitution of 1945, the Indonesian State takes control of the use of natural resources. Indonesian political leaders and government officials secured national assets and property that were taken over from the Dutch colonial powers and Japanese aggressors. They reduced the power of sultanates and local kingdoms. Nevertheless, some local or “pre-State” governing systems are still in existence. For instance, the Yogyakarta provincial government is still led by a sultan who controls particular plots of land along the central government in Jakarta. In places where the local powers are absent, most ethnic groups in Indonesia, such as the Mentawai, managed their land and natural resources according to local customs, but with supervision of the district and provincial governments.

When Indonesia was newly established, the country needed to develop new laws and rules to govern its peoples, as well as to seek new resources for monetary support. At the early stage of forming and running a government, Indonesian leaders were highly influenced by a colonial governing system. The State adopted rules and political systems that were mostly from the Dutch; including agrarian laws (I: *Undang-undang Agraria Republik Indonesia*) which were issued in 1960 for land management, natural resources and land uses (Kansil and Kansil, 2002). In this process, sultanates and local kingdoms became less dominant in the political affairs and decision-making processes of the State. Some of the local powers were even terminated in order to discontinue their influence at the local level. Instead, district and provincial governments replaced the power of sultanates and local kingdoms.

In agrarian laws, the Indonesian government does not fully recognise traditional land customs practiced by many indigenous people. Even in the Indonesian Constitution of 1945, Article 33 states, as follows:

1. The economy is structured as a joint venture based on family principles.
2. Production resources that are important for the State and that dominate the life of the people are controlled by the State.
3. Earth, water and natural resources contained therein are controlled by the State and used for the welfare of the people.
4. The national economy shall be organized based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental friendliness, independence, and balancing progress and national economic unity.
5. Further provisions on the implementation of this article are regulated by law.

Land and natural resources that were initially the property and heritage of hundreds of local Indonesian communities are contemporarily controlled by the Indonesian state.

The local communities' knowledge regarding the land they cultivate is still the same as when their ancestors claimed the land, prior to the establishment of an Indonesian state. The understanding of local communities is that they do have rights to their ancestral land, and that the State has full control over their ancestral land in order to exploit it for State interests. In the last two decades, Indonesian communities have realised the State's practices and how their ancestral land is exploited. Therefore, many of these communities have established several non-governmental organisations to gain and protect their assets from being unilaterally claimed by the State, and later given to big companies in order to gain State revenues.

In 2015, a non-governmental organisation named Consortium for Agrarian Reform (I: *Konsorsium Pembaharuan Agraria*) noted 252 cases and incidents regarding conflicts over land and natural

resources between large companies and Indonesian communities where policemen and the Army were involved (Konsorsium Pembaruan Agraria, 2016: 4-11). An independent organisation called *Aliansi Masyarakat Adat Nusantara*, in short AMAN or Alliance of Indigenous Peoples of Archipelago (established in 1999) actively promotes the protection of Indigenous Peoples' rights in Indonesia. Numerous local organisations are active in advocating and protecting Indigenous Peoples' land in Indonesia. In Mentawai, there are several local non-governmental organisations, namely Yayasan Citra Mandiri Mentawai (YCMM) (Bachyul JB, et. al., 2015).

The AMAN branch in Mentawai has tried to map Indigenous Peoples' territories in response to the decision made by the Indonesian Supreme Court of the Constitution (I: *Mahkama Konstitusi Reuplik Indonesia*) regarding communal land. The Indonesian Supreme Court of the Constitution issued Decree number 35/PUU-X/2012 in 2012 stating that communal land does not belong to the State, and this suggests that the government affirms that Indigenous Peoples have full rights to lands, territories and natural resources, including their forests. Recognition of these rights is part of the fulfilment of the inherent rights of Indigenous Peoples and guaranteed by the 1945 Constitution. This decree was put on hold due to particular reasons, parliament members still disagreeing with some articles of the decree before it was made fully applicable. Meanwhile, several local organisations have been urging the state to follow up on implementing and honouring the decree. In the field, some have started the process of mapping the indigenous forests. However, the process of mapping Indigenous Peoples' forests is not culturally-appropriate to how traditional land rights are appreciated. Indigenous communities like the Mentawai people have particular customs that manage land ownership and the use of natural resources, yet members of AMAN-Mentawai still employ a top-down program derived from the central AMAN in Jakarta. A lot of local wisdoms on managing land in Mentawai has been left out. Consequently, the mapping program has caused new problems among kin groups in Mentawai.

Land Ownership in Mentawai

In an unknown time in the past, an individual or a group of people arrived on the Mentawai islands without knowing whether a person had arrived prior to their arrival, and who also did not know if the other sides of the islands had been occupied. When groups of people from different origins embarked on the Mentawai Islands, they perceived themselves as the first settlers of the place and declared themselves as the owners of the land; and they sometimes even refused to acknowledge that others had formally claimed the land.

It is possible that the land was perhaps empty because the owner had left the place unattended because they may have moved somewhere else for particular reasons. People whose origins are unknown, came to one of islands located about 100 miles off the west coast of Sumatra (which was later named Mentawai) about two thousand years ago (Schefold, 1989). The population of the islands grew and the inhabitants began to move out from their settlements in order to avoid conflicts among other settlers in the islands. Consequently, they gradually inhabited other places on the Mentawai Islands and claimed the land as theirs. Due to social contacts with others living within the islands, land was used as a means of unifying members of related kin groups. By doing so, these kin groups are all currently characterising a unique cultural identity. That is why the Mentawaians are perceived by other Indonesian peoples as their own specific indigenous society of Indonesia.

Traditionally, Mentawaians (see Figure 6.4) follow a patrilineal descent system. Children carry and pass on the kin name of their father and they have rights to the property of their father. There are no individual rights; rather, it is a communal right to communal property. If a father has sons, all of the sons take care of their father's land, garden, plants, and house. They cultivate and use them together, and they share benefits equally. If a father has sons and daughters, only sons have rights to the property of their father. Daughters receive a share of the harvest from the garden or other benefits of their father's property, such as money from the sale of land. If a father has daughters but no sons, all the daughters have

rights to the property of their father. The daughters' husbands do not have rights to the land and other properties of their father, since the husbands have their own rights to the property that belong to their own father. However, if the daughters have sons, the sons may have partial rights of the property. Sometimes, one generation of children/siblings would decide to divide their parental property among themselves in order to avoid future conflicts. In most cases, families in Mentawai do not divide property among themselves; instead, they cultivate and take good care of their property for collective purposes. Therefore property, like land, is communally and collectively owned.

Ancestors of a kin group who once claimed a plot of land and declared themselves as the initial owners of the land, may in the course of time, migrate to other places, leaving their land unattended. The initial landowners remember their land, even if they do not live there anymore. Landowners continue to tell stories of their land through generations, yet other ancestors of other kin groups of the same Indigenous People also reclaim partly or entirely the same plot of land. This is one of the many factors that provoke the occurrence of conflicts over land.

Land and other communal heritages mean a lot in Mentawai. It is not only the physical nature of the land – such as soil for a place to build a house on its surface or a piece of ground to plant crops. Land is also a means of exchange. It can be used as a form of payment in social transactions (M: *pasiluluijat*). For instance, a kin group has a male member who wants to get married to a female member of another kin group. His kin group prepares the bride-price payment to be given to the bride's kin group, and a small plot of land may be used (M: *porak alat toga*). Other types of bride price can be in the form of metal cooking pots, metal tools, some live pigs, coconut trees and palms of sago.

In addition to the payment of a bride price, land can also be used as the payment for social misconducts (M: *porak tulou*). For example, giving up a plot of land from one kin group to another can resolve a discovered sexual affair. In this instance, the land is called “land for the payment of fine” (M: *porak tulou*).

Porak tulou can be divided into several types¹² of social misconduct. It depends on each case or context before a plot of land can be labelled as the payment for something. In the past, headhunting practices had significant impacts on land in Mentawai. A lot of plots of land were used as the payment of stopping the revenges by kin groups involved in headhunting raids. The land for such a payment is called “land for stopping bloodshed” (M: *porak segseg logau*).

Property of a kin group is kept and managed by members of a kin group. Several elder members are appointed by the rest of the members of the kin group to lead individuals and to take responsibility for taking care of the land. All members of the kin group sit together to discuss the status of the land and the selected elders give their opinion before a decision is made. Whenever a plot of land is given away to other kin groups, both parties (the giver and the receiver) are present in the location where the plot of land will be surrendered in order to witness borders of the land. After witnessing and agreeing on the size and borders of the land, the initial owners of the land must respect the agreement by refraining from reclaiming the land. The new owners of the land immediately plant coconut, sago and other valuable trees at certain points of the borders in order to ensure their possession on the land. A kin group can have an extensive amount of land and yet a small part of the same land can be the property of other kin groups as the payments of bride price, fines, or simply because it was sold to other buyers.

Sometimes, a plot of land can also be exchanged. For instance, the Satoko kin group living in Saibi Samukop valley has a plot of land located at Rereiket Valley; and Sakulo kin group living in Rereiket valley has a plot of land in Saibi Samukop valley. These villages are located far from each other. Due to distance, both agree to exchange the land; so that the Satoko kin group gets the plot of land that formerly belonged to the Sakulo kin group and the Sakulo gets the plot of land initially owned by the Satoko. They ignore the different size of the land because what is



Figure 6.4. Two Mentawai shamans in Saibi Muara (author, 2008).

important for both kin groups is to have their land close to where they live. If the groups do not want to exchange each other's land, a group can ask another group to take care of the land so that there will be no new kin groups that can reclaim the land.

The migration of Mentawai ancestors was caused by past internal conflicts that forced them to leave their original settlements in Simatalu and their ancestral land in other particular places on Siberut Island. Several intolerant conflicts regarding mango fruits (M: *sipeu*), wild boar (M: *sibela siberi*), domesticated pig (M: *sakkoko*), and the children's deadly spear game (M: *suei*) provoked conflicts among the ancestral families to move out from their ancestral settlements. As the families arrived in new places on the island of Siberut, they began to establish new kin groups and each had a new place name for where they lived or according to situations

12. Different kinds of *porak tulou* (land used for the payment of fine) are *tulou pakaila* (fine for sexual insult), *tulou kisi* (fine for threat), and *tulou utek* (fine for head [murder])

they experienced. They arrived and claimed the land that was not yet inhabited by others; this is what they called “the found land” (M: *porak sinese*).

Due to the process of migration and separation of members from ancestral kin groups, there are currently more than 200 new kin groups in Mentawai and each has a story that explains the relationship of some of those kin groups ancestrally. The presence of new incoming kin groups who now inhabit different places has a direct consequence to the status of ancestral lands. Ancestral land that can be claimed as the ancestral property of the initial kin group or (M:) *porak muntoga* is land located in the place of origin before the groups moved out from the ancestral land. *Porak* means the land and *muntoga* means “descendants of an ancestor.” For instance, Satoko was a recently established kin group. The group has other relatives affiliated to kin groups with different names living in different places like Sakatsila, Sakairiggi, Saririkka, Sakelaasak, and Sakerenganleleggu. All were progenies of an initial kin group called Siriratei. When the Siriratei lived in their place of origin (Simatalu), their leader was Koiba Atei (as told in the family story called Silango Siberi). The kin group had a plot of land discovered by an ancestor named Koiba Atei, alias Silango. Accordingly, all current generations of this ancestor share the same rights to the land of Koiba Atei’s descendants (M: *porak muntoga(t)* Koiba Atei).

After the Siriratei had split up into several new kin groups, those kin groups had found their own place and land. This land was titled in the name of new ancestors who had led the groups in the course of migration and only descendants of the new kin groups could claim the land. Sometimes, the groups did not emigrate any further. Their land was called ancestral land (M: *porak punuteteu*) or often said as communal land of a kin group (M: *porak uma*) which is currently known as *porak suku*. So therefore, migrating kin groups have two titles of the land: *porak muntoga* located in place of origin and *porak punuteteu* in current settlements. As mentioned earlier, in addition to *porak suku*, a kin group may have a plot of land as a payment of a fine for a social misconduct such as land for a sexual insult (M: *porak tulou*), land for stopping bloodshed (M: *porak segseg logau*), and

land for the payment of bride-price (M: *porak alat toga*). Only members of current particular kin groups have rights to the land owned by a kin group (M: *porak uma* or *porak suku*) descended from the same ancestors (see Tulus, 2012a). The other kin groups that have been respected as relatives to each other by the landowners or the owners of settlements do not have rights to the land but they can cultivate the land like other members of community in the village. In short, it is obvious that the migratory movement of groups has caused their land to be reclaimed or freely exploited by other kin groups. Once all the members of a kin group leave their ancestral land for a new place, then their land is left unattended and may be claimed.

Land Uses in Mentawai

Some areas in the Mentawai Islands are still covered by tropical rainforest. Land is fertile enough to be planted with different kinds of crops. Near the beach coasts and riverbanks, the Mentawai people plant coconut palms, and in swampy areas they grow sago palms. Most of sago palms have been growing in Mentawai far before the Mentawaians occupied any new places. Currently, some communities living up-river have begun to plant young palm as a staple food source. Hilly places were to be hunting grounds as well as an area to find housing materials. Currently, the Mentawaians have opened up new gardens for clove, mango, jackfruit and other cash crops. They have also planted durian trees as land markers, signifying that a kin group has claimed the land which others cannot claim.

A family can open one to five hectares of land for gardens. Part of the kin group’s land is preserved for a forested area. The Mentawaians simply leave their land undisturbed as a standing forest in order to have enough natural products in the future. The size of this type of forest is relatively extensive. More than 60% of total Mentawai landmass is still covered by primary and secondary forest. The other 30% of land has been exploited by logging companies in the last four decades. Only about 10 % of this land is for traditional uses. Approximately, 10 to 20 hectares in each village is used as the settlement in Mentawai, but this depends on how populated each Mentawai community is in one

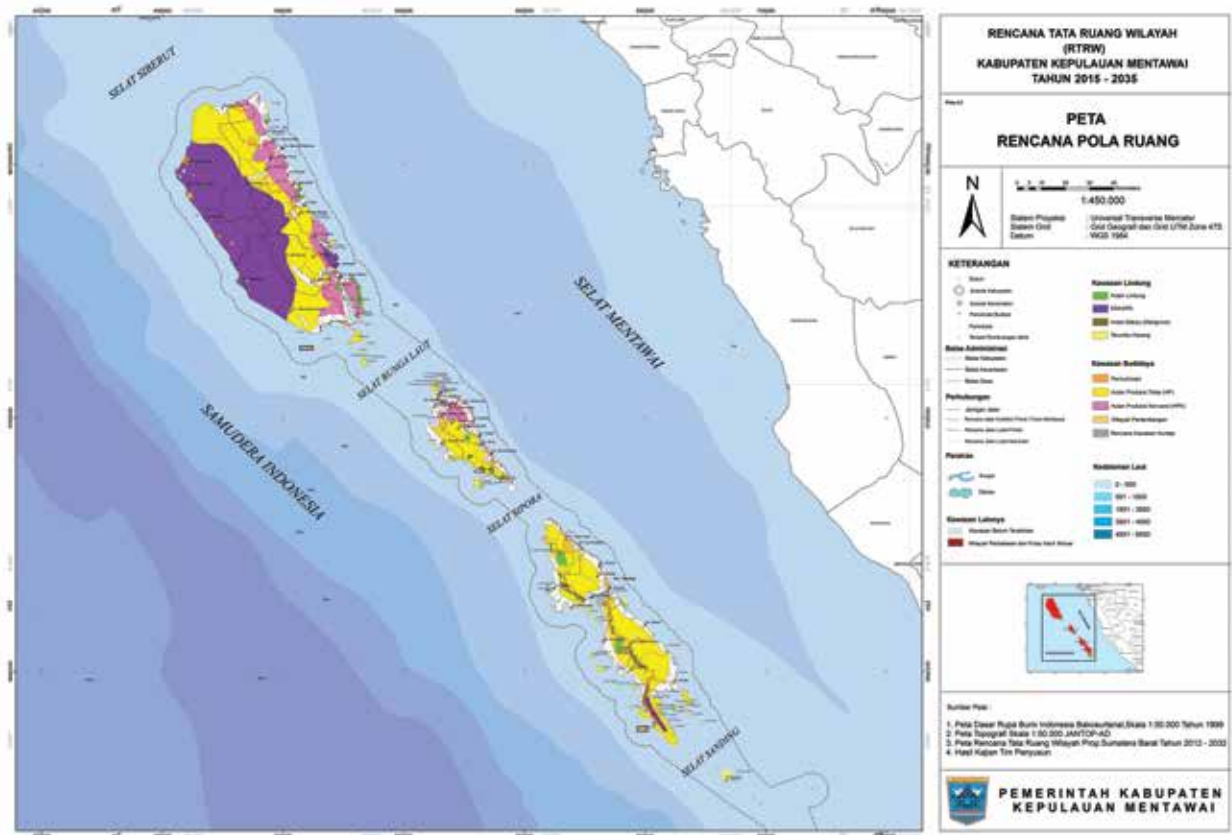


Figure 6.5. Most plots of land in the Mentawai Islands are for forest production and territory of the national park, leaving a small percentage for traditional use. This map is for spatial planning of the district government of Mentawai Archipelago for 2011-2031.

place. Twenty years ago, some settlements located up-river and each consists of 30 - 40 houses. Currently, a settlement is comprised of 60 houses.

About four centuries ago, a valley with an extensive plot of land consisted of several communal long houses that stood near riverbanks, in an irregular distance between each other. A kin group sharing the same ancestors lived in a communal long house called *uma*. The kin group built their house on their land in order to protect the land. If a kin group would migrate to other places, the group's land would be given to neighbouring kin groups to look after it. In return, the kin groups that took care of the land would have rights to extract natural resources on the land. However, they could not possess the land or claim it as theirs. They could not sell the land to others either.

Currently, it is now common for the landowners to sell their land due to the need for money for paying their children's school fees, building new houses, or starting their own business. Current migrants from Sumatra mainland and other places of Indonesia have come to Mentawai as civil servants or traders needing new plots of land to build their home. They buy plots of land and start their business by planting crops or buying natural products. They invite their relatives to come and stay in Mentawai to make use of new opportunities as landowners.

While the Mentawaians presume to have been entitled to the land in Mentawai Islands, as they believe in their family stories which describe their entitlement to particular plots of land, the Indonesian government has separately plotted the land in Mentawai for different State purposes. About 80%

of the total land in Mentawai is for forest production (I: *hutan produksi*) (see Figure 6.5). Moreover, there are land rights for other purposes such as the national park, protective forest, traditional uses and separate resettlements. These classifications were made without the consent of the Mentawaians.

Conflicts over Lands among Mentawai Kin Groups

Numerous conflicts over who is entitled to plots of ancestral land occur within the realm of the indigenous inhabitants. Ancestors of different kin groups claim a same plot of land, while ancestors of other kin groups also reclaim partly (or entirely) the same plot of land, since the initial landowner has migrated to other places leaving their land unattended. On the one hand, conflicts over land occur among kin groups of Indigenous Peoples. On the other hand, there is the classical issue of unilateral annexation of a piece of land done by the government. This dispute involves the regional and central governments, and Indigenous Peoples. The government claims partly or entire territories where Indigenous Peoples have been living and entitling themselves to the land. In fact, most Indigenous Peoples have already been occupying and living on their ancestral land which is located in the State territory. However, Indonesian government, for instance, frequently deny the entitlement of land rights to Indigenous Peoples in Indonesia. It has been a never ending story of Indigenous Peoples defending their rights to their ancestral land from the unilateral annexation of land by the government and among themselves.

To understand the conflict over land in Mentawai, I reuse the example that I have described in my unpublished PhD thesis entitled “Family stories: oral tradition, memories of the past and contemporary conflicts over land in Mentawai – Indonesia” (Tulius, 2012a: 252-261). According to family stories of kin groups living in Saibi Muara, far before the arrival of the Dutch, the traditional settlement of Saibi Muara started with only a few houses. The owner of the place and of the land in the valley was called Saleuru. The Saleuru kin group departed from Simatalu and explored the downriver area of the valley called Saibi Samukop; they

arrived at the river-mouth place called Saibi Muara. They lived there and therefore they were known as Saleuru (*sa* means “group” and *leuru* means “toward river mouth”, therefore the name Saleuru means “a kin group living near a river mouth”). The Saleuru families were the first to claim most of the land in the valley of Saibi Samukop. They declared themselves the landowners and the owners of the settlement (M: *sibakkat pulaggaijat*).

Another kin group called Sataggau came to live in Saibi Muara. The Sataggau originally lived in the northern part of Siberut near the coastline at a place called Sirilogui. They made a living from fishing and frequently came to Saibi Muara to fish because the area has a bay where it was good to fish even if the sea waves were rough. After fishing near the Saibi Muara coast, the group usually returned to Sirilogui. However, due to the distance between Saibi Muara and Sirilogui, which by canoe was quite far, the kin group stayed for a short period of time on the Saleuru’s land. Since they frequently stayed on the Saleuru’s land, the Sataggau eventually decided to ask permission from the Saleuru to build *alaman* (shelter while hunting or fishing); and the Saleuru granted their permission. Since they felt comfortable living there, the Sataggau decided to buy a small plot of Saleuru land with *ibat laut* (seafish, usually sea-turtle). Eventually, the Sataggau kin group became one of the Saleuru’s neighbours.

While dwelling in the downriver settlement of Saibi Muara, such other groups as the Siriratei, Sanene, and Siritoitet followed what the Saleuru had done. However, these other kin groups were perceived as newcomers (M: *sitoi*). The newcomers were not allowed to own the land but were only able to exploit the natural resources because the land around Saibi Muara had been claimed as the Saleuru’s property. The newcomers were also seen as *sikokop*, which literally means “eater” but may be understood as “exploiter”. The presence of exploiters in the valley had inspired the owners of the place to call the area Saibi Samukop. The name means that the people who were from a place called Saibi in Simatalu (the name Saibi first existed in the valley of Simatalu) exploited the land. Consequently, the name Saibi exists in two valleys: Saibi Simatalu and Saibi Samukop.

The landowners were actually afraid of losing their rights to their land because the newcomers did not only occupy the land, but they also cultivated it by planting crops and valuable trees. The landowners did not find it easy to use their land anymore, because they had to deal with the newcomers who had planted trees growing on their land.

The Saleuru decided to get rid of the Siriratei, a group living in the upriver part of the valley of Saibi Samukop. The Saleuru disliked the Siriratei families because the Siriratei women collected fish, shrimp, and shellfish in the rivers owned by the Saleuru. As told in the Sakatsila family story (Story 14 in Chapter VII of my PhD thesis in Tulus, 2012a), the Saleuru asked a kin group in Tatubeket¹³ to eliminate the Siriratei. A few people of Siriratei were killed; and after finding out which kin group had assassinated their family members, the Siriratei took revenge. They also figured out that the Saleuru had actually masterminded the killing. The Siriratei therefore discussed the situation with the Saleuru and received a plot of Saleuru land as payment (compensation) for the killing. The land was called *porak segseg logau*. After the payment was agreed, Saleuru and Siriratei lived in peace.

Around the time of the assassinations, a family of another kin group called Tasirisurat departed from a place called Tatubeket. They also moved to and resettled in Saibi Muara. However, before being in Saibi Muara, they had first lived in Sarabua near the village of Saliguma (see Picture 1). The land in Sarabua belonged to the Saleuru. The land had been received from another kin group as a bride-price. Without the landowner's permission, the Tasirisurat family cultivated a plot of land in Sarabua. Tasirisurat did not live there peacefully. The father of the Tasirisurat family believed that the land was haunted. The death of family members was perceived to be evidence that the land was haunted. The family therefore left the place and sought a new safe place in Saibi Muara.

In Saibi Muara, the Saleuru welcomed the Tasirisurat family. In Saibi Muara, the wife of Tasirisurat's father

passed away when she reached old age. The father later married a daughter of the Saleuru kin group, and a son was born. According to the patrilineal system of Mentawai, the son was a family member of the Tasirisurat. To the Saleuru, the son was considered as a nephew of the kin group because his mother was from the Saleuru kin group.

The next significant event told by the storyteller living in Saibi Muara was a tragedy that affected the Saleuru. Lightning struck their house and the kin group lost everything. The Saleuru families thereafter split into two: one group moved to the valley of Rereiket and the other group moved to Cempungan. Before they left, they needed goods and food. The Sataggau provided the Saleuru with what they would need while looking for a new place to live. The Saleuru offered part of their land to the Sataggau as payment for these goods. The Saleuru nephew in the Tasirisurat kin group was asked to take over the maintenance of another plot of Saleuru land, as the group could not care for their ancestral land after moving away to other places.

During the time the Saleuru nephew took care of the Saleuru land, many plots of land were used for bride-prices (M: *alat toga*) and for payment of fines. Some plots of the land were given as payments to different groups such as the Siriratei and the Siritoitet. The nephew informed the Saleuru living in Rereiket and Cempungan each time this happened. In doing so, both groups knew which plots of their land had been given away and to whom. The Saleuru forgave the nephew for surrendering a few plots of land to other people. The Saleuru considered it as compensation for his time spent taking care of their land.

After the nephew passed away, there was no one to take care of the land. The Sataggau therefore took over the maintenance of the Saleuru land, as they owned a few plots of land in the same area (Saibi Muara). They had bought some plots of land by paying the Saleuru with sea-turtles and they had received some plots of land from the Saleuru since they had provided them with goods and food when they left the area. Due to the absence of Saleuru on their land, the Sataggau thus owned several plots of Saleuru land. However, this situation changed when

13. For personal reasons my informant did not want to mention the name of the group.

all the Sataggau family members in Saibi Muara passed away due to an unknown epidemic. The people of Saibi Muara said that the Sataggau died like *laggug siboikboik ka bagat kali*, or “cooked crabs in a wok” because they died all at once and none of the Sataggau survived the epidemic. As there was no one left of the Sataggau kin group in Saibi Muara, the Siriratei and the Siritoitet dwelling in Saibi Muara took over the land and both groups freely cultivated the land.

The Dutch in Saibi Muara

According to the study of several scholars, historical records found in Dutch archives mention that the Dutch officially colonized the Mentawai archipelago in 1864 (Coronese, 1986: 22-26; Schefold, 1988: 97-100). At that time, the Dutch irregularly visited the Pagai islands, but they did not dwell there. There was not much information about other islands of Mentawai. Siberut, for instance, was hardly mentioned in Dutch reports of visits to the Mentawai Islands. Four decades later in 1901, Protestant missionaries from Germany settled in the Pagai Islands. The Dutch began to visit the coastal areas of Siberut Island more intensively. However they did not yet settle in the island. After visiting several times, the Dutch decided to build a police station on Siberut in 1905 (Van Beukering, 1947:33; Schefold, 1988: 98). However, the specific location in Siberut was not mentioned.

A lot of stories are told by the Saibi Muara villagers about the arrival and settling of the Dutch on Siberut. An elder resident of Saibi Muara told me that Saibi Muara was the initial location where the police station was built in order to maintain peace on the island. Peace was a desirable goal as headhunting raids were actively practised in particular regions of Siberut at that time. The Dutch were asked by the residents of Siberut to stop the tradition, as they could not bring it to an end by themselves. Mentawaians were afraid of visiting other places because they allegedly could be killed on the way. They believed that only a third party like the Dutch could stop the headhunting raids. The Dutch had a group of soldiers to employ to bring the peace that had been long awaited by local residents.

In order to build a police station, the Dutch needed a plot of land. However, the actual landowners, which were the Saleuru, were not living in the area anymore. As told by local people, the Dutch invited a few groups of people who local residents had said were landowners in Saibi Muara to attend a meeting. However, the first owner of the land, which was the kin group called Saleuru, did not show up at the meeting, nor did the Sataggau come. At the meeting, the Siriratei and the Siritoitet were present. A few local people were also invited to witness the event. The meeting was intended to establish who were the real landowners in Saibi Muara.

In the meeting, the Dutch decided a few points. They concluded that the absence of the initial landowner was proof of their extinction. The Dutch therefore acknowledged other groups living in the area, which were Siriratei and Siritoitet, as the new landowners. The use of the land where the police station was to be built was thus negotiated with the Siriratei and Siritoitet. The Dutch stayed in Saibi Muara until 1915. Thereafter, they had to leave the place due to lack of safe drinking water. They moved to Muara Siberut, leaving behind a few houses unoccupied in Saibi Muara. The residents of Saibi Muara demolished the houses and made use of salvaged building materials for their own houses.

One of the Dutch soldiers who was stationed on Siberut was of Chinese origin. He was married to a Malay woman from Sumatra. He worked for the Dutch as a KNIL (Koninklijk Nederlandsch-Indisch Leger) soldier. After retiring, he decided to return to Saibi Muara where he had been stationed. He decided to live there because he had a good friendship with a Mentawaiian man there from the Siriratei kin group. He bought a plot of land of about twenty hectares from the Siriratei and Siritoitet to use for his house and garden. The land was located in Sigulugbaga, which is one of the parts of the village of Saibi Muara. He paid three pigs for the plot of land, which was in accordance to the price that the Siriratei and the Siritoitet kin groups had requested of him. A written document was not made of the transaction.

The family of the Siriratei friend and the Chinese family decided to create a new kin group called

Satoko. The kin-name was derived from the model of the house owned by the Chinese family. The house looked like a shop (*toko*) of Malay trades people because of its zinc roof. The Chinese family used zinc to cover the top of the roof instead of using of sago palm leaves. The two families did not see each other as unrelated anymore; they regarded each other as relatives. The new group was formed from a close relationship called *Siripo*. The two families together – that is, the new Satoko kin group – opened a new settlement in Saibi Muara.

The Satoko opened their new settlement in Saibi Muara on the plot of land that had been bought by the Chinese family. In the course of time, the traditional settlement of Saibi Muara expanded and transformed into a structured village. The Siritoitet who were dwelling in a place called Sigaitaligei joined the Satoko in Saibi Muara. Eventually, more and more new kin groups joined the Satoko. For instance, part of the Siriratei kin group residing in an upriver settlement of the valley of Saibi Samukop, and other relatives of theirs like the Sakatsila and the Saririkka joined the Satoko (see Story 14 in Chapter VII for the family relationship among these groups in Tulus, 2012a).

Land Conflict in Saibi Muara

It has been several generations since the village of Saibi Muara was built. This village was built by different groups of Mentawaians in addition to a few families of traders that had come from the mainland of Sumatra. In the 1950s, more and more kin groups joined the current residents of Saibi Muara. They came from upriver places of Saibi Samukop valley as well as from other places on Siberut. More families from Sumatra came to live there while some of the other Sumatrans returned to Sumatra. The families that came from upriver places of Saibi Samukop valley were of Siriratei origin. They were welcome to become part of the Satoko kin group. The Satoko, formerly consisting of two families, became a large kin group. Families of other kin groups such as the Sagaragara, Siribetug, Sanene, and Salabi, who were also from upriver settlements of the valley of Saibi Samukop, came to live in Saibi Muara. These newcomers brought significant numbers of people

to the settlement. They needed extensive plots of land for gardens and homesteads. The Saleuru did not return to Saibi Muara, nor did the relatives of Sataggau show up. So the new groups freely used the Satoko land in Saibi Muara for the location of their houses and they exploited natural resources on the Saleuru land. The initial Satoko members were aware of current developments in Saibi Muara.

In the 1980s, the new generations of Satoko, which consisted of several different kin groups, began to claim plots of land in Saibi Muara. They even sold a few plots of the land for the homesteads and gardens of other new arrivals. They asked 500,000 rupiahs (about 50 US dollars) for each hectare of land. They kept the money for themselves. This situation has increasingly occurred in the last few years. The other inhabitants who had been living in Saibi Muara longer than the group that recently joined the Satoko, disliked this development and began to confront them. Social tensions increased sharply between the Satoko and other kin groups living in Saibi Muara. However, these other kin groups were angry only at particular Satoko families, as not all Satoko families who had been selling land. The group that sold the land was of Siriratei origin, which had recently come to live in the government village of Saibi Muara. The current Satoko realized that more and more families wanted to live in Saibi Muara; however, the majority of plots of land available were already being used for gardens by those who had come to the village earlier. In order to take advantage of the land, the current Satoko began to sell plots of land to the newcomers. Their actions were protested by other kin groups in Saibi Muara. In further discussion of this case, I call the new Satoko families the “Satoko” in order to distinguish them from the descendants of the initial members of Satoko.

Resolution of the Land Conflict in Saibi Muara

In 2002 the Siritoitet organized a large meeting in Saibi Muara, where several kin groups were present. The Siritoitet also sought out and invited current members of the Sataggau kin group, who are residents of Saibi Muara and considered to be the probable earlier landowners of Saibi Muara. These Sataggau families were dwelling in a village

called Cempungan. The “Satoko”, the Sataggau, and the Siritoitet sat down together to find a resolution to the land conflict in Saibi Muara. Descendants of the initial Satoko kin group were not invited. The “Satoko” defended their initial claim to certain plots of land in Saibi Muara. However, the Sataggau also claimed the same plots of land.

In the meeting, the “Satoko” told family stories about the land in Saibi Muara. According to the “Satoko” family story, several plots of land in Saibi Muara were received from the initial owner (the Saleuru kin group), as payments for a headhunting raid and a bride-price. A group from Tatubeket carried out the headhunting raid at the request of the Saleuru. A “Satoko” was killed. The “Satoko” looked for the killers. They eventually found out that they were from a group living in Tatubeket. The “Satoko” took revenge and were also informed on who had masterminded the killing: it was a group living in Saibi Muara, the Saleuru. So, the Saleuru were in trouble. In order to not be killed by the “Satoko”, the Saleuru decided to surrender a plot of land to the ancestors of “Satoko” (when the group was still known as the Siriratei).

The Sataggau also told a family story to describe their connection to the contested land. According to the story, the Saleuru’s *uma* (communal house) was struck by lightning and burned down. The Saleuru therefore needed goods and food while going to seek a new place to live. The Sataggau offered the Saleuru the goods and food they would need during their migratory movements. In return, the Sataggau received a few plots of Saleuru land.

Some of those at the meeting and representatives of other groups from Saibi Muara seemed to recognize and acknowledge the Sataggau story, but some of the “Satoko” still attempted to reject the current Sataggau’s claim to the land. According to the “Satoko”, the current Sataggau are not relatives of the initial Sataggau that once lived in Saibi Muara because the initial Sataggau families in Saibi Muara had died due to an unknown epidemic. This information was according to a story told by ancestors of “Satoko”. Therefore, the “Satoko” concluded that the current Sataggau were not related to the initial Sataggau. After an elder of the “Satoko”

ended his argument, an elder of the Sataggau stood up angrily. He pointed his index finger at the “Satoko” family members and he spoke sneeringly about the “Satoko”s’ knowledge of the land in Saibi Muara. He said that the amount of the “Satoko”s’ knowledge was no more than a small amount of dirt under his nails. He furthermore said that the “Satoko” had actually been able to survive so far because of using land that belonged to Saleuru and Sataggau.

His statements made the “Satoko” angry. The “Satoko” young men challenged the Sataggau to a fight. They hit the wooden floor by using their bare hands in order to make an intimidating noise. A few young men left the meeting room and waited outside, ready for physical violence. As told by witnesses from other kin groups who were also present at the meeting, the Sataggau families stayed calm and were not afraid at all. Meanwhile, the Siritoitet elders added some information to both kin groups’ stories when it was necessary to clarify certain points. Unfortunately, the Saleuru were not present at the meeting to witness whether matters told by both kin groups were truly relevant to the contested land.

Instead of fighting with the “Satoko”, the Sataggau challenged the “Satoko” to undertake *tippu sasa*, which is a ritual to prove a truth by cutting a piece of rattan decorated with leaves and flowers. Before cutting the rattan, the two disputing groups have to swear by the names of their ancestors that their claims are true. The Sataggau believed that the only way to prove the truth of what the Sataggau said about the “Satoko” and to establish the actual status of the land in Saibi Muara was through such a ritual. However, the “Satoko” did not respond to the Sataggau’s challenge, as the Sataggau had not accepted the “Satoko”s’ earlier challenge to a fight. The presence of a lot of local people witnessing the meeting had calmed the tension between the two groups. Both parties eventually decided to seek a friendly resolution. After considering all testimonies and stories uttered at the meeting, the “Satoko” lost the case and the Sataggau won the contested land.

In order to acknowledge the land rights to be in the hands of the Sataggau, the “Satoko” and the Sataggau went to the office of the village head to sign a letter

of agreement, consisting of significant points. The points are that the “Satoko” and the Siritoitet do not have any rights to the disputed plot of land in Saibi Muara, therefore they cannot sell the land anymore. Rights to the disputed plot of land in Saibi Muara are given to the Sataggau. However, Saibi Muara residents are not forbidden to cultivate the land, as they have already planted most of the land. But they do not have the right to sell the land. If they want to sell their own garden to someone else, that is possible, but the land itself is still owned by the Sataggau.

In order to legitimize the agreement, the village head of Saibi Muara on behalf of the local government was asked to mediate the dispute. After the meeting, the residents of Saibi Muara were still talking about the case. An opinion came from the descendants of the original Satoko kin group, who were not surprised that the “Satoko” had lost rights to the land because they (the “Satoko”) clearly did not know many of the important details concerning the contested plot of land. The Satoko suggested that the “Satoko” should address a question to the Sataggau to test if the current Sataggau were relatives of the Sataggau who owned the contested land in Saibi. The question is: why did their ancestors not show up in the meeting organized by the Dutch?

The actual Satoko were referring to an event in 1905 when their ancestors were involved in a meeting organized by the Dutch. According to the Satoko, the Sataggau families were absent at the meeting in 1905 when the status of the land in Saibi Muara was discussed. The absence of Sataggau at that meeting was evidence of the death of the Sataggau. The actual Satoko concluded that the current Sataggau are not related to the Sataggau that had owned the land in Saibi Muara. So the Siriratei and Siritoitet were recognized as the landowners according to the meeting organized by the Dutch in 1905. The Sataggau were quite happy to see that no descendants of the original Satoko were present at the meeting in 2002. However, how are the Sataggau affected by the government totally cutting down 20,000 hectares of forest area for intensive forest production in central Siberut? It is not only problem faced by the Sataggau and several other kin groups, but now becomes the problem of Mentawaians living in central Siberut.

Analysis of the Land Conflict in Saibi Muara

The description above illustrates a common situation where several kin groups tried to appropriate for themselves a plot of land, even if that plot of land had already been claimed by the first settlers to arrive there. By surrendering and selling land, the first settlers encouraged a situation where more and more people could come to live in that area. The growing population meant increased competition in exploiting natural resources. New arrivals in the area needed plots of land for homesteads and gardens. The new arrivals eventually took over the maintenance of the land and even claimed it as theirs. They divided the plots of land among themselves, and by doing so increased the land conflicts in the area.

One group disregarded other groups' claims and commenced to sell the land to other buyers who had recently arrived in the area. As the conflict continued, the current residents sought a solution by inviting kin groups that had some connection to the disputed land. However, the groups did not invite representatives of the first settlers to the meeting. Nor did they invite members of other kin groups that might be familiar with the case. The story of the land in Saibi Muara was therefore incomplete. Two opposing groups involved in the land conflict in Saibi Muara tried to defeat each other. The “Satoko” group accused the Sataggau group of not being the real landowners and the Sataggau did likewise. However, members of “Satoko” could not prove that they were the real landowners. During the meeting they did not show a great deal of knowledge of the land. They failed to prove that the current Sataggau are unrelated to the initial Sataggau kin group that once owned the land in Saibi Muara. On the opposing side, the Sataggau convincingly accused the “Satoko” of taking over the maintenance of the land in Saibi Muara and exploiting it without asking permission from the Sataggau.

As the “Satoko”s' knowledge about the land was lacking, they could not disprove the claims of the Sataggau. In order to win the case, the “Satoko” sought another way. They provoked a physical confrontation. However, the Sataggau handled the situation wisely by staying calm. They later won

the case by challenging the “Satoko” to carry out a particular ritual to establish the truth of what they were fighting about. The “Satoko” realized that their knowledge of the story of the land was not strong enough to protect them in the face their ancestors. Therefore they did not dare to undergo the cutting rattan (M: *tippu sasa*) ritual. After they rejected the Sataggau’s challenge, the “Satoko” acknowledged the Sataggau as owners of the land.

It is quite simple to avoid the conflict if each kin group holds a document stating their ownership on a particular plot of land. Information on the document is derived from ancestral family stories approved by witnesses, kin groups with which the group shares the same borders and government officials that ratify the documents.

Conflict Over Land and Natural Resources between the Indonesian Government and the Mentawai People

Population growth increases in different countries, yet the availability of natural resources and land are not available at the same rate. Instead, natural resources and land stay the same or even decrease in the course of time, and are limited for new generations. Very few people can take control of the land and other natural resources; therefore, some groups of people have extensive plots of land while most people have less or nothing at all. When plots of land are available for sale, those who have money will buy the land as theirs. They get land and a piece of paper stating their ownership to particular plots of land. In a traditional situation, groups of people own extensive lands but they do not have any documents proving their possession to the land. This situation intrigues different problems in societies. In some cases, the government plays a crucial role as the State involves itself in the claiming of land and simply ignores the land ownership of Indigenous People. In order to generate the State income, land grabbing for extensive resource extraction and exploitation has become one reason for many other problems.

The Indonesian government declared the Mentawai Islands to be part of Indonesian territory under the supervision of the provincial government of

West Sumatra in 1945. The government declared that the land in Mentawai belongs to no one. It is considered empty land where the government fully claims as state property. The majority of Mentawai communities do not know if their land has been seen as the state property, and the State can simply come in and exploit natural resources on their land for generating the state income.

In 1973, the government ratified logging concessions for a few big companies to log places on all four of the Mentawai Islands (Persoon, 1989: 203). After 1973, Mentawaians stood by powerless while forests were cut down. North and South Pagai were almost entirely deforested, as well as Sipora. Several logging companies had commenced to move to Siberut. However, the plans of these companies were blocked by several international organizations like Survival International (SI) and World Wildlife Fund for Nature (WWF). Therefore the intensive exploitation plans of logging companies on Siberut was affected. Siberut less significantly because the central government agreed to allocate a size of 195,500 hectares on Siberut Island as Siberut National Park. (Schefold, 1980; WWF, 1980; Persoon and Schefold, 1985; Persoon, 1989 and ADB, 2001).

In 1976 the Indonesian government, through Indonesia’s Ministry of Forestry, agreed with the international organizations to conserve a small part of Siberut Island (6,500 hectares) as a wildlife reserve. In 1981 the United Nations Educational, Scientific and Cultural Organization (UNESCO) signed an agreement with the Indonesian government to protect the biodiversity of natural resources and characteristics of Mentawai culture in an area of 56,000 hectares on Siberut; which was expanded from the initial area of 6,500 hectares. This effort and project was part of the ‘Man and the Biosphere’ programme of UNESCO. After signing the agreement, organizations such as SI and WWF actively ran their projects to stop the extensive natural exploitation in Mentawai. However, their projects were not run continuously. SI, for instance, stopped working on Siberut as the Indonesian government terminated its permit due to SI’s strong protests against Indonesian policies on Mentawai (WWF, 1980; Persoon and Schefold, 1985).

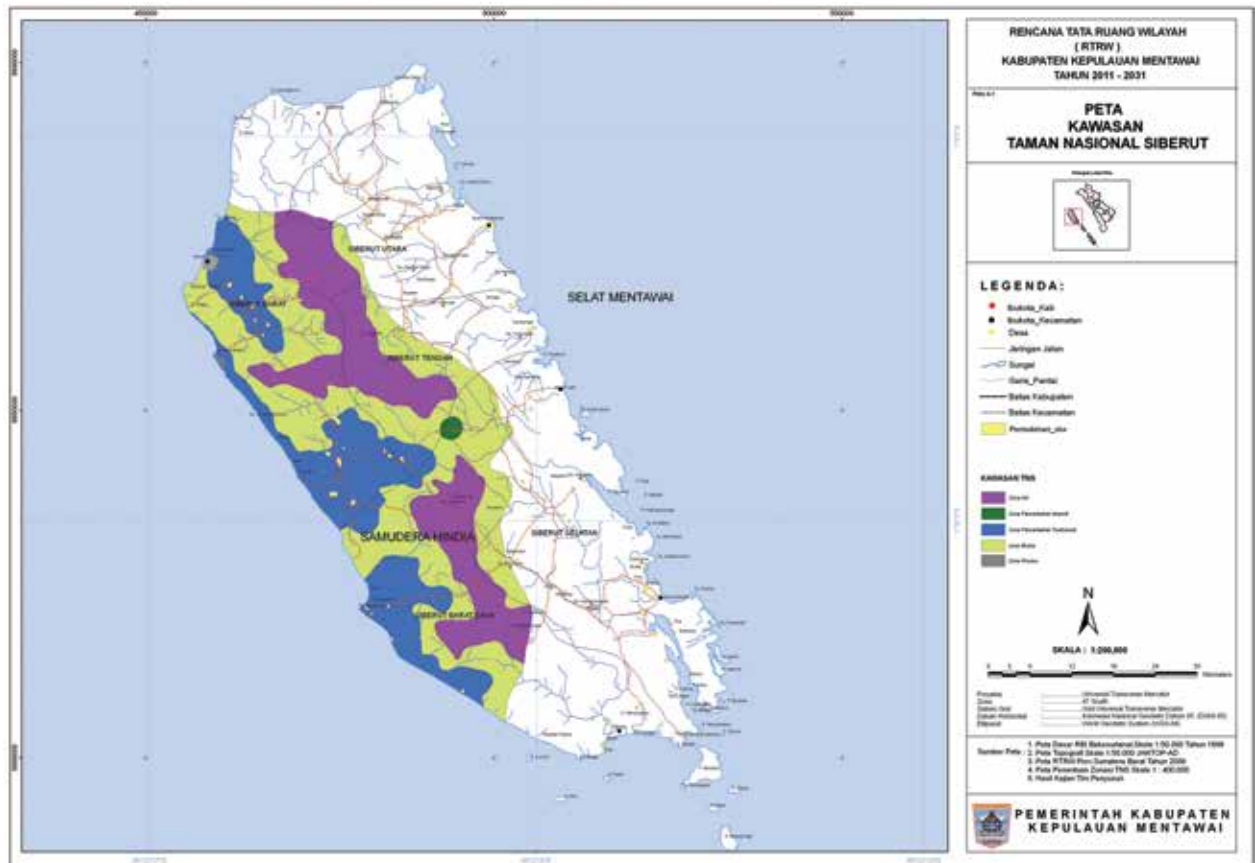


Figure 6.6. Map of Siberut National Park.

The departure of international organizations from Siberut in the late 1980s opened a great opportunity for logging companies to exploit Siberut. It was not only the logging companies who were already active on the other Mentawai Islands who seized this opportunity. Entrepreneurs created several new logging companies and they also obtained concessions from the central government in Jakarta and from West Sumatra's provincial government in Padang. Moreover, a few companies from Jakarta were interested in acquiring land for oil palm plantations. The island was clearly in danger. Mentawaians started worrying about their land, and conflicts took place among different stakeholders on the islands (Persoon, 2003).

Before the logging companies carried out their plan, Indonesia's Ministry of Forestry launched a multimillion-dollar project funded by the Asian Development Bank (ADB) in 1992. It was called the

Biodiversity Conservation Project and it was located in Flores and Siberut. In 1995, the conservation project resulted in a national park with 95,500 hectares on the island of Siberut (see Figure 6.6). A few Mentawaians joined the conservation project. Other Mentawaians established their own organization, and built a network in order to gain financial support for achieving their goals, including the desire to separate Mentawai from the district (*kabupaten*) of Padang Pariaman and to manage the natural resources themselves (Eindhoven, 2002; 2007; 2009). Specifically, they wanted the ancestral lands of Mentawaians to be acknowledged as theirs.

When the government agreed to run the project, some logging concessions on Siberut were terminated. But the conservation project officially ended in 1999 (ADB, 2001), and it was already nearly inactive when I gathered preliminary data for UNESCO in 1997. UNESCO then decided to carry out its



Figure 6.7. A new surfing camp adopting the architecture of traditional Mentawai house on the island of Siloinak.¹⁸³The picture was taken by the author in 2006.

programme in order to replace the conservation project. This was the first time that UNESCO had actively implemented its programme in the field since the ratification of the conservation agreement with the Indonesian government in 1981.

The current situation does not seem to have brought about significant changes in Mentawai. Conflicts over trees provoked by logging companies and disputes about waves instigated by surfing industries repeatedly take place in Mentawai (Bakker, 2007; Persoon, 2003). More and more foreigners work together with the local people to build surf camps, but before they can do this they have to buy a plot of land near the surfing spots (see figure 6.7). These create problems that relate to land ownership. Conflicts over land between Mentawai kin groups that attempt to get involved in these businesses occur frequently

and the Mentawai government is not able to resolve them. The government even takes advantage of the situation by promoting oil palm plantations as a great option for the local economy, leaving the Mentawai kin groups in a situation where a kin group has to defend their ancestral land from being claimed by other kin groups and from their own government.

In 2010, the Mentawai Islands were devastated by a tsunami and about 500 people died in Pagai Islands and Sipora due to the event. The district government of Mentawai Archipelago decided to relocate those who survived the natural disaster from coastal areas to uphill places in Pagai Islands. However, the central government had given that location to

14. This camp stopped operating after all parties disputed each other over land on the island. They eventually had to solve the problem in the court.

PT. Minas Pagai Lumber Corporation; a logging concession that may operate in the area for 45 years. The Mentawai communities who were resettled there cannot simply occupy the places without holding permission from the company and the central government. PT. Minas Pagai Lumber Corporation would surrender the hilly areas to those who resettled if the government would provide the same size area elsewhere as a replacement of the used one. Through solid negotiation with the logging company mediated by the government agencies at different levels, Mentawai communities were allowed to have the location so that the government could build houses for the tsunami victims. Meanwhile after finding new locations, the former settlements left by the tsunami victims are seen as potential areas for implementing the plan of district governments to open palm oil plantations. This plan is actually a response to the opportunity prompted by the central and provincial governments; some locations are meant to be used as production forests that can be given to big companies so that they can convert the areas to palm oil plantations. Again, this plan of the government obviously shows that they believe that the Mentawaians have no rights to the land that they claim as theirs.

Conclusions: the Probable Solutions of Conflicts over Land in Mentawai

To entitle a person to a plot of land, in the sense of claiming material soil with particular sizes, is not ensuring that person full rights to the land. On the one hand, a person may cultivate and traditionally proclaim to have a plot of land. On the other hand, the person needs to prove to others by providing evidence of ownership in order to avoid multiple claims on the same plot of land. In traditional circumstances, people tell stories of the land. They plant trees and crops in order to prove their ownership. However, when they have to deal with state rules and regulations, conflicts may occur. Most traditional peoples do not have any written documents and the state can see immaterial land located in places wherein traditional people live, especially when the state finds out that the location is rich in natural resources or the land itself is potential for different purposes that can bring income for the

state. This can be used by the state to simply claim the traditionally owned land and declare it as state property. The status of immaterial land (I: *kawasan*) controlled by the state as part of the state territory can change to material land if the state unilaterally takes over the traditional landownership of its people.

The Indonesian government can resolve the conflicts over land in Mentawai. The governments at district, provincial and central levels have to mediate and facilitate kin groups in solving their land ownership problems. Stories describing landownership of Mentawai kin groups in different places must be written down in an official document so that every party can evaluate the validity of the stories, especially among kin groups sharing the same borders of the land.

Every kin group has to find their ancestral relatives and then they have to clarify their land together with kin groups sharing the same borders. The plots of land that have been given up for the payments of fine, bride-prices, stopping bloodshed, exchange, selling to individual buyers must be stated clearly in the document. All parties witness the process of documenting the plots of land. The local government ratifies all of the information stated in the document, after it has passed through the process of examination by all parties. In the document, it must state several crucial points, such as the names of ancestors who found the land. Genealogy of the kin groups and the names of all related kin groups sharing the same rights to the plot of land must be included in the document. Names of places, borders related to the land, and personal gardens must also be mentioned. Historical events that have occurred on the land must be detailed. These documents held by the communities have to be certified by the State and communities as the citizens of the State are obliged to pay taxes to the State which stipulate their rights to cultivate their land according to applicable rules and laws. By obtaining official documents, local communities will be able to defend and clarify their land and natural resources in the court or at least hold a bargaining position when they have to deal with large companies and unilateral decisions made by the government as well as conflicts among Mentawai kin-groups.

For individuals who are knowledgeable about laws, it may be easier for them to adjust and cope with current land issues. If the communities hold official documents, it is also the turning point for Indigenous People to respond to the aggressive influences of powerful governments and companies. Communities have a certainty about their ancestral land and natural resources. In order to avoid future misunderstandings among kin groups regarding plots of land, the borders of land have to be given monumental markers, such as bars for instance, along the borders differentiating two adjacent plots of land from each other. If communities succeed in obtaining official documents for their extensive plots of ancestral land and other natural resources, this can be perceived as the manifestation of Convention 169 of the International Labour Organization (ILO) of 1989 and the United Nations Declaration on the Rights of Indigenous Peoples of 2007.

7. Madre Milpa, Modified Maize, and more

Conflict and Transnational Colonialism in the Highlands of Guatemala

Paul van den Akker

This chapter explores the spiritual connection with the land in the Highlands of Guatemala in the context of transnational colonialism.¹ This region is characterized by the many indigenous communities of different linguistic backgrounds. Transnational corporations are increasingly interested in the resources of Guatemala, while neoliberal governments are eager to receive them as a part of their developmental plans (Dougherty, 2011; Pedersen, 2014). The interests of these corporations and their perception of the environment contrast greatly with the perception of the environment by the Indigenous Peoples and their respect towards it. This contrast often leads to violent confrontations and oppression of those who try to protect the environment and to a continuous contamination and destruction of the earth.

The responsibility of archaeologists and anthropologists towards society is to contribute to the empowerment of the cultures in which they live and work (Jansen, 2004: 247-249). Exploring cultural continuity among the indigenous communities can help to overcome the destruction of historic memory that has resulted from the colonization of the Americas and serves therefore as an empowering tool. Accordingly, this chapter combines both historical and religious indigenous sources from the Pre-Colonial Period and Early

Colonial Period² with ongoing anthropological research by the author in Momostenango, a K'iche' town in the Western Highlands of Guatemala. The goal of this research is to define the local indigenous heritage through continuity in the relationship with the land. How does the current K'iche' relationship with the earth reflect continuation of a shared Mesoamerican perception of the environment? This kind of heritage is often referred to as "intangible heritage". However, as will be explored in this paper, in the case of Guatemala this heritage is passed on as a lived practice and as knowledge.

Special attention in this paper is paid to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which, after a long process of negotiations, was adopted in 2007 (UN General Assembly, 2007). The second part of this paper looks at the increasing transnational interest in Guatemala and the non-implementation of UNDRIP. How does this non-implementation of the articles of the UNDRIP that deal with the indigenous relationship with the earth threaten Maya heritage in Guatemala, and what might be the consequences thereof?

Earth in the Western Highlands

The environment can have its intentions and agency: people are drawn to places that are important

1. The investigation that led to this chapter was funded by the European Research Council under the European Union's Seventh Framework Programme (FP / 2007-2013) / ERC Grant Agreement No. 295434 "Time in Intercultural Context: Calendars of the Indigenous Mexico and Guatemala".

2. These historical sources are also known as "codices". Many of these documents were destroyed during the extirpatory campaigns following the Spanish colonization and the few that survived are kept in mostly European Collections (Tavárez, 2011).

for them and react to the environment they live in (Ingold, 2011). In the Western Highlands of Guatemala the earth is alive. Mountains, rivers, and hills are alive and have an influence on people who live around them just as the people have an influence on the mountains, rivers and hills; there is mutual engagement. Everything surrounding human beings is alive, and the most sacred or powerful beings, such as the mountain tops and the clouds, are invited through prayers to join in rituals where they are nourished with aromatic smoke.

The earth gives life to everything around us. As far as memory goes back in the indigenous communities of the Western Highlands, the earth takes care of human beings like a mother. She nurtures them with her crops that grow on the *milpas* ‘agricultural fields’ and watches over them for protection³:

“Some of the pregnant mothers of Concepción Chiquirichapa go to the fields to leave lunch for their husbands. When they see that the maize has grown, they take the leaves of the maize plant, place it on their stomach and talk to the maize. “Mother”, they say, “I am happy to see you and to know that the sacred rain and sun are making you grow. We ask you to provide enough food this year for this baby, please, we want more mazorcas, we want more maize, we want you to be in good health. Because now you have another commitment which you will have to nourish” they say to the maize. So the little children are already listening in the belly of their mothers and they are connecting it with the maize” –Narrative recorded in Concepción Chiquirichapa, Guatemala, May 9, 2014⁴.

An oral narrative from the town Colotenango – a Mam-speaking community in the department of Huehuetenango – tells us that a long time ago human beings did not have maize and were close to dying of starvation (Valladares, 1989: 28). The people knew that near the town of Nebaj there was a mountain where the *dueña* ‘(divine) owner’, the Lady of the

Earth had great amounts of maize plants growing in her fields. The *dueña* continues to live here: her name is Paxil and she is the embodiment of the mountain top named Paxil which has several deep cracks where the maize was once stored (Valladares, 1989: 30). Her husband is a rocky mountain near Chimalteco known by the name of Sakwo’j or *Peña blanca* ‘white peak’. The people, led to despair by hunger, first sent out the crow to steal maize seeds from Paxil and bring them back to them. But the bird was discovered by the *dueña*. Then the *zompopo* ‘flying ant’ was sent. He succeeded, and the people could grow their own corn from that moment on. But the *dueña* found out and she grabbed the *zompopo* furiously, pinched him in the center of his body, and told him that she knew that he had helped the people. Once she saw the hungry people, however, her motherly instinct grew and she decided to let the people have their *milpas* and vowed that she would take care of them like a mother; she became K’txú ‘Our Mother’ (Valladares, 1989: 29). The *zompopo*, who still has the pinched middle body from the *dueña* grabbing him, became the announcer of the planting period ever since. The evenings before the first heavy rain showers the *zompopos* fly around in the houses, advising the people to prepare for the planting season. Today, Paxil is an important place to perform rituals before the planting season and for the petition of rain (Valladares, 1989: 45-46).

Lady Earth and the Serpent Dance

In several communities in the Highlands of Guatemala, the Lady of the Earth participates in a ritual dance that is performed to ask for fertility, rain, good crops and protection against damage to the crops by animals, wind, and mudslides. The dance is known by various names differing per community, but the Spanish term *baile de la culebra* ‘the serpent dance’ is usually used to discuss the dance in a comparative manner (Cook, 2000: 171; Ordoñez, 1970; Schultze Jena, 1933: 204-213).

The dance takes place in several communities in the Western Highlands (Fig. 7.1). On a regional scale, we see that the *baile de la culebra*, in all its different variants, is performed at significant moments related to the earth, fertility and water,

3. A similar perception of the earth extends well into the region of Central Mexico (see García & Christensen, 1976, p. 57; Macuñil Martínez, 2015).

4. Due to the sensitive nature of the topic, knowledgeable specialists from the indigenous communities who helped me with my research are kept anonymous.

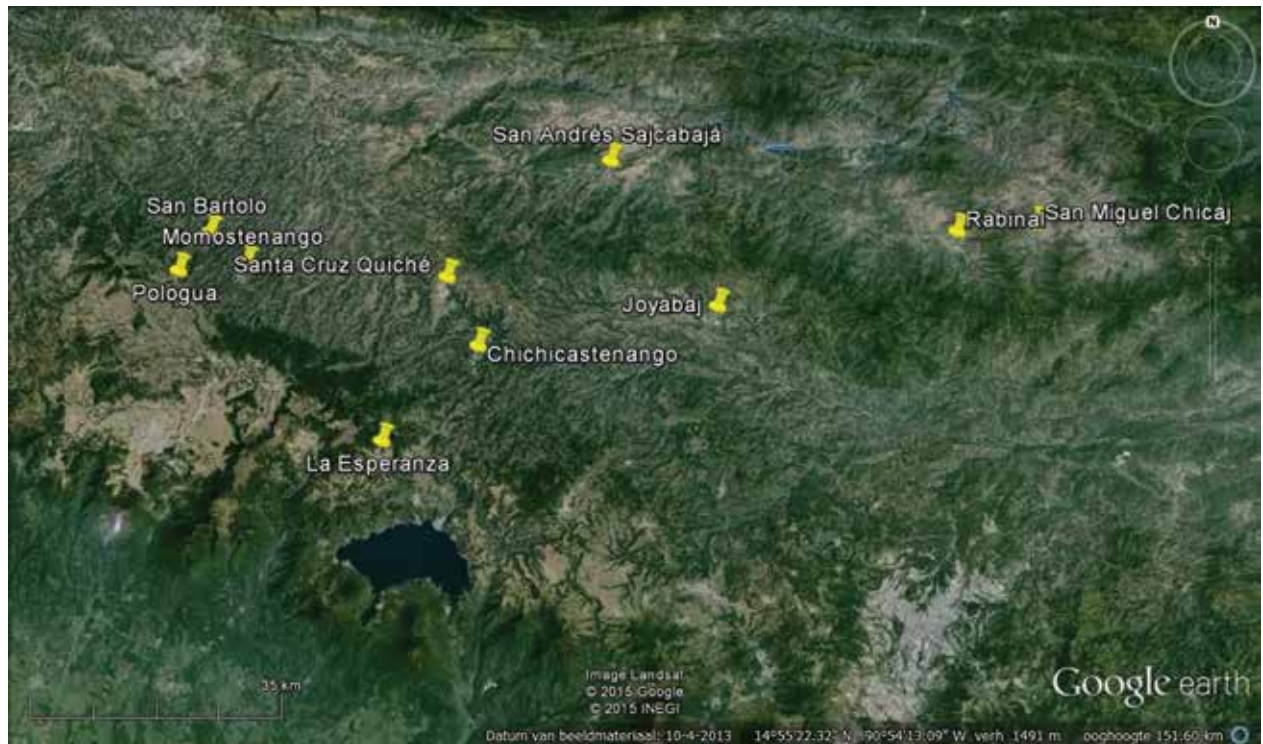


Figure 7.1: Map of the Highlands of Guatemala: overview of the communities where the *baile de la culebra* is performed. Image by Google Earth ©.

and coincides with Christian festivities (Table 1). It starts from the period in which the earth is prepared in the town of Momostenango and continues until the maize is finally harvested in the town of Chichicastenango. The *baile de la culebra* is not performed in the Western Highlands in the period immediately after the completion of the agricultural cycle up until the preparation of the ground begins again. The *baile de la culebra* asks for guidance over the agricultural fields by Our Mother and is related to the petition of fertility and water and for protection against harm.

In the K'iche' speaking town of Momostenango, Department of Totonicapán, the dance is performed at the end of Holy Week and on the fourth Friday of Lent. In the dance, a respected male *chuchqajau* – a ritual specialist with high responsibilities for the community – impersonates the Lady of the Earth by dressing in the local female dress and wearing a mask and wig. In her hand the Lady holds a snake with which she continually dances. Years ago this snake was a real snake, but nowadays a stuffed animal is

used in Momostenango. All other dancers are dressed in rags and old clothes. One of them is the Lady's husband who protects her from the rest of the dancers who are known under the name *Tzulaab'* (singular: *Tzul*). The woman and her husband have a white skin, which currently refers to ladinos (Guatemalans of Spanish descent) or foreigners. However, the multiple meanings of the word "white" in K'iche' suggest that in the dance the skin color refers to a wise, pure, and honest couple related to mountains and sacred places⁵ (Vogt, 1970, p. 6; Wagley, 1949, pp. 55-56; Wilson, 1999, p. 57). For example, in Rabinal, an Achí-speaking town where the dance also takes place, the prayer that accompanies the dance addresses the first Mother and first Father of the world as white beings (Table 6.2).

5. Ruud van Akkeren (2016, personal communication) suggested that guardians of mountains and sacred places are perceived as foreigners because they symbolize abundance and wealth. This perception is inherited from the Colonial Period during which, as still today, non-indigenous Guatemalans and foreigners occupied important positions and were able to gain more wealth than the Indigenous Peoples.

Table 7.1. The timing of the performance of the ritual dance differs per community. However, it always takes place during rainy season and the period immediately preceding the preparation of the *milpa* for planting.⁶

Date	Location	Marks
4 th Friday of Lent	Momostenango	Preparation of the agricultural field
Holy Week/ Easter	Momostenango La Esperanza (Totonicapán)	Fertilization of the agricultural field; Marks the arrival of the first rain and the start of the planting period
Corpus Christi	Rabinal San Miguel Chicaj Santa Cruz del Quiché Pologua San Andrés Sajcabajá	First stage of the sprouting and growth of the corn plant; The first phase of light rain, which becomes more intense in late June.
Assumption of María	Joyabaj San Andrés Sajcabajá	Marks the end of the <i>canicula</i> , the dry period during the rainy season; Heavier rainfall; Harvest of beans.
Celebration of the Rosary	Chichicastenango	Feast to celebrate the harvest of the first <i>elotes</i> ‘young corn cobs’.
All Saints	Chichicastenango	Beginning of harvest; Finishing of the rainy period; Beginning of a period with cold winds; Commemoration of the ancestors.

Table 7.2 Excerpt of a ceremonial discourse. MACE, 1967: 138-139; the original orthography in Achi Maya is retained here. Translation to English and emphasis mine.

“Hay canabé chuch, hay canabé cajáu,	Oh Our First Mother, Oh Our First Father
e aág uxeбал íg, e aág uxeбал sáx,	You are from the seat of the sun, you are from the seat of clarity (literally: ‘whiteness’),
e tataíb, e chuchu íb,	You are Lords and Ladies,
e ág sác uhuí, e ág sác u jolóm,	<i>You are of White Hair, You are of White Face,</i>
e á gana cotzíg, e ág saca cotzíg	You are of Yellow Flower, You Are of White Flower,
e ág póm, e ág canelas,	You are of incense, you are of candles
xe diosin xe rakán ri María santísima”	Underneath god, underneath the feet of Holy Mary.

The Tzulaab' move around the Lady of the Earth and touch her, they dance with her, and hug her (Fig. 7.2). Many times the dancers steal her from her husband, they hide her somewhere else, and hold the wooden handle of the whips that they carry as a penis in front of their genitals while they slip it in between the Lady's legs. The husband of the woman rushes towards the assaulters, drags them one by one to an open spot and hits them twice with his whip in front of a large audience that has gathered around the dance (Fig. 7.3). After being hit, the Tzulaab' run back to the woman and the husband drags out another dancer. The dance is a highly ritual performance. Every morning the organizers perform fire rituals as payment for the protection of the dancers by the ancestors and divine beings that dwell in the environment. The contemporary *baile de la culebra* has many meanings and historical dimensions, as well as Spanish influences,⁷ which due to the lack of space cannot all be discussed here. What is important for the argument here is that according to the *chuchqajau* and organizers of the dance in Momostenango, the dance originated out of necessity of protection against threats to the *milpa*. The dance is a form of self-sacrifice performed for the earth: the whipping that occurs in the dance is a ritual gesture of submission towards the environment, embodied by the Lady. Such ritual submission enhances the consciousness of dependency on the environment while it is simultaneously a moral teaching to the public: lack of respect for the Lady of the Earth will end in suffering.

The snake is the symbol that gives the name to the dance. In the past the snake used to play a more prominent role in the dance, as today most attention has shifted to the assault on the Lady and the whipping. Today, the dance is performed with a stuffed animal snake, but until 20 years ago real snakes were caught and used in the dance after the correct rituals were carried out. As documented by Franz Termer (1957: 204-210) in the 1920s and confirmed to me by the current organizers of the dance, the Lady and her



Figure 7.2. The Tzulaab' dance with the Lady of the Earth. In her left hand she is holding the snake. Holy Week 2014, Momostenango. Photo by author.

Husband would perform specific rituals in order to receive a snake from the forest. The snake would jump into a ceramic jar, after which they would bring it to the house of the Lady, who would watch over it and treat it respectfully with music and food. On the days of the dance, she would carry the closed jar to the place where the dance was being performed. Halfway through the dance the Lady would pick up the jar and dance with it. After this she would pour the snake out of the jar in the center of the dance area. One by one the dancers would dance with the snake and let it slip underneath their clothes. This was the most sacred part of the dance. After the dance, the snake was brought back to the forest.

In Momostenango, as in many Mesoamerican communities, snakes are related to water (Munguía Ochoa, 2014; Mutz, 2010: 34-36; Peña Sánchez, 2013; Wisdom, 1961: 439). The snake in the *baile de la culebra* is the embodied counterpart of the water which will be arriving soon after the dance. Pouring the snake out of a *jícara* symbolizes an important annual event in Momostenango, the *uwaja'*, a feast or event that is related to the first rains. When the first rain pours down in Momostenango, the rivers swell up and the wave that is formed becomes a devouring snake, the *uwaja'*. Turning to look at the snake-river is a sign of disrespect, and the snake will grab you and you will die. Thus, although the first rains are very important for the agricultural fields, the rain and the rivers it fills up can be destructive and can cause death. The act of pouring the snake out of a *jícara* symbolized the rainfall pouring down from the sky,

6. See Bunzel (1952: 426), Cook (2000: 144-182), Hutcheson (2009: 880), Looper (2009: 204-206), Mace (1967: 95-139), Ordoñez (1970), Saquic Calal (1970), Schultze Jena (1933: 204-213), and Termer (1957: 212-219).

7. For a discussion of possible Spanish influences see Looper (2009: 201-220).



Figure 7.3. The husband of the Lady of the Earth whips a *Tzul*. Holy Week 2015, Momostenango. Photo by author.

creating a devastating *uwaja'* but at the same time also ensuring new life. The dance, therefore, teaches about respect not only towards the Lady of the Earth but also towards the water.

Pre-Colonial Roots

The Lady of the Earth, and her commemoration as it is performed in the *baile de la culebra*, has its roots in prehispanic Mesoamerica. The transformative aspect of the Mesoamerican deities, who share iconographic attributes with each other on different occasions, seems to suggest that there was a complex of gods and goddesses related to the earth (Taube, 1992: 105). The Mesoamerican mother goddess complex includes several female deities, among which Ciuacoatl, Tlazolteotl, Xilonen, and Chicomecoatl in Pre-Colonial Central Mexico, Chak Chel and Ix Chel in Pre-Colonial Yucatan, and Xmukane in the Colonial Period Highlands of Guatemala (Christenson, 2007: 54; Jansen, Anders, & Reyes García, 1991: 208; Taube, 1992). These are different manifestations of the divine female force

that controls life, death and rebirth which Clarissa Pinkola Estés (2008, pp. 70-127) names “Skeleton-Lady”. She shows that this archetypical female force is not restricted to Mesoamerica but that it is shared among many peoples around the world.

In Central Mexico, for example, a female deity related to the earth was *Chicomecoatl*, the patroness of tender maize plants. She played a central role in the feast of *Ochpaniztli*, dedicated to *Tlazolteotl* ‘Our Grandmother’ who was the patroness of weavers, of sexuality, of the earth and of ritual cleansing (Jansen et al., 1991: 209-214). This feast took place at the end of the agricultural cycle to thank the mother of the earth and the people for the harvest. During her feast, depicted in detail on page 30 of the Early Colonial Central Mexican Codex Borbonicus, a high-placed male priest becomes the female earth by wearing the skin of a woman (Fig. 7.4). She can be seen standing atop a temple in the center of the page: from the elaborate headdress new maize plants and maize cobs sprout while in her hands she also carries maize cobs. She is the new skin of the earth,



Figure 7.4. Page 30 of Codex Borbonicus: feast of Ochpaniztli (facsimile by Duc de Loubat, 1899: 30)1899, p. 30.

the new life that sprouts from the earth evidenced by the full grown agricultural fields at the time of her feast (Jansen et al., 1991, p. 211).

The Yucatec Maya goddess Chak Chel (Fig. 7.5) was related the earth, weaving, death, fertility, and childbirth (Miller & Taube, 1997: 60-61; Taube, 1994). In her hair she carries a snake which, together with her claw-like hands and feet, invokes the notion of the living earth. On page 74 of the pre-Colombian Maya manuscript called the Dresden codex, Chak Chel is connected to both the sky and the earth. She is in charge of rain and water; as she hangs from the clouds she pours water out of a vessel down to earth where the Lord of Death, also known as Lord L, crawls with his weapon in position (Grube, 2012: 174). This image follows directly on a series of pages that prognosticate rainfall. The act of pouring water from a vessel resembles the moment of the *baile de la culebra* when the Lady of the Earth pours the snake out of the jar. In both cases, the message is similar: disrespect will be punished, either by the Lady's husband or by the Lord of Death.

In short, the earth is and was alive. She is the mother of the people, the animals and the plants as she takes care of them and nourishes them. She brings them



Figure 7.5. Page 74 of the Dresden codex: the earth-, fertility-, and death-goddess Chak Chel releases water from a vessel on the head of Lord L (facsimile by Förstemann, 1880: 53).

water and protects them against the devastating effects of animals, rain, and hurricanes. People are urged to engage with the environment in a respectful way, similar to the way they respect their father and mother from whom they once received the seeds to grow their maize crops. The *baile de la culebra*

teaches that disrespect for the Lady in the dance, as the embodiment of the earth, will result in suffering. The spiritual connection with the earth is, on the one hand, a religious experience while, on the other hand, it conveys morals, values and codes of conduct which are reiterated during rituals or personal encounters with the environment (Rappaport, 1999). These morals and rules promote a deeply respectful treatment of the environment and position the human within the world rather than over the world, dominating it.

The following section deals with transnational corporations, whose interests in the Western Highlands are increasing each year. Their perception of the environment contrasts greatly to the indigenous perception which has been explored above: where the Lady of the Earth dwells, mining companies are looking for minerals and where the sacred maize grows, large corporations with genetically manipulated seeds and heavy chemicals are waiting to enter.

Transnational Colonialism

International interest in the exploitation of Mesoamerican land has been growing ever since the first conquistadors invaded the continent. Soon after their arrival, *hacienda* systems were introduced by the Spaniards using the indigenous population as slaves on large plantations. After the abolition of slavery in Guatemala, the plantation system continued in Guatemala well into the 20th century when large transnational corporations, such as the infamous United Fruit Company, started to gain power in Latin America and took ownership of large plots of land (Bunzel, 1952:14; Schlesinger & Kinzer, 2005: 39-42). During the “Guatemalan Spring” (1944-1954), the democratically elected government of Jacobo Arbenz Gúzman attempted to decrease the power of the United Fruit Company in Guatemala by making redistributive agrarian reforms. The United States reacted - after lobbying by the powerful United Fruit Company - to the reforms in 1954 by organizing a *coup d'état*, carried out by the CIA and Guatemalan rebels (Schlesinger & Kinzer, 2005). The goal was to secure the capitalist interests in the country and protect the U.S.-based corporations that operated in Guatemala. Ever since, transnational colonialism has

continued to exploit the land and the people in the form of powerful corporations (Pedersen, 2014: 192-195).

Modified Seeds

At the core of current transnational colonialism in Guatemala lies the DR-CAFTA (Dominican Republic and Central America Free Trade Agreement) with the United States, signed in 2005. This treaty opened Central America up further for exploitation by large-scale enterprises (Grandia, 2014: 80). Today, concerns regarding big corporations and the destruction of the environment revolve around mining, hydroelectric projects and genetically modified (GM) seeds. A special clause in the DR-CAFTA 2005 treaty deals with the International Convention for the Protection of New Plant Varieties to which Guatemala should conform after signing the treaty. This led, on June 10, 2014, to the silent approval of the ‘Ley para la Protección de Obtenciones Vegetales’ (LPOV; ‘Vegetable Variety Protection Law’) also known as the Monsanto Law, named after the infamous Monsanto corporation which owns at least 71% of the regional private seed market in Guatemala (Grandia, 2014: 81). The primary goal of this law was to enable companies to patent agricultural seeds and to give them the sole right to grow and sell these seeds. As soon as the law became publically known, there was strong opposition from the Guatemalan people because of Monsanto’s reputation for using its aggressive team of lawyers in other countries to receive substantial financial compensation for the unintended spread of GM plants through pollen contamination (Grandia, 2014: 80; Robin, 2010). Furthermore, it was feared that this law was a preparation for the opening of the - thus far still prohibited - market of GM seeds in Guatemala. Publication of the secretively-approved law provoked a lot of people throughout Guatemala and led to many peaceful demonstrations and campaigns by both Maya and non-indigenous activists. The most important concerns for the Maya People of the Highlands were the possibilities that a foreign company could claim, patent and own the ancient maize which they inherited from their ancestors; that the sacred maize would be contaminated by the GM seeds through pollen

dispersal; and that the living *milpa*, who gives life to humans, would be altered by the GM seeds. That GM plants can alter the environment is widely known in the Western Highlands: particular seeds need specific strong chemicals, which kill most insects and non-intentional plants whether they damage the harvest or not. According to the specialists I spoke with, in some regions of Guatemala the number of insects had lately already severely decreased due to chemicals used on agricultural lands, even though GM seeds are not allowed there.

Furthermore, the use of strong chemicals used for specific GM seeds leads to the ‘treadmill effect’: stronger chemicals lead to stronger resistance by weeds and plagues and results in the use of even stronger chemicals (Binimelis, Pengue, & Monterroso, 2009; Soleri et al., 2005). These chemicals do not only affect the natural surroundings but eventually end up in the water where people come to bathe and wash clothes. In addition, it was broadly feared that the new patents and already established monopoly of Monsanto in this region would make it easier for the company to exploit the people by raising the prices of the seeds, as they had been doing in other countries (Grandia, 2014: 83), calling to mind the earlier hacienda systems and practices of the United Fruit Company. Finally the LPOV was also violating article 31 of the UNDRIP, which declares that:

“Indigenous Peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions” (UN General Assembly, 2007: 11).

The demonstrations and other actions by activists against the LPOV led to a small success for the Guatemalans: on September 25, 2014, the law was

repealed. All neighboring countries in Central America, however, do allow GM seeds (Grandia, 2014: 97). The development of a new drought-resistant GM corn might force the Guatemalan government to reconsider the repeal, or as the director of Monsanto’s subsidiary Cristian Burkard stated: “Once our GM corn varieties are ready for public release, Guatemala will have to decide whether it wants to remain the center of commercial corn seed production in Latin America” (Klepek, 2011: 573).

Destructive Development and Activism

Since 1954, the Guatemalan government has been persecuting and criminalizing Human and Indigenous Rights activists (Pedersen, 2014: 191-192). The construction of the Chixoy dam, a hydroelectric plant, in 1982 is an extreme case: 400 people were massacred and many more were injured, tortured, displaced or raped for resisting this “development” project (at the time supported by the World Bank and the Inter-American Development Bank) and for remaining on their ancestral grounds⁸ (Einbinder, 2011: 70-83). This massacre took place during the Guatemalan Civil War (1960-1996), a period in which violence was continuously present (Falla, 1992). Today, however, activists still fear for their lives while they continue to fight for the protection of the environment. Human rights activism and demonstrations such as those that were organized against Monsanto are highly dangerous in a country such as Guatemala. Human Rights Watch states about Guatemala in its 2015 report:

“Attacks and threats against human rights defenders are common, significantly hampering human rights work in the country. Acts of violence and intimidation against trade unionists endanger freedom of assembly and association and the right to organize and bargain collectively. Fifty-three trade unionists were killed between 2007 and 2013, according to the International Trade Union Conference” (Human Rights Watch, 2015).

8. On the October 15, 2015, after 33 years of lawsuits and international pressure, the government of Guatemala started to compensate the survivors of the massacre. According to the government’s estimations, it will take until 2029, that is, 47 years after the event, to pay off this debt (Source: Gobierno de Guatemala Ministerio de Energía y Minas, 2015).

On the September 18, 2015 yet another activist was killed in Guatemala. Rigoberto Lima Choc was brutally killed in front of the Justice Office in his community Sayaxché in the Petén region. The reason for his death was environmental activism and his public denunciation of the corporation Reforestadora de Palma de Petén, S.A. (Repsa), a company that has been involved in the contamination and ecocide of the Pasión river resulting in the death of thousands of fish (Escobar, 2015). The murder of Rigoberto Lima Choc is not an isolated incident, rather it is yet another case within the process of oppression of rights (Pedersen, 2014). Leiria Vay, the representative of CODECA (Committee for Campesino Development) states that in 2014 “[o]ur volunteer investigators all experienced some kind of persecution for their investigation into this reality. Of those 117, two were murdered. They were both warned by telephone to drop the ‘nonsense’. Both were active as local CODECA leaders. Enrique was hung near his house in Huehuetenango. Héctor’s throat was cut in front of his family” (Vay, 2015: 13).

The struggle for the land is not about keeping an aesthetically beautiful landscape around the community; rather it emerges from a deep understanding that we, humans, depend on the land. The environment forms the identity of the people that participate in it and through interaction with this environment a community maintains part of its collective memory (Ingold, 2011), but above all, the land, the earth, gives life. This is especially the case for the Highlands of Guatemala, where most people live of the food they grow on their *milpa*. Transnational corporations have other concerns: their main goal is profit for the stakeholders. For them the earth, including her flora and fauna, is a resource which can be exploited for private gain. A member of the *Consejo Permanente para la Defensa de la Vida y el Territorio de Cantel* (Permanent Council for the Defense of the Life and Territory of Cantel) explained after a massive voting against mining explorations by a foreign company in Cantel, Quetzaltenango, Guatemala that “[i]t’s not that we’re against progress... The problem here is that the gains are for only a few people, a few businesses, a few families, but the harm is for the population’ (Brown, 2015: 11).

In Cantel, the inhabitants had the possibility to organize themselves against the exploitation of the environment by a mining company and were able to set up a referendum, which they won. However, many regions, especially the more marginalized regions, do not experience Free and Prior Consultation before any regulatory decisions are made (van de Sandt, 2009). Avoiding Free and Prior Consultation is a violation of several articles of the Constitution, ILO Convention 169, ratified by Guatemala in 1996, and of the Municipal Code of Guatemala (van de Sandt, 2009: 51). Furthermore, the United Nations Declaration of the Rights of Indigenous Peoples has been violated on several articles, among which article 25: “Indigenous Peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard” (UN General Assembly, 2007: 10). As the case of the Chixoy Dam mentioned above shows, however, resistance against the government is a long and dangerous road.

Discussion

In sum, the land surrounding the Indigenous communities in the Western Highlands is alive. The earth is a parent to the people; it nourishes and protects them as long as they treat her well. In communities where the *baile de la culebra* takes place, male dancers dress as women, thereby embodying the earth. With this dance they petition fertility through rain and sun, as well as protection against animals, wind and flooding. This spiritual relationship with the earth has continued since pre-colonial times during which a complex of earth-mother goddesses deals with life, death, fertility, and the earth. The lesson to be learned from this conception of the land is that humans depend on the environment and should treat it with respect. As the indigenous colonial and pre-Colonial sources show, the relation between the land and an elder mother goddess was shared over a large region, extending well into Central Mexico. Today, the Lady of the Earth continues to live in or at sacred locations

surrounding the Indigenous communities and at specific moments in the year the community members go on pilgrimage to these places.

The spiritual relationship with the earth promotes an understanding of mutual dependency. This contrasts with the exploitative relationship between the earth and transnational corporations, who perceive the environment as a (temporary) resource (Dougherty, 2011). Initiatives for protection of the environment have led to violent confrontations and to the assassination of environmental activists. According to Global Witness (2015), this is a global trend: the year 2015 was characterized by an increase in the assassination of environmental activists. Never before had there been so many reports of murdered activists.

The possible future introduction of GM seeds will also have a strong destructive effect on the indigenous communities of Guatemala. The mutual relationship between the earth and human beings will turn into a colonial enterprise in which the GM seed company takes the place of the earth: petitions to Madre Milpa will be exchanged for payments to a monopoly-holding agricultural company with patented seeds. Among the transnational corporations there is, apart from resource-driven interest, no further identification with the environment. This enables them to quickly move between regions as soon as the resources or profits lessen. The members of indigenous communities stay behind in a landscape of contaminated grounds and plants, and destroyed sacred places (van de Sandt, 2009: 24-40).

As discussed in the previous sections, the rights of Indigenous Peoples in relation to the earth and land, documented in the ILO 169 and UNDRIP as well as in national legislation such as the constitution and the Municipal Code of Guatemala, are frequently violated in Guatemala without any significant repercussions for the violating party (Costanza, 2015: 277). Free, Prior, and Informed Consent has only taken place in a few communities. Furthermore, self-determination stated in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples, has thus far been largely ignored. As long

as the UNDRIP is not fully implemented, Indigenous Peoples of Guatemala will continue to be oppressed within their own environment. The implementation of Indigenous Rights is urgent as today, in a time of transnational colonialism, people continue to be exploited, Mother Earth is suffering, Madre Milpa is contaminated, and the *zompopo*, who once brought corn to the hungry people, is dying from chemical pollution.

SPIRITUALITY

8. Spiritual Knowledge Unearthed¹

Indigenous Peoples and Land Rights

Osiris González²

International Law and Customary Law

This section is devoted to the systematic study of the rights of Indigenous Peoples in the context of international law. My goal is to analyze those articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) that concern the indigenous spiritual connection with the land. The right to land is an issue that is addressed in Articles 25, 26, 27, 28, 29, 30, 31 and 32 of the UNDRIP. The document expresses a clear need to recognize the spiritual relationship that Indigenous Peoples have with the land, as well as with the other elements of nature that are mentioned:

Indigenous Peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditional owned or otherwise occupied and use lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.³

First, it is worth noting that this spiritual relationship is directly linked to the worldview, cultural values

and customs of various Indigenous Peoples; it is necessary to take this into account in order to achieve a better understanding of the relationship established between these peoples and their lands. It is also essential to challenge the false dichotomy that exists between tradition and modernity – that is, to avoid falling for the developmental fallacy. The main problem of this false dichotomy is that it uncritically favors the viewpoint of modernity to the detriment of the wisdom and cultural values found in the traditions and customs of Indigenous Peoples. This false dichotomy is based on a dogmatic notion of modernity or progress, and believes that traditions and customs are tantamount to backwardness. On the other hand, if we evaluate this matter carefully, then we can recognize more fully the wisdom and knowledge developed by Indigenous Peoples, who are imbued with a strong spiritual sense.

As stated in Article 25, this spiritual relationship is directly linked with a sense of responsibility: the rituals, religious ceremonies and ordinary activities carried out in these lands, territories, waters and seas must be based primarily on respect for the environment and biodiversity, which is a cultural value that has existed among Indigenous Peoples for thousands of years. In contrast, one finds a rapid deterioration of the environment in industrialized societies. Addressing this issue from a decolonial perspective involves recognizing the value and utility of such traditional knowledge, and adopting a critical attitude toward the greed for novelty characteristic of consumer societies.

Broadly speaking, this spiritual relationship can serve as a basis for criticizing and questioning the extractive

1. A distinctive feature of this work is the use of the term archaeology of knowledge, developed by Michel Foucault. Broadly, this framework can be outlined as follows: within society, there are struggles to determine who is the possessor/owner of the truth. Such confrontations result in wisdom that is displaced or buried by the prevailing hegemonic knowledge paradigm. The relevance of the term's use in this research is that much of the wisdom and knowledge developed by Indigenous Peoples in different fields of culture have been buried and forgotten. In this sense, the researcher's task is to unearth those buried wisdoms to achieve their full recognition.

2. The research presented in this paper was supported by the Coimbra Group Scholarship Program for Young Professors and Researchers from Latin American Universities, 2015. The academic research was realized in collaboration with an international research team directed by Prof. Dr. Maarten E.R.G.N. Jansen (Faculty of Archaeology, Leiden University, the Netherlands).

3. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf

development model that prevails today. Furthermore, the recognition of this spiritual relationship with the land is a key element in achieving full recognition of the rights of Indigenous Peoples. “This differentia specific of Indigenous Peoples, the collective spiritual relationship to their land, is what separates them also from other groups generally, and diffusely, denominated ‘minorities’, and what has created the need for a special legal regime transcending the general human rights rules on the universal and regional planes” (Wiessner, 2011:129). For example, the acknowledgment of indigenous world visions and spiritual relationships with the land is crucial to achieving a deeper understanding of cultural heritage as it relates to collective or social land ownership. Ignoring this would undermine their fundamental human right to religious freedom.

To dig a little deeper into Indigenous Peoples’ relationship with the land, we should carefully consider Article 26 of the UNDRIP, which explicitly mentions the existence of various other forms of property that prevail in industrialized societies. Recognizing the indigenous right to the possession and use of natural resources requires understanding that the subject has both deep spiritual roots and a strong impact on economic life. These traditional forms of ownership or possession of the land are a system that must be respected by the state as well as by civil society.

1. Indigenous Peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous Peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protect to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous Peoples concerned.⁴

4. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

The importance of Article 26 is that it recognizes the validity of traditional forms of land ownership, which represent an alternative to the paradigm of private property⁵ that prevails in industrial and consumer societies. These traditional forms of ownership have a communal character⁶ and are linked to conservation and environmental protection. Generally these communal forms of land ownership date back to precolonial times, and their historical character must be recognized to avoid such new injustices as forced displacement or expulsion from ancestral territories.

Article 26 also emphasizes the development of land and its resources, which forces us to critically reflect on the concept of development. If it is true that the eradication of poverty is a necessary precondition for achieving sustainable development then, from a decolonial perspective, so are respect and care for the environment; a new developmental paradigm must thus be built, taking into account traditional land tenure systems, not only the economic criteria dictated by the interests of transnational companies and international financial bodies.

The legal recognition of these systems of land tenure and natural resources should be guaranteed by each state, but it is necessary to develop a legal pluralism capable of integrating the worldviews, knowledge and customs of Indigenous Peoples. Such a legal pluralism must be accompanied by political and democratic mechanisms to achieve a real consensus among the parties involved, not just the application of a hegemonic and unilateral policy that can be considered a form of internal colonialism. The importance of recognizing these systems of land tenure is explicitly mentioned in Article 27 of the UNDRIP.

5. From a historical perspective, the emergence of private property responded to a series of social demands related to the feudal mode of production. Those demands were related to the abuses of the landlords and feudal lords. In this context, the institution of private property was the instrument used to provide legal certainty and to avoid abuses and land grabs. Regarding this matter, it is necessary to distinguish between land tenure for subsistence purposes and private ownership of the means of production, aimed at obtaining operating and capital gains. In that context, it should highlight the existence of different types of property as community property, social property and national ownership.

6. According to the Estatuto Comunal de la Comunidad Zapoteca de Santa Cruz Yagavila, community life means: a) Having and enjoying the lands and natural resources in common and respecting each community’s possessions; b) the use of community customs to solve problems; c) peaceful coexistence among all; d) contributing to celebrations and community benefit activities; e) the obligation to provide community services; f) the exclusion of private ownership of land.

States shall establish and implement, in conjunction with Indigenous Peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous Peoples laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous Peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous Peoples have the right to participate in this process.⁷

On this point, Article 27 of the UNDRIP states explicitly that states should recognize the laws, traditions, customs and systems of land tenure of Indigenous Peoples to ensure full respect for their rights. Referring to alternative forms of land tenure is key to demonstrating the problems and contradictions⁸ that arise from the model that is currently prevalent, as this model of ownership and development has not been able to overcome the condition of poverty. What it is in doubt here is whether the prevailing property model is able to achieve the eradication of poverty⁹ and the fair distribution of wealth, either for Indigenous Peoples and communities or the broader population.

In Mexico, the validity of traditional forms of land tenure has social and political implications that are worth taking into account; the need to be aware of dispossession and consider different modes of land ownership is clearly expressed in the documents of the agrarian movement. For example, Article 7 of the Plan de Ayala states:

Given that the vast majority of peoples and Mexican citizens are more owners than the land they walk without being able to improve anything in his class or to engage in industry or agriculture, being monopolized in a few hands, land, mountains and waters; for this reason, prior compensation be expropriated, the third of these monopolies, the powerful owners of them so that the peoples and citizens of Mexico to obtain ejidos, colonies, and foundations for pueblos, or fields for sowing or laboring, and it may improve in all and for all the lack of prosperity and welfare of Mexicans.¹⁰

The importance of this text, written in the early twentieth century, lies in pointing out the fact that the land had been monopolized and was in the hands of just a few owners and landlords, as the indigenous and peasant communities had been dispossessed of their lands and resources. The demands of the Zapatista movement were partly incorporated into Article 27 of the Mexican Constitution, which achieved legal recognition of the *ejido* as a form of communal property. However, the constitutional reforms of 1992 marked a setback in this area.

To continue this analysis of land rights, it seems relevant to take into account the text of Article 31 of the UNDRIP, as it is directly linked to issues of cultural heritage conservation, biodiversity and especially to the recognition of ancestral knowledge as developed by Indigenous Peoples:

Indigenous Peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and tradition cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.¹¹

7. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

8. Many contradictions lie in accepting as humane and rational a set of power relations in which the economic interests of the capitalist class exist under the guide of freedom. The many tensions and paradoxes that result hinder both economic empowerment and the full respect for the rights of Indigenous Peoples. On this point, it seems appropriate to clarify the difference between private ownership of the means of production (in this case the earth) and the mere possession of an object, which are two separate notions. For example, there are various forms of private property, such as wages, trade, value, price, money, etc. Because of this diversity, it is simply inappropriate to equate the immediate possession of an object (a house, a car, a computer etc.), with the private ownership of the means of production.

9. Since the nineteenth century some philosophers and sociologists have criticized the system of private ownership of the means of production. The common element to all of them is to show the contradictions inherent in this way of conceiving property. The first criticism of private property part, of course, the fact that in its contradictory essence is manifested in the more clamorous more tangible, more directly revolts human feelings: the fact of poverty, of misery.

10. Plan de Ayala. Accessed. September 28, 2016. <http://www.bibliotecas.tv/zapata/1911/z28nov11.html>

11. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

This article relates to the conservation of cultural heritage and traditional knowledge. To this end, it should recognize the value and importance of traditional knowledge in a broad manner and not just as a quaint trifle, as many of these skills have a practical function and facilitated the survival of Indigenous Peoples for thousands of years.

Furthermore, it would be naive to neglect the notion that within all social struggles, there is also a battle to determine who owns the truth. These struggles have resulted in the displacement and neglect of much traditional knowledge and its associated skills; one of the objectives of colonial thinking supported by an archaeology of knowledge is unearthing wisdom that has been buried by the prevailing hegemonic paradigm in industrialized societies and consumption. To emphasize the above statements, it is important not to identify cultural heritage merely with a series of objects and works of art to be preserved and displayed in museums. The protection of cultural heritage includes the study and preservation of systems of traditional knowledge as expressed in various branches of culture, such as agricultural production systems, traditional medicine and forms of social and political organization. Recognizing the validity of such knowledge is the first step in developing intercultural communication between different social groups living in a common territory.

In addition to demonstrating the importance of recognizing traditional knowledge, Article 31 also makes explicit the right of Indigenous Peoples to protect their genetic resources, especially the seeds used for cultivation since ancient times. For the Indigenous Peoples of Mexico, this is a matter of special significance, as it relates directly to the cultivation of maize, which has been the staple crop for millennia but is now at risk due to the interests of multinational companies (Monsanto, Bayer, Syntagma) who are trying to authorize the cultivation of genetically modified organisms (GMOs).

Surely this is a controversial issue that has generated arguments on all sides; however, from a decolonial perspective, the false dichotomy between traditional knowledge and progress can be seen quite clearly

here. The cultivation of GMOs is an issue that has become very important in Mexican public opinion, especially since NAFTA entered into force. Because of its importance and its relationship with environmental rights, this will be addressed in a separate section. To conclude this section, it is worth analyzing the content of Article 32, in particular to develop a critical stance that seeks alternatives to the hegemonic development model. An alternative model of development must not only focus on achieving economic well-being, but also ensure the preservation of the environment and respect for diversity and the rights of Indigenous Peoples.

1. Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with Indigenous Peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water and other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.¹²

In this sense, the crux of the debate is the possibility of building a development model that is consistent with the worldview of Indigenous Peoples, who see the Earth as a living entity endowed with rights. If this is accepted, then it is essential to build the necessary democratic mechanisms to agree jointly on development projects, because the unilateral vision that currently dominates this discourse is dictated by financial power centers, regardless of the opinion and traditional knowledge of Indigenous Peoples. The priorities in carrying out development projects have established so together, because the implementation of “major development projects” has

12. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

not improved the quality of life of Indigenous Peoples. Instead, the prevailing hegemonic and unilateral vision has caused irreversible environmental damage, forced migration, discrimination and the persecution and displacement of entire communities.

In this regard it is worth emphasizing that eradicating poverty is a necessary precondition for sustainable development, but in planning the eradication of poverty and the implementation of large development projects, government agencies and indigenous communities must first reach a consensus. Without that consensus, any development project lacks validity and legitimacy. In fact, there have been some international proposals that consider the earth as a subject of rights and not only as an object to be exploited economically. One proposal is the “Universal Declaration for Rights of Mother Earth”, the best-known outcome of the World People’s Conference on Climate Change.¹³

Environmental Rights. GMOs, Biodiversity and Agribusiness

The most emblematic case is the ongoing struggle to prevent the cultivation of transgenic maize in Mexico. It is a matter of great importance, not only for its cultural implications, but because maize is the staple food of all Mexicans. In this sense, what is at stake is a cultural heritage that includes forms and methods of production developed over thousands of years by indigenous communities, which are moreover less harmful to the environment because of the spiritual relationship that emphasizes respect for nature. Currently in Mexico there are about 51 varieties of maize, each of which is associated with different knowledge and techniques depending on the weather and the growing area.¹⁴

This agricultural diversity and its associated cultural knowledge are in danger of disappearing because of the monoculture model implemented by transnational agribusiness companies; the point worth noting

here is the relationship between biodiversity and cultural diversity. Thus the problem of GMO monocultures is also a threat to cultural diversity. As a result, various social organizations have expressed their disagreement with the authorization of such crops. The recognition of traditional knowledge, technologies, genetic resources and seeds is strongly linked to the spiritual relationship with the land that indigenous communities in particular have developed, but also to the issue of environmental rights. In this regard, Articles 20, 29 and 31 of the UNDRIP explicitly indicate the need to respect and recognize the livelihoods and development of indigenous communities as an outgrowth of their ancestral knowledge:

Indigenous Peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.¹⁵

According to this article, indigenous communities are entitled to the pursuit of their traditional economic activities and the recognition of their ancestral knowledge and technologies. This is visibly intended to go beyond the false dichotomy of tradition and modernity. Another aspect worth noting is the phrase, “their own means of subsistence and development”, which means that the paradigm of development for Indigenous Peoples should not be imposed from the outside (either by the state or by the interests of transnational companies), but must be built through dialogue and by taking into account the specific needs of the communities.

In the case of Mexico, the knowledge and skills related to the traditional cultivation of maize are at risk of disappearing because the industrialized vision focuses on the use of genetically modified seeds for monoculture and large-scale production. Besides the health risks associated with the use of GMOs, environmental risks also arise from the use of chemicals and herbicides¹⁶ related to the practice of

13. Accessed, September 28, 2016. <http://rio20.net/propuestas/declaracion-universal-de-los-derechos-de-la-madre-tierra/>

14. Tabla Descriptiva de la Razas de Maíz en México. Accessed. September 28, 2016. http://www.biodiversidad.gob.mx/genes/pdf/proyecto/Anexo6_ReunionTalleres/Tabla%20razas_marzo%202010.pdf

15. UNDRIP. Accessed September 28, 2016. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

16. Estatuto Comunal de la Comunidad Zapoteca de Santa Cruz Yagavila, Ar-

monoculture. This practice, besides being extremely aggressive to the soil, also threatens the existence of many species of maize. Maize can be considered a biological, agricultural, cultural and economic heritage (Cornelio Hernández Rojas).

At present, the production of genetically modified foods focuses on crops such as corn, wheat, cotton and soybeans, which are used to make industrial products with a high level of consumption. However, a lack of information prevents us from knowing their potential health risks. Among the arguments put forth by organizations opposing the use of GMOs, we may highlight the following: the indiscriminate cultivation of GMOs has provoked serious disturbances in the balance of ecosystems, especially through the practice of monoculture and the use of herbicides. In this regard it is worth recalling Article 29 of the UNDRIP:

1. Indigenous Peoples have the right to the conservation and protection to the environment and the productive capacity of their land or territories and resources. States shall establish and implement assistance programs for Indigenous Peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure, that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous Peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programs for monitoring, maintaining and restoring the health of Indigenous Peoples, as developed implemented by peoples affected by such materials, are duly implement.

The right to the conservation and protection of the environment is a matter of great importance, because its impact extends to various branches of culture as well as the economy, politics and science. A clear example concerning the preservation of the environment can be found in indigenous customary law, namely Estatuto Comunal de la Comunidad

Zapoteca de Santa Cruz Yagavila, Oaxaca State: Article 54.

Article 54. For proper use of natural resources and to avoid problems between community the following rules shall be followed: I. To cut wood for housing construction, approval of the Commissariat of Communal Goods is required. II May not be appropriate wood, stone or sand and stacked, III Shall not be used as firewood, trees that shade coffee plantations, IV No person alien to the community is entitled to enjoy the resources natural land for common use or benefit from the fruit trees, V. Minerals, will be managed by the community and VI Is prohibited contaminate streams, streams and springs with garbage and dead animals.

In a national context, the obligation of the state is to ensure protection in the form of democratic measures, such as consultation with and the direct participation of indigenous communities in any decision-making linked to the implementation of development projects and the economic exploitation of natural resources. This is an important issue especially in relation to mining, because multinational companies have engaged in the exploitation of natural resources for centuries with little regard for the environment.

Another example of the struggle for environmental rights are the efforts of some Mayan communities to prevent the cultivation of transgenic soybeans, as these crops posed a threat to the survival of other species and crops. Permits for GMO cultivation have been granted by the Mexican government without consulting the indigenous communities; i.e., the permits were authorized unilaterally without taking into account the free and informed consent of the residents who would be affected.¹⁷

Article 48. This prohibits the use of chemicals such as fertilizers and herbicides in cultivation.

17. The Second Chamber of the Supreme Court of Justice of the Nation (SCJN) rescinded the permission that had been granted by the Directorate General of Plant Protection of the National Health Service, Food Safety and Quality (SENASA) to transnational agribusiness Monsanto for the production of transgenic soy. The court ordered the authorities to make a prior, free and informed consultation with the indigenous communities of Yucatan and Campeche before giving new authorization (...) Honey producers, led by Angelica Maria Ek Canché, promoted injunctions against Monsanto and Senasica, claiming that the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food (SAGARPA) had violated their right, enshrined in the second constitutional article, to be consulted (...) In its application, they asked the Supreme Court to order federal authorities to stop 253 000 500 hectares planted in five estates located in the Yucatan, Chiapas and Huasteca plains, whose permits were granted

The overexploitation of the land and the lack of mechanisms for fostering indigenous involvement are situations that have worsened in recent decades; for example, some farmland has been used to produce transgenic crops such as soybean, corn, wheat and cotton in order to produce more in less time. This overexploitation has not only put biodiversity at risk, but also depleted farmland: it requires more agrochemicals, fertilizers and pesticides to keep producing these crops. In time agrochemicals may also contaminate groundwater. This phenomenon of mass production also has social implications, since the rural population and Indigenous Peoples are dispossessed of their land, and subsequently also the necessary means to survive.

Spiritual Knowledge. Contemporary Nahuas.

The Earth in general is called *tlalli* in Náhuatl language, and villagers consider it to be literally alive. “The people say that the soil is the earth’s flesh, the stones its bones, and the water is blood” (Sandstrom, 1991: 238). This belief informs the practice of consecrating nature, a practice that still survives in some contemporary Nahua communities. This consecration of the elements of nature must not be understood simply as an anthropomorphic projection, but instead is a process of “decentralizing” thought, that is, of understanding that the scope of the sacred is much wider than the material world in the Nahua worldview, i.e., not confined to the realm of the human. It is particularly worth noting the continuity between the religious beliefs of the precolonial era and certain contemporary religious beliefs. Such continuity is also evident in the case of maize, since it is believed that maize itself possesses a vital force.

on May 11, 2012. Indigenous Peoples have the right to be consulted in cases where administrative acts, development programs, projects or activities may affect their life and environment in a significant manner, the ministers said. This right must be implemented when it is determined that the activity of the state may create a significant impact on communities. They said that the consultation must occur in advance and must conform to the traditions, languages and indigenous culture by objective data to enable them to make informed choices in an atmosphere free of hostilities, as established by precedent of the full Supreme Court and Convention 169 of the International Labor Organization. La Jornada. Accessed September 28, 2016. <http://www.jornada.unam.mx/2015/11/05/sociedad/039n1soc>

This decentralization of thought can transcend the traditional subject-object opposition that dominates contemporary industrial societies, in which nature is seen only as a source of resources and wealth. By contrast, in the Nahua worldview, there are still remnants of a way of thinking that sees the natural forces as subjects, that is, as entities endowed with life and understanding. Concerning this, it is not superfluous to note that the allocation has a sacred character.

“The rural world is not a world desecrated like ours, is not a world in which nature has been fully delivered to the sensitivity of aluminum dominates the technologized mentality. There exists the possibility of conceiving a volcano as a hierophany, i.e., as a mountain where the sacred manifests itself and which may have a beneficial exchange through a ceremonial treatment. In modern Western culture it is impossible to think that he can worship a plant or a mountain, because it is not understood that this plant or that mountain can be hierophanies; that is, that they worship not to be plants or mountains but because in them the sacred is revealed, because they are a seat of divinity, and this is precisely what becomes sacred, which distinguishes between other plants and mountains”

(Glockner, 1997:508-509).

This consecration of the landscape is a cultural practice that has prevailed since precolonial times. Today, many mountains or volcanoes are still regarded as sacred by the communities living near them. Some notable cases are Popocatepetl and Iztaccihuatl. “There is a widespread belief that the Popocatepetl volcano has two types of breathing: one up and one down. Breathing upward it is associated with breathing of the earth, but when people get to peek through the crater “pulls inward” (breathing down) (E. Pérez, 1972).” (González Jácome, 1997: 484-485).

As seen above, the consecration of the landscape is not just a minor cultural feature, but part of the Nahua worldview; the landscape itself can be considered a hierophany, i.e. a manifestation of divinity. We may recall that the mountains play a major role in rituals for rain that are still held today, as it is believed that when the clouds gather on top of the mountains, it will soon rain; thus many offerings, dances and

rituals are devoted to them. The mountains also form the setting where some rituals are held, especially on May 3, the date when the rainy season starts.

So far I have emphasized the continuity of such cultural traits as the sacredness of the forces of nature, growing maize and the persistence of certain religious ceremonies and rituals, especially those related to the request for rain. With regard to the latter, it is worth noting certain religious traditions in contemporary Nahua communities. For example, in the Nahua community of Santa Catarina, there are three main religions: “the custom”, Catholic and Protestant. In this regard, it is worth mentioning that Catholics and people who still practice “the custom” sometimes organize celebrations together.

This coexistence suggests how members of these communities intersect and interact with different worldviews. Many of the Nahua communities fall in between these two worlds. The world of “the custom” is a direct reflection of their cultural heritage, transposed to the modern world, with its changes and requirements. The world of “the custom” hinges on a belief in several deities, from time immemorial, who can be seen as the protectors and guardians of the community. For example, the worship of sacred mountains has its roots in precolonial times, but the community of Santa Catarina still performs these offerings and rituals today. However, for a better approach it is necessary to go beyond the surface and begin a process of decolonizing thought in order to understand the symbolism underlying this worldview.

This is a world little known and misunderstood by Christians, since by not knowing the language, culture and religious life in which is embedded much of the population, it is easy to keep bad Spanish translations of key concepts. For example, one of the main hills of Santa Catarina is called in Spanish “Cerro Brujo”, but the name in nauatl language means something quite different: *Cualtepetl*, or “good hill”. Similarly the *tamatque* are identified and discriminated as “witches” in Spanish, while in Nauatl *tamatque* means “wise.”

(Macuil Martínez, 2015:55).

I want to focus here on the contrast that arises in passing from one language to the other; while in the Náhuatl language the hill is considered “good” (*cualtepetl*), we get quite a different impression if we pay attention only to the Spanish name, for the semantic field of the word *brujo* “witch” relates to evil, illness or injury. This is just one example of the colonial relics that have become entrenched in contemporary thought and are rarely discussed in detail.

All this highlights the need for enhanced intercultural communication and a process of decolonizing thought and the theoretical frameworks that imprison it. To achieve a comprehensive approach, it is essential to take into account the cultural heritage of Indigenous Peoples, which is not limited only to the remains and material culture, but is linked to the existence of languages, knowledge, skills and institutions that have made the existence of these communities possible for hundreds of years. For example, the Náhuatl language is a key element in shaping the identity of contemporary communities, but is also an instrument of knowledge that allows for a better understanding of the Nahua worldview:

In all this, an essential link to communicate with the deities is the language well understood by them and misunderstood by Christians. Those who have studied general Mesoamerican cultures but do not understand the local language often make mistakes. When you think in a language that is not their own a lot of ideas and concepts are beyond the comprehension of Christians. In Mesoamerican languages in this case Nauatl-knowledge is still passed down from generation to generation by the same spoken hundreds of years ago to this day language

(Macuil Martínez, 2015:55).

In addition to the aforementioned cultural traits (consecration of the forces of nature, maize and ritual requests for rain), another key element in fully appreciating the Nahua worldview is the survival of the Náhuatl language. This is no small matter, since daily language use is what transmits the knowledge of indigenous communities. Language is a key to effectively establishing intercultural communication

for a full understanding of the Nahua worldview. Learning the language is important not only to learn new words or grammar, but also to learn another way of seeing and understanding the world.

Conclusions

To summarize, acknowledging the spiritual knowledge of Indigenous Peoples is a fundamental step not only in achieving full recognition of their land rights, but also for acquiring a higher understanding of indigenous world visions and cultures. To conclude this paper, I would like to briefly reflect on two questions: Why is the full recognition of indigenous spiritual knowledge important? What is its validity and relevance? Concerning the first question, I would like to point out that fully recognizing indigenous spiritual knowledge would be very helpful in critically reflecting on the concept of development. For example, the implementation of major development projects has not improved the quality of life of Indigenous Peoples. For this reason it is very important to critically reflect on the concept of development. At the same time a legal pluralism capable of integrating the worldviews of Indigenous Peoples is necessary for achieving this full recognition.

Regarding the second question, I want to stress that the validity and relevance of such knowledge is apparent from the everyday activities of Indigenous Peoples. Such spiritual knowledge is linked to their vision of the world, with its consecration of the elements of nature (water, air, earth, fire). Their skills are built on their experience and observation of nature, as shown by the knowledge of the flora and fauna of their territories. For example, the systematic knowledge of the medicinal properties of certain herbs and vegetables has enabled the survival of Indigenous Peoples for thousands of years.

Other relevant knowledge is related to agricultural production systems, preservation of the environment and forms of social and political organization. The spiritual connection with the land also has strong material implications, as the spiritual knowledge

of Indigenous Peoples includes alternatives to the private property system that prevails today and to state-owned systems. Finally I wish to highlight that a spiritual connection with the land would be very useful in critically reflecting on the false dichotomy between traditional knowledge and cultural heritage and progress.

9. Los Rituales a Tlalticpactli (Tierra) en Santa Catarina

Patrimonio Cultural en Peligro¹

Raul Macuil Martínez

*Au! Teuatzin, notlazopilconetzin,
titlacati nican tlalticpactli,
tinehnemi nican cemanauac,
ticpia ueuetlatolli, in yancuic tlatolli
teuatzin ticpia in moyollo, in moxayacac,
xochimila,
xochitlahtolli.*

Abstract

In the ancient and modern contemporary Mesoamerican world there exists a deep respect for the earth because it is considered as a being that has essence and life. The earth is seen as a mother; she sees us born and someday we will return to her body. The respect we have is reflected in the rituals and oral narratives of ancient as well as modern Mesoamerican communities, such as the Naua community of Santa Catarina, Acaxochitlan, Hidalgo. This community is located in a valley surrounded by hills and water. The spirit that lives in the tlalticpactli is considered as a mother, “the venerable mother of the people.” She is the lady of

the earth, the one who gives us food. She is known locally as Maceuatenancatzintli and is a being that has essence, warmth and life.

Despite years of persecution and stigmatization, the rituality that exists around the tlalticpactli has been maintained thanks to the transmission of knowledge in the family and the community represented in the figure of the tlamatque (“those who know something”). By extension they are (“the wise”). They pray and ask for land for food and for community well-being. However, this spiritual and ritual wealth is in serious danger of disappearing.

The methods that were used during colonial times to undermine the vision of the Mesoamerican world are today reinforced with the overwhelming presence of the media.

Despite the international principles contained in the United Nations Declaration on the Rights of Indigenous Peoples, we see that much remains to be done to implement the Declaration in Mexico, where on a daily basis, Mesoamerican peoples are discriminated against and excluded.

By focusing on the rituals of tlalticpactli in Santa Catarina, this research forms part of the international and community efforts to safeguard the community, spiritual and ritual life of Indigenous Peoples.

1. La investigación que produjo el resultado que aquí se presenta forma parte del proyecto ‘*Time in Intercultural Context*’, dirigido por el Prof. Dr. Maarten E.R.G.N. Jansen (Facultad de Arqueología, Universidad de Leiden, Países Bajos), y ha recibido apoyo financiero del Séptimo Programa Marco de la Unión Europea (FP7 / 2007-2013) en virtud del acuerdo de subvención no. 295434. Por otro lado quiero agradecer a don Alejandro Flores Méndez y a doña Nicolsa García Escorcía, por abrirme las puertas de su casa y del mundo religioso de Santa Catarina, además por brindarme un techo donde pasar las noches. Agradezco de igual forma a Arturo Castelán Zacatenco por mostrarme la riqueza cultural y ritual que hay en Acaxochitlan.

En el mundo mesoamericano contemporáneo y en el antiguo se ha tenido un profundo respeto a la tierra, porque se le considera como un ser que tiene esencia y vida. La tierra es vista como una madre, ella nos ve nacer y algún día regresaremos a su cuerpo. El respeto que se le tiene lo vemos reflejado en los rituales y narrativas orales de las comunidades mesoamericanas antiguas como modernas. Como lo podemos ver en la comunidad naua de Santa Catarina, Acaxochitlan, Hidalgo.

Esta comunidad se encuentra enclavada en un valle, rodeada de cerros y agua².

El espíritu que vive en el *tlalticpactli* es considerada como una madre es “la venerable madre de la gente”. Es la señora de la tierra, la que está debajo, la que nos proporciona los alimentos. Ella es conocida localmente como *Maceuatenancatzintli* y es un ser que tiene esencia, calor y vida.

La ritualidad que existe en torno al *tlalticpactli* se mantiene gracias a la transmisión del conocimiento en el seno familiar y el comunitario representado en la figura de los *tlamatque*³ (“los que saben algo”). Por extensión son (“los sabios”). Ellos ruegan y piden a la tierra por los alimentos y por el bienestar comunitario.

El *Tlalticpactli*

La palabra *tlalticpactli* tiene profundos significados para la cultura naua moderna, colonial y precolonial. Ello lo podemos ver en las esculturas y en los códices precoloniales que sobrevivieron a la destrucción material del mundo naua mesoamericano⁴. Ello se constata en las diferentes advocaciones de la tierra, así como en la escultura *mexica: Coatlicue, Ciuacoatl, Tlaltecuctli*⁵.

Fray Alonso de Molina traduce la palabra *tlalticpac* como (“el mundo”), o (“en el mundo”), o (“encima

de la tierra”) Molina (1992). Y entonces la palabra *tlalticpactli* se puede traducir como (“en la tierra”) tal cual se entiende en el náuatl moderno, y como se concibe en el mundo religioso de Santa Catarina.

El término tiene significados simbólicos profundos que conectan de inmediato al pasado con el presente. Esto nos muestra que nuestro pasado sigue vigente. En el mundo religioso de la comunidad de Catarina Santa, existen al menos dos *tlalticpactli*⁶ a cuyas deidades se les realizan rituales. Los *tlamatque* desde tiempos inmemoriales hicieron un orificio en la tierra y mediante rogativas y ofrendas lo consagraron.

Los sabios piden la señora de la tierra que de su cuerpo salgan los frutos, que salga el maíz, el *teocintle* (“maíz sagrado”) para que alimente a la población. El maíz será la camisa, será el *quechquemiltl*, será la falda de la tierra. Este cubrirá y abrigará a nuestra madre. Las metáforas sobre la tierra que adquiere nuevos ropajes con el crecimiento del maíz, se aplica de forma similar a las piedras y los árboles; ya que cuando por exceso de humedad les crece musgo, se dice que “tienen ropa, los árboles tiene ropa también”⁷.

En el municipio hidalguense de Huehuetla zona de habla *Ihiimaqalhqama*⁸ (*Tepehua*) los sabios de las comunidades realizan rituales cuando se los ha pedido la señora del agua localmente conocida como “la sirena”. Ella vive en el río que pasa a un lado de la población. Entre las ofrendas que se le dan son: enaguas, blusas, zapatos, collares y aretes. Los sabios visten a la “sirena”, visten a la señora del agua.

Por otro lado en la comunidad de *Tutotepec*⁹ que pertenece al municipio hidalguense de San Bartolo *Tutotepec*, zona de habla Ñuyu¹⁰ (otomí). Los *bädi* (“sabios”) visten a la campana que está en la torre del campanario. Le ponen enaguas, blusa, reboso, collares, aretes y zapatillas. Se viste a la campana

2. Desde épocas coloniales se tradujo *in atl in tepetl*, como (“pueblo”) o (“ciudad”). Esto es la esencia primigenia para que los seres humanos vivan y florezcan en la tierra. *Altepetl* (“agua-cerro”). Vida y comunidad Véase el análisis que hace de esta palabra Lockhart (1992: 14-58) Reyes et al. (1996:21-68).

3. En singular es *tlamatqui*.

4. Sobre las esculturas véase (Matos y López 2012) y sobre los códices precoloniales que sobrevivieron véase (el número de la revista Arqueología Mexicana dedicado a los Códices 1997).

5. Matos y López (Ibid); Barrera, Islas et.al (2007); López (2012), Anders, Jansen y Reyes (1993).

6. *Tlalticpactli* es un espacio sagrado dedicado a la señora de la tierra. La comunidad de Santa Catarina tenía en cada huerta o milpa familiar un sitio similar al que entregaban ofrendas y pedían a la madre tierra que el esfuerzo del trabajo se viera recompensado con una abundante cosecha.

7. M. Guzmán, entrevista personal, 15 febrero de 2013.

8. Véase: INALI, 2010 en http://www.inali.gob.mx/clin-inali/html/v_tepehua.html.

9. Localmente conocido como: *Tuto*.

10. Es la autodeterminación de los hablantes de esta zona.

porque es un ser que tiene vida, ella es considerada como una mujer. Ella es uno de los corazones de la comunidad de *Tutotepec*¹¹.

La tierra, la “sirena” y la campana son parte fundamental de la vida ritual de las comunidades. Los *tlamatque*, los *bādi* y los sabios *tepehuas* les rinden culto y se les dan ofrendas cuando ellas así lo requieran. La comunicación entre ellas y los sabios es mediante sueños¹².

Por otro lado en Santa Catarina; los *tlamatque* y la comunidad continúan realizando ofrendas y rituales a la tierra. Como lo han hecho sus ancestros desde hace cientos de años.

El *Tlalticpactli* y los Rituales

En el año de 1997 los *tlamatque* de Santa Catarina realizaron un ritual en uno de los *tlalticpactli* que sobreviven en la comunidad. Una gran parte de la población tenía un *tlalticpactli* en la milpa:

“este siempre estaba a los lados o en medio de la milpa, porque ahí antes de trabajar la tierra, le hacíamos una pequeña ofrenda, le dábamos refino, un cigarrito, y una tortillita o un pan. Mi mamá tiene el suyo, pero como ya es muy grande, ella ya no trabaja la tierra”¹³.

El ritual referido se realizó en el *tlalticpactli* que se encuentra cercano al *xantocalli* (“casa del santo”) o (“casa santa”). Debemos los registros fotográficos y la descripción del ritual a Oviedo et al. (1997) y Castelán (2005). Los sabios retiraron las piedras que cubre el orificio del *tlalticpactli* y dentro colocaron chocolate, pan, refino conocido también como “aguardiente”, cigarros, y la sangre preciosa de los guajolotes que en ese momento se sacrificaron. Después se cubrió todo nuevamente con las piedras y sobre ellas y alrededor se colocaron *xochimacpalli* que es un palo de tres puntas adornadas con flores y

en medio lleva un pan cruzado hecho para la ocasión. El uso del *xochimacpalli* es sagrado¹⁴.

Uno de los *tlamatque* roció refino o “aguardiente” en la tierra, y sobre varios papeles de colores puso a uno de los elementos simbólicos más importantes de la comunidad; el *teponaztli* (tambor horizontal) que lleva el nombre de *telpochtli* uno de los nombres que tiene *Tezcatlipoca*¹⁵.

Una vez que se coloca el *telpochtli* sobre el *tlalticpactli*, el *tlamatqui* lo toca con dos mangos de madera recubiertos con mecates (lazos) hechos de jonote¹⁶ el sonido que emite viajará y llegará a los aires, a los cerros, a la tierra¹⁷. Cuando el *telpochtli* deje de sonar, los músicos inician una larga serie de sones sagrados, también llamados “de costumbre”¹⁸ hasta el momento en que el *tlamatqui* coloque las siguientes ofrendas. Cabe hacer mención que el ritual dura todo el día hasta casi anoecer. Cuando finaliza el ritual los *tlamatque* habrán hecho su labor ruegan por el bien de la comunidad, porque la tierra de los alimentos necesarios para la población, porque las lluvias no fueran torrenciales, sino que la lluvia fuera suficiente y que no cause destrozos en la comunidad.

Este ritual fue para la señora que vive en el *tlalticpactli*, pero eso no significa que se excluyan a los espíritus que viven en la geografía que es considerada sagrada. Se invitan a las deidades de los cerros que se encuentran en los alrededores de la comunidad.

El ritual a Maceuatenancatzintli en el *Tlalticpactli* de *Tlauatzaloyan*

En Santa Catarina, la señora de la tierra, la que mora en el *tlalticpactli* tiene rostro, tiene esencia, calor, ella se

11. En el año de 2007 pude ver a la campana vestida. En la parte superior del campanario los *bādi* colocaron pequeños atados de flores enredadas con hojas de mazorca y unas figuras de papel recortado. Ellos son los espíritus que viven en los montes.

12. Sobre los sueños pueden verse los estudios de De la Garza (2012).

13. A. Flores. R. Valentín, entrevista personal, 16 de febrero de 2013.

14. Sobre los tipos de pan véase a (Castelán, 2012).

15. véase Heyden (1989:83-93 y Olivier (1999: 116). El *telpochtli* como todos los elementos simbólicos que existen en las comunidades mesoamericanas tienen vida, tienen nombre y se les rinde culto. Para las comunidades no son “objetos” ni “cosas”. Porque tienen vida se les hacen rituales. Se les da de comer y beber, se les toca música y se danza con ellos.

16. Árbol de cuya corteza se hace el amate. Así se continúa con el uso de la tecnología precolonial.

17. En Santa Catarina existen sones especiales para los aires, ellos se llaman *yeyecason* (“son de los aires”) o (“espíritus”). Los *tlamatque* utilizan para curar una piedra que se llama *tezgayecatl* (“espejo de los aires”) o (“espíritus”). Todo parece indicar que el son se dirige a los *yeyeca* (“aires”).

18. Se les llama sones de costumbre porque generaciones enteras han tocado las mismas notas musicales. Este tipo de música es en realidad, música sagrada y ritual, como lo son también los *xochisones* (“sones floridos”).

llama *Maceuatenancatzintli* (“la venerable madre de la gente”). Ella es padre y madre (“*tonauan-totauan*”). Es la madre tierra, la anciana que nos proporciona el sustento para vivir aquí en el *tlalticpactli*.

Hay que mencionar que *tenan* es el antiguo nombre del cerro al que ahora se le llama (“Cerro Gordo”) el cual se encuentra atrás del *tzacual*¹⁹ de la Luna en la zona arqueológica de *Teotihuacan*. *Tenan* se traduce como *te*: “gente” y *nan*: *nantli*: “madre” y por extensión (“la madre de la gente”) entonces se deduce que el cerro *tenan* es el que cuida el *tzacualli* de la Luna, cuida a los difuntos, a los ancestros que están descansando en *Teotihuacan*.

En el espacio sagrado de *tlauatzaloyan* se llevó un ritual en el año de 2013, estuve presente y pude obtener registro fotográfico del ritual, previa autorización de los delegados, así como de los *tlamatque* de Santa Catarina.

El ritual se hizo porque el *tlamatqui* don Francisco Aparicio²⁰ soñó que el *telpochtli*, y la madre tierra le indicaban que era tiempo de realizar un ritual, que era necesario llevar a cabo una ceremonia en el sitio donde ella vive;

“allá en el paraje de *tlauatzaloyan*, este lugar es sagrado, porque ahí se encuentra uno de los *tlalticpactli* de nuestra comunidad, allá está nuestra madre la tierra”²¹.

Don Francisco Aparicio unos días más tarde anuncia a la comunidad, lo que el *telpochtli* y la madre tierra le han comunicado: que es necesario realizar un ritual. Entonces los *tlamatque* junto con la comunidad se organizan, y comienzan los preparativos y compras necesarias para llevar a cabo lo anunciado por la tierra.

El ritual tiene por objetivo agradecer a (“la venerable madre de la gente”), la Madre Tierra, lo que ha proporcionado a las mujeres y hombres de la comunidad. Se le ruega porque cuide la milpa, a los animales y a “las mujeres y hombres que habitan en la comunidad y en el mundo”²².

Una semana antes de que se realice el ritual, don Francisco Aparicio se prepara para este; sube al cerro sagrado de la comunidad y pide al *Cualtepetzintle* “cerro bueno” (Macuil, 2015: 53-65) que asista. Ahí ofrece copal o incienso, sahúma al cerro, le ofrece refino o “aguardiente”, cigarros, le da flores y le da de comer; don Francisco convoca a los cerros y los dioses que moran en ellos, para que de igual forma lo acompañen en el ritual que se hace en *tlauatzaloyan*.

Hay que mencionar que el último ritual que se hizo en *tlauatzaloyan* fue en el año de 1986, y tuvieron que pasar entonces 27 años para que esta ceremonia se llevara a cabo de nuevo. Las razones por las cuales la comunidad “tardó mucho tiempo” en realizar otro ritual, son diversas. Entre ellas y la más importante es el factor económico. Ya que realizar un ritual tan “grande” implica que la población dedique parte del sustento familiar exclusivamente para este, ya que se comprarán una cantidad importante de flores, pan, velas, cirios, tortillas, aguardiente, cigarros, tequilas, guajolotes, conitos²³.

Los *tlamatque*, los músicos y la comunidad de Santa Catarina se dirigen al *xantocalli* una noche antes de ir a *tlauatzaloyan*. Ahí realizan una ceremonia para solicitar permiso al *telpochtli*, a la *ciuapilli* (“mujer noble”) es el nombre que recibe la olla²⁴ y los *cenpixquime* se puede traducir como (“los que cuidan el maíz”) (*centli*) o (“todos los sacerdotes”) ²⁵.

19. Leonado López Luján menciona que los nombres antiguos de la pirámide del Sol y de la Luna eran *tonatiuh itzacual* (“encierro del Sol”) y *metzli itzacual* (“encierro de la Luna”) Véase López (2005:80-81). Los nombres se encuentran en (Sahagún, Lib.7, fol. 3v.).

20. Quién además es músico de sones ancestrales, y es uno de los pocos que los ejecutan en Santa Catarina. La lista de sones es muy grande, aquí sólo se mencionan alguno de ellos: el son de *amochoca piltzintli* (“no llores niño”), el del *yeyecason* (“son de los aires”) o (“espíritus”), el son *ueyoctli* (“camino grande”) el *xochipitzuatl* (“flor delgada”).

21. F. Aparicio, 15 abril de 2013.

22. Fragmento de un rezo de la *tlamatcaciua* doña Isabel Flores Méndez, en el ritual llevado en *tlauatzaloyan*. Abril de 2013.

23. La palabra conito o cono, proviene de la palabra *conetl* en nautl y significa niño en español, y es usada para designar a los guajolotes pequeños, lo que tienen más o menos un mes que salieron del cascarón.

24. Comunicación personal con Ramiro Valentín Méndez 11 de enero de 2016. El nombre de la olla se debe a que en el interior se guarda a la madre de la tierra, también llamada *Maceuatenancatzintli* y se depositan unas pequeñas bolas de algodón que se han hilado en el ritual. Entonces no es casual que se le llame de una forma tan especial, y profunda. Ya que ahí descansa la madre de la humanidad.

25. La comunidad de Santa Catarina lo traduce así. Los *cenpixquime* son receptores de las invocaciones de los *tlamatque*. Ellos no salen del *xantocalli*, como si lo hacen el *telpochtli* y la *ciuapilli*.

Se les invoca al ser colocados en el altar y mediante el aroma del copal o incienso y flores se sacraliza el espacio, se tocan sonos sagrados, para los ancestros, a ellos se les ruega que permitan que el ritual se lleve a cabo. Sólo los *tlamatque* los pueden tocar y cargar, nadie más²⁶. Ellos son sagrados, son seres que tienen vida, esencia y calor. Ellos son tan importantes, como los son en el mundo católico la hostia y el cáliz, ello representa el símbolo del cuerpo y la sangre de Cristo.

Al finalizar las rogativas, los *tlamatque* colocan encima del *telpochtli* y la *ciuapilli* unos pequeños atados de flores recubiertos de hoja de *totomoxtle* (“hoja de mazorca”)²⁷ y a un lado varios *xochimacpalli*²⁸. Se les coloca en el altar, junto a las imágenes en bulto de Santa Catarina, San Marcial y Cristo crucificado localmente llamado San Manuelito y del “caballito”²⁹ así como las imágenes en lienzo de Santa Catarina y la Virgen de Guadalupe.

El *xantocalli* es un espacio sagrado, ahí conviven y coexisten dos tradiciones religiosas, dos mundos espirituales, sin conflicto alguno, ambos complementarios unos de otros. El mundo religioso naua y el mundo católico. Ahí se encuentran dos ombligos del mundo por un

lado *Maceuatenancantzintli*, los *cenpixquime*, la *ciuapilli* y el *telpochtli*. Y las imágenes religiosas de Santa Catarina, Cristo Crucificado, San Marcial, el caballito, la virgen de Guadalupe. A ellos se les sahúma, se les ofrece comida, música y danza. La comunidad y los *tlamatque* tratan por igual a los símbolos de ambas religiones.

Ello se asemeja mucho a la actitud de los *tlamatque* (“los sabios”) y *tlatoque* (“señores”) tlaxcaltecas en el siglo XVI ante las representaciones simbólicas de la religión católica. Los señores quisieron integrarlos al mundo religioso tlaxcalteca. “Cortés dio al término de la conquista de México-Tenochtitlan su imagen de Santa María (‘la virgen de la Conquista’) al capitán Acxotecatl *Cocomitzin*, *pilli* de Atlihuetzia [...]” Martínez (2008: 111). Acxotecatl tenía a la virgen en su casa y “la puso en un aposento en una tabla, a manera de mesa, y con muchas flores y mantas pintadas la tenía, y allí la reverenciaban y cuando el dicho don Gonzalo salía a los bailes y mitotes vio este testigo que sacaba la dicha imagen en los brazos” López de Villaseñor en Martínez (Ibíd.: 112). Lo mismo sucedió con la imagen de Cristo crucificado y la virgen María:

“Y luego casi a la par en *Tlaxcallan* comenzaron a derribar y destruir ídolos y a poner imagen del Crucifijo, y hallaron la imagen de Jesucristo crucificado y de su bendita madre puestas entre sus ídolos a hora que los cristianos se las habían dado, pensando que a ellas solas adorarían; o fue que, ellos como tenían cien dioses, querían tener ciento y uno [...] Entonces vieron que tenían algunas imágenes con sus altares, junto con sus demonios y ídolos [...]”

Motolinia (1995:22).

Los pueblos nauas no tenían problemas con la a presencia de las imágenes católicas y lejos de ignorarlas las incorporaron al mundo mesoamericano. Como se puede ver en las limpias que realizan los *tlamatque*, en los altares familiares, en las capillas e iglesias. Frente a ellos se encuentran los símbolos católicos y al mismo tiempo se encuentran presentes los ancestros, los dioses. A ambos mundos espirituales se pide por la protección y cuidado de las comunidades.

26. Esto mismo se puede observar en los rituales que se llevan a cabo en otras comunidades nauas, como la de Xochatipan, Hidalgo. Solo los *tlamatque* pueden tocar las imágenes de los ancestros representados en papel. Véase el estudio de Széjak (2003:113-143).

27. El mismo tipo de atados se pueden ver en los rituales que se llevan a cabo en el cerro sagrado de los ñuyu de Tenango de Doria (Hidalgo). En la cima del cerro los *bádi* (“sabios”) suben y frente a tres cruces realizan limpias y ofrecen al espíritu del cerro unos atados de flores con *totomochtle*. Estos también los vemos en las ceremonias que se llevan a cabo en la comunidad de Tutotepec (Hidalgo).

28. Los *xochimacpalli* se elaboran para ceremonias importantes en las comunidades como en la cabecera de Acaxochitlan. Además se usan para recibir a algún personaje importante.

29. El caballito era parte de una danza conocida como los Santiagueros, que en Santa Catarina desapareció. El caballito tiene poderes y en la comunidad existen varias narrativas entorno a él. Stresser-Péan (2011) habla sobre la distribución geográfica de la danza en la sierra naua-tutunaku entre los estados de Hidalgo y Puebla. En la zona maya de Chichicastenango (Guatemala) se narra que “Encima del caballo de tzijolaj hay un personaje Español que vino a proteger a la gente Maya. Cuando la gente estaba enferma les daba, [y los] curaba con plantas [...] cierto día desapareció y ya no hubo fiesta para el Maya. Ya no hubo medicina, ya no hubo nada, ya no hubo protección [...] él trajo la pólvora, es decir, él trajo las fiestas [...] él lleva los mensajes a Dios [...] de todos españoles, fue él el único hombre que apoyo el Maya. No le gustó [el] castigo, no le gustó torturar, no le gustó nada. Él vino a ayudar, pero lo hacía secretamente. El salió de noche solo con su caballo a apoyar la gente [...] Agradezco a Paul van den Akker el haberme proporcionado la narración del *Caballo de tzijolaj*. La narración completa se puede ver en la tesis de doctorado que está escribiendo en la Universidad de Leiden.

La comunidad de Santa Catarina, los delegados, las *tzitquime* (“las que saben hilar”), los músicos, se reúnen afuera del *xantocalli* unos minutos antes de la salida del sol. Cuando el astro se asoma por el horizonte, el ritual da inicio. Los primeros en entrar al *xantocalli* son tres *tlamatque* y los delegados, ellos van al altar, sahuman, riegan un poco de refino o “aguardiente” al *telpochtli*, a la *ciuapilli*, además de que piden permiso a los dioses que se encuentran ahí reunidos para poder llevarlos en peregrinación al *tlalticpactli* de *tlauatzaloyan*.

Hay que mencionar que a los instrumentos musicales (violín y guitarra) se les da de beber un poco de aguardiente, se les quema copal o incienso y se les cuelgan collares de flores. “A los instrumentos, hay que darles de beber para que toquen bien, hay que perfumarlos y adornarlos, porque ellos son los que alegran los rituales”³⁰. Don Francisco Aparicio pide a los músicos que toquen el son del *xochipitzauatl*, los *tlamatque*, las *tzitquime*, y la comunidad danzan en la pequeña explanada frente al *xantocalli*, para después iniciar con la peregrinación hacia *tlauatzaloyan*. Una niña y un niño son los encargados de llevar en sus respectivos *mecapales* y *ayates* (“tela hecha de fibras de maguey”) al *telpochtli* y al *ciuapilli*, ellos son junto con los *tlamatque*, los únicos que los puedan tocar, como ya se apuntó líneas arriba.

Los vecinos llevan todo lo necesario para el ritual, se preparan las ofrendas, y para eso son necesarios recipientes, como ollas y tinas. También se lleva madera, masa para tortillas y tamales. Las mujeres y los hombres cargan todo en sus *ayates*, y lo más pesado lo transportan los animales, también adornados con un collar de flores.

Durante el camino, los *tlamatque* hacen los “descansos” o paradas; ahí se sahúma, se fuman cigarros y se tocan sones de costumbre, después se inicia de nueva cuenta la caminata hasta llegar a *tlauatzaloyan*.

Una vez que los *tlamatque*, las *tzitquime* y los delegados han llegado al sitio sagrado, lo primero que se hace es quemar copal, regar refino y limpiar

bien donde se encuentra el *tlalticpactli*; es decir se prepara el sitio, se limpia y perfuma con el incienso o copal, los *tlamatque* sacralizan el espacio donde será depositada la imagen de *Maceuatenancatzintli*, la (“venerable madre de la gente”) para que ella tome de lo que se le ofrece.

La *tlamatcaciu*³¹ (“mujer que sabe”), (“la sabia”) doña Isabel rogará, y pedirá por el bien de la comunidad, pedirá para que la Madre Tierra provea de sus frutos y para que no haya lluvias fuertes, ni torrenciales. Doña Isabel Flores lleva en su rebozo la carga preciosa y sagrada: la imagen humanizada de la Madre Tierra, lleva a *Maceuatenancatzintli* representada mediante un recorte de papel de china blanco, junto con flores, velas, refino y cigarros.

Es necesario mencionar que cuando ella, o bien los otros dos *tlamatque*, recortan las figuras de los ancestros, piden a los dioses que les guíen sus manos y que permitan ser representados al momento de darles forma humana. La figura de papel deja de ser un simple papel recortado, no son “muñecos” son la representación física de los dioses, de los espíritus, de los ancestros. Es así como la representación simbólica de la Madre Tierra cobra vida. Ella es una mujer grande, la madre anciana, a ella se le viste con *quechquemitl*, aretes y collares.

Por otro lado, don Francisco Aparicio coloca tres papeles de china como lienzo sobre la tierra, después doña Isabel Flores deposita a la Madre Tierra y sobre ella al *telpochtli* y muy cerca de ellos se ubica a la *ciuapilli*. Los delegados dan sus respectivos bastones³² a los *tlamatque* para los entierren frente a la ofrenda junto con varios *xochimacpalli*.

Después, don Francisco Flores pedirá a los asistentes que acerquen a los guajolotes para que se les sahúme y se les dé un trago de refino o aguardiente, esto con el fin de ofrecerlos a los dioses, a los ancestros, que están presentes. En ese momento los músicos tocan sones sagrados, la comunidad danza con los guajolotes, haciendo círculos de

30. F. Aparicio entrevista personal, 16 Abril de 2013.

31. Una de las características del nauatl de la comunidad de Santa Catarina, es que hacen distinción expresa al menos en el título de la sabia; a ella le llaman *tlamatcaciuatl* (“mujer que sabe”). En comunidades cercanas no se distingue si es hombre o mujer.

32. Localmente llamados bordones.

derecha a izquierda. Los *tlamatque* sahumarán todos los elementos que compondrán la ofrenda, cirios adornados con moños, flores, botellas de jerez, tequila, refrescos, aguardiente.

En un espacio cercano, las señoras más grandes, las que llevan por título *tzitquime*, “ellas son las que saben tejer y son las representantes de las actividades femeninas”³³. Hilan bolas de algodón, con sus malacates (instrumento precolonial que sirve para hacer hilo). Durante todo el ritual se dedican a hilar y a hilar. Cuando finalice el ritual meten todas las bolas de hilo en la *ciupilli*.

Los *tlamatque* ofrecen una docena de guajolotes a *Maceuatenancatzintli*, rocían el líquido vital sobre el *telpochtli*, y la *ciupilli*. Se cubre todo con hojas de plátano. Los *tlamatque* colocan la ofrenda que consiste atole de chocolate con pan cruzado en cajetes, flores, cirios, chiles, aguardiente, tequila, refresco. Estos se sitúan alrededor del *tlalticpactli*, se sahumá todo con incienso. Los músicos tocan sonos sagrados, sonos floridos.

Los *tlamatque* prenden los cirios que fueron ofrecidos por los vecinos. Don Francisco Aparicio descubre al *telpochtli*, y le pide permiso para tocarlo; con el sonido que de él emana llama a los cerros. La semana previa fue a invitarles. Los invoca para que coman y beban de las ofrendas que se han dispuesto.

Al mismo tiempo los guajolotes que se ofrecieron a la tierra son cocinados en un espacio cercano y una vez cocidos se ofrecen en un guiso de mole rojo sin sal, en cajetes de barro. Sobre estos se colocan tortillas y tamales. Todo ello es para *Maceuatenancatzintli* y sus invitados, es decir en este espacio sagrado conviven los dioses con los hombres, en comunión.

La Madre Tierra come junto con sus invitados. Los *tlamatque* sahumán a la comunidad, limpian a los niños, mujeres y hombres que así lo desean. Una vez que la Madre Tierra y los cerros han comido, los *tlamatque* se disponen a repartir las ofrendas entre los miembros de la comunidad.

Los lazos entre los *tlamatque*, *Maceuatenancatzintli* y la comunidad se refuerzan, se renuevan, porque todos han cumplido. Han llevado a cabo el ritual, hecho la ofrenda, han comido, bebido, danzado, con la Madre Tierra.

Hay que mencionar que la comunidad naua de Santa Catarina tiene un intenso intercambio cultural con la región Otomí o Ñuju de Pahuatlan en el estado de Puebla. Debido a ello se comparten tanto los rituales como los recortes de los ancestros, de los dioses. No son pueblos aislados culturalmente, sino todo lo contrario.

En San Pablito – comunidad de Pahuatlan-, los *bädi*³⁴ (“sabios”) confeccionan libros hechos de *amate* (“papel”). En ellos se plasma parte del culto a los ancestros. A estos libros se les llama “libros de brujería”, lo cual refleja la intolerancia religiosa colonial y que tiene que ver muy poco con la lengua y cultura Otomí.

Esta clase de libros son valiosos porque ahí se muestran las representaciones recortadas de los dioses. Los *bädi* transcriben parte de los rezos para invocar y pedir a los dioses ayuda y protección. En la sencillez de las palabras y las oraciones se encuentra el mensaje simbólico, se trata de un lenguaje sagrado. A continuación se transcribe un fragmento. Es una oración a la tierra escrita por el *bädi* Santos Anita:

“[...] [f.27r] Perdóname aquí en la tierra, porque vamos a entregar un poco de papel amate y un poco de masa a la madre de tierra [...] [f.28r] 24 cama son para la madre de tierra y también un poco de atole de masa y un poco de atole de cacao con piloncillo, 2 pollitos tostados y un poco de dulces de azúcar y blanquillos cosidos, moles de cacahuate[...] [f.29r] La cama voy a pintar la sangre de guajolote que son para la madre tierra, y ellos va a repartirle va a entregar al señor de antigua por que el manda la lluvia para la cosecha, nace mucho tiempo, estaba gobernador el señor antigua y la madre de tierra antes de nacimiento de nuestros señor Jesucritos se lo quito el poder

33. A. Flores, entrevista personal, 13 de abril de 2013.

34. Véase Lastra, (1997), Hernández, Victoria, Sinclair (2004) y Torquemada (2010) http://www.historicas.unam.mx/publicaciones/publicadigital/monarquia/volumen/03/mi_vol03.html

de nuestro señor antigua y la madre de tierra[...] [f.30r] Entonces el señor Jesucristos Governa en todos el mundo manda todas las cosas, por eso vamos adornar a donde esta el altar a la madre de tierra y el señor de antigua así vamos a cuerar un enfermo porque la madre de tierra manda la enfermedad porque no acordamos en ellas, en los que no an mantenidos desde hace mucho tiempo y por muchos desde mucho tiempo y por muchos veces y por muchos años[...]” (Santos Anita. s/f)³⁵.

El bādi Santos Anita menciona “nace [sic] mucho tiempo, estaba gobernador el señor antigua y la madre de tierra antes de nacimiento de nuestros señor Jesucristo se lo quito el poder de nuestro señor antigua y la madre de tierra” (Santos Anita, *Ibíd.*: fs.30)³⁶.

Es decir, cuando llegaron los religiosos y con ellos Jesucristo, el poder de los antiguos aparentemente disminuyó y hasta “desapareció”. Pero por otro lado, vemos, en las comunidades mesoamericanas, a los dioses mesoamericanos y católicos juntos. Ellos ayudan a sanar a algún enfermo, juntos protegen a las comunidades. Los pueblos reelaboraron y adaptaron a las realidades locales la vida espiritual católica y mesoamericana.

Cabe señalar que en las poblaciones que se encuentran alejadas de los centros urbanos modernos, se conserva con mayor fuerza la vida ritual. Se ve cómo los símbolos tanto católicos y mesoamericanos se entienden, viven y conviven en armonía. A ambos se les sahúma, se les ofrecen flores, velas, cigarros, agua bendita; como sucede en el *xantocalli* de Santa Catarina y como lo hiciera el *pilli* (“noble”) tlaxcalteca *Cocomitzin* en la comunidad de Atlihuetzia, hoy estado de Tlaxcala.

Los símbolos del mundo religioso católico como del mesoamericano se encuentran al mismo nivel, no se mezclan, y por ello no se confunden. Es decir, existe una sinergia en ambas visiones del mundo. En una

ceremonia o ritual, los *tlamatque* piden a los dioses mesoamericanos como a los dioses católicos por el bien común e individual. Se ruega y reza tanto a Cristo como al señor del Cerro, se le pide a la virgen de Guadalupe como a la señora de la tierra para que den los frutos necesarios para que haya maíz, frijol, calabaza.

Los Rituales del Cuarto Viernes de Cuaresma³⁷

La diversidad religiosa en Santa Catarina es más o menos visible, ya que una parte los vecinos han decidido practicar el culto de la iglesia evangélica. Ellos tienen su propio espacio de religioso dentro de la comunidad. Aunque la mayoría de la población es católica una pequeña porción de ella mantiene viva la religión mesoamericana.

Ellos participan activamente en la vida ritual y ceremonial, además rinden culto tanto a los ancestros como a las imágenes del mundo católico. Ellos se autodefinen como los de “la tradición”³⁸ porque mediante los rituales que se celebran mantienen con vida a los dioses mesoamericanos. Pese a todas las imposiciones coloniales que desde hace más de cuatrocientos años. El corazón de la comunidad sigue latiendo.

La comunidad de Santa Catarina entendió, reelaboró e hizo suyo el canón dictado por la iglesia católica. Porque en los rituales del cuarto viernes de Cuaresma y la Semana Santa³⁹ se

37. Según el canon católico, la cuaresma es un tiempo de preparación espiritual para la Pascua. “[...]El tiempo de la Cuaresma rememora los cuarenta años que el pueblo de Israel pasó en el desierto mientras se encaminaba hacia la tierra prometida, con todo lo que implicó de fatiga, lucha, hambre, sed y cansancio[...].” Rivero en (Catholic.net).

38. La tradición se entiende como los depositarios de los rituales ancestrales, los que les fueron legados a lo largo de los siglos. Y que perviven hoy día y que cohesionan culturalmente a una comunidad (Madrado, 2005:122). Véase también la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas en especial el artículo 11 el cual a la letra dice “1. Los pueblos indígenas tienen derecho a practicar y revitalizar sus tradiciones y costumbres culturales. Ello incluye el derecho a mantener, proteger y desarrollar las manifestaciones pasadas, presentes y futuras de sus culturas, como lugares arqueológicos e históricos, objetos, diseños, ceremonias[...].” Así como el artículo 12 apartado 1 “ Los pueblos indígenas tienen el derecho a manifestar, practicar, desarrollar y enseñar sus tradiciones, costumbres y ceremonias espirituales y religiosas[...] y finalmente el artículo 13 apartado 1 “Los pueblos indígenas tienen el derecho a revitalizar, utilizar, fomentar y transmitir a las generaciones futuras sus historias, idiomas, tradiciones orales, filosofías, sistemas de escritura y literaturas[...].” Artículos sin duda de gran importancia para los pueblos mesoamericanos.

39. (Iglesias et. Al 2002) Recopila ejemplos de las celebraciones de Pascua y

35. La transcripción es mía. Se han respetado las características del español. Entre corchetes cuadrados se añadió el número de fojas.

36. Ursula Dyckerhoff (1984:69-85) hace el análisis de un libro similar al del bādi Santos Anita. Además véase los estudios sobre el papel recortado, los dioses y las representaciones simbólicas en Pahuatlan, (Puebla). Lenz (1973), Christensen (1971) Anders (1976).

observa el pensamiento de la comunidad el cual rinde culto a dos mundos y creencias, la mesoamericana y la católica.

Durante los rituales, la iglesia católica de la comunidad no es el punto más importante de reunión, como se podría llegar a pensar. El centro de todas las actividades rituales es el *xantocalli* este es un espacio sagrado e importante. Ahí descansan los ancestros y en las celebraciones, comparten el mismo espacio con las imágenes devocionales de Cristo crucificado localmente llamado San Manuelito⁴⁰, Santa Catarina, y San Marcial. Hay que mencionar que cada imagen tiene su mayordomía, compuestas por cuatro hombres solteros o casados, ellos serán los encargados de entregar ofrendas a cada imagen durante estos días.

La comunidad se dirige a la iglesia católica para llevar en procesión hacia el *xantocalli* a las imágenes antes mencionadas, junto con los lienzos de la virgen de Guadalupe y Santa Catarina, dejando en la iglesia a un Cristo crucificado y a una imagen de la virgen de Guadalupe, que se encuentra en una urna de cristal. A estas imágenes le rendirá culto una pequeña de la parte de la población.

Durante los rituales, la vida de la comunidad se transforma. El tiempo se vuelve intemporal:

“[...] el tiempo fuera del tiempo está en verdad, desfasado [...] Rappaport (2001:264).

En Santa Catarina se vive en un “tiempo litúrgico” (Ibíd.: 272). Aquí se puede sentir el calor y la devoción que la comunidad dedica a las imágenes religiosas y a los ancestros. La música, el incienso, los cirios, y las flores así como las ofrendas se dedican a ambos mundos religiosos. Se come y se danza frente a las imágenes religiosas.

Los rituales del Cuarto viernes de Cuaresma inician desde muy temprano. Las mujeres y los hombres trabajan muy duro para llevar a cabo el ritual. Las mujeres dedican gran parte del día en los preparativos

de las ofrendas, que consisten en atole de chocolate, tamales, mole rojo y amarillo sin sal (“*chilmolli*” y “*cozmolli*”), tortillas, pan, tepache, etc.

Los policías de la comunidad⁴¹ construyen una serie de pequeñas casas que van a ser dispuestas en cinco puntos importantes de Santa Catarina. Estas “casitas” son hechas de cañas, y se adornan de flores como el *tecoloxochitl* (bromelias), hortencias, agapandos. Como techo se colocan palmas⁴².

Tenemos la representación grafica de estas “casitas” en el *teoamoxtli Ciuacoatl* (Códex Borbónico). Ahí, el *tlacuilo* (“pintor”) las representó en la

“Trecena 6:1 Muerte [...] Enramado de zacate verde para esperar al dios. [...]”

En esta escena tenemos una glosa que dice:

“los q[ue] aquí e[n] este signo era[n] valie[n]tes hombres mas no podian prender a nadie”
Anders, Jansen y Reyes (1991: 134-137)

y en la

“Trecena 18:1 Viento Los que aquí nacían habían de tener que comer [...] Adornar los altares con ramas y hojas. El brasero arde y humea.[...] (Ibíd.: 172-175)⁴³.

Por otro lado tenemos una casita similar representada en la primera lámina de la llamada Tira de la Peregrinación: En el cerro del Culucan hay una cueva. Huitzilopochtli canta dentro de una casita también. La representación iconográfica entre ambas “casitas” o altares es sorprendente. Hacia el siglo XVI tenemos descripciones de arcos enflorados descritos por Motolinia en la celebración del Corpus Cristi en Tlaxcala en 1538:

41. En realidad la policía es uno de los primeros cargos o servicios que los jóvenes deben de cumplir en la comunidad. En otras zonas a este cargo se le llama *topilli* (“bastón”).

42. Unas casitas similares se construye en la comunidad *ngiwá* (“*popoloca*”) de San Marcos Tlacoyalco, para el recorrido del vía crucis en el viernes Santo. “Los altares son casitas de carrizo que se construyen en la calle, dentro de éstos se colocan imagen de santos y vírgenes [...] también son adornadas con flores y tiras de papel. Ver Gámez (2012: 209).

43. Agradezco a Alessia Frassani por haber llamado la atención a estas escenas.

Semana Santa en una gran cantidad de pueblos mesoamericanos.

40. Manuel significa: Dios está con nosotros, tomado de <http://es.catholic.net/op/articulos/18071/cat/730/que-significa-tu-nombre.html#L>.

“[...] éstos había por cuenta mil y sesenta y ocho arcos [...] Estaban todos cubiertos de rosas y flores de diversas colores y manera, apodaban que tenía cada arco carga y media de rosas [...]”

Motolinia (op.cit.: 62).

Existe una escena similar a la comentada por Motolinia en la escena 19 de la copia del mapa de *Cuauhtlantzingo* “probablemente fechado del siglo XIX” (Wood, 2003:78). En dicha escena se observa a la virgen “de los Remedios Conquistadora”⁴⁴. Ella está en un altar, adornada de un arco florido. En el “panel 21 r” del mismo mapa se representan como escena principal una “casita” hecha de ramas, adentro de esta se encuentra una mesa con alimentos y dos castellanos sentados: un soldado y un religioso católico. Ambos se preparan para comer lo que los “caciques” (Wood, Ibíd.:83) y el hijo de Tepoztecatzin le ofrecen. La “casita” de ramas recuerda en gran medida a las que se hacen cada año en Santa Catarina.

Enflorar y llenar de perfume de copal o incienso los espacios sagrados en actos rituales es sin lugar a dudas un acto muy antiguo que ha trascendido el tiempo. Como las casitas de Santa Catarina. Estas se distribuyen en los puntos señalados por los *tlamatque*. Una de estas se levanta frente a la escuela primaria, las dos siguientes estaan a un lado del campo santo (inicio y al final). La siguiente se ubica en la esquina de uno de los caminos que van al *xantocalli*. La quinta y última “casita” se coloca dentro del *xantocalli*. Esta última es de mayores dimensiones, y de igual forma se adorna con flores de la región. En el techo, además de las palmas, se colocan floripondios, toloache, magnolias y atados de flores con *totomochtle* (“hoja de mazorca”). Dentro de esta “casita” se pone un petate nuevo, que se extenderá por la noche, para depositar las imágenes devocionales.

Durante el ritual es importante y necesario la presencia de los *tlamatque* así como de los delegados, estos últimos llevan consigo sus respectivos bastones de servicio están adornados con cintas de colores.

44. Véase Map of Cuauhtlantzingo (Codex Campos), Tulane University, The Latin American Library, Digital Collections. <http://digitallibrary.tulane.edu/islandora/object/tulane%3Ap16313coll37>. Además véase el análisis que hace Sthepanie Wood de las imágenes como de las glosas en nauatl en The Maps Project. Mapa de Cuautlantzingo. http://mapas.uoregon.edu/mapa_single_intro.lasso?&mapaid=cuah.

Un jóven toca una campana pequeña, estos es para anunciar que se inicia el recorrido. La comunidad, los delegados y los *tlamatque* visitan las “casitas” que previamente fueron dispuestas y adornadas. Los delegados junto con los *tlamatque* don Francisco Flores y doña Isabel Flores realizan la primera ofrenda.

Don Francisco rocía un poco de aguardiente en la tierra, coloca cigarros y deposita un huevo envuelto en un recorte de papel de china blanco. Se humaniza a los ancestros ya que el papel con el huevo adentro simbolizan los espíritus, los ancestros que viven y cuidan a la comunidad. Él invita a los espíritus de los cerros para que vengan y tomen la ofrenda, ruega para que se queden en la tierra. Pide para que protejan a la comunidad. Después el *tlamatqui* solicita a los policías que tapen el orificio que contiene la ofrenda con una piedra y sobre de ella se dibujan una cruz, esto cómo símbolo de que los dioses y protectores se queden ahí. Este mismo ritual se hará en las “casitas” restantes.

Cuando se está a punto de llegar a la última de estas “casitas” don Francisco da una de las figuras de papel de china a un policía, para que vaya corriendo al cerro llamado *Xoxocatepetl* (“cerro crudo”). Ahí se avienta la figura de papel china y después regresa corriendo para unirse al ritual. El motivo de arrojar un huevo a este cerro es porque es el lugar de los espíritus “crudos” es decir “de los que no alcanzaron a nacer o murieron muy jóvenes”⁴⁵.

En este contexto lo crudo se entiende que no está maduro que no está cocido, como las frutas cuando están verdes no se pueden comer porque hacen daño. El huevo “es una ofrenda también para el malo, porque a él se le debe de dar también”⁴⁶.

Cuando termina el depósito de las imágenes de los ancestros en la tierra, las autoridades -representadas en

45. A. Flores, entrevista personal, 2 de abril 2014. Hay que mencionar que don Alejandro Flores fue mayordomo del *xantocalli* en ese año.

46. A. Flores y M. Salvador, V. Flores, entrevista personal, 2 de abril 2014. Cuando las comunidades mesoamericanas refieren a los lugares sagrados, casi siempre se hace como “los dueños del lugar, rey, caballero, dueño del cerro, señor”, entre otras denominaciones. En su faceta maligna son referidos como catrín, chivo, diablo, el malo [...] Gámez (2012:220). Las referencias negativas se deben a la actitud colonial que satanizó todos los lugares sagrados e importantes de la religión antigua mesoamericana. De esta forma se trató de alejar a las comunidades de sus sitios sagrados.

los delegados- invitan a comer-cenar *a la comunidad* en la casa de cada uno de ellos. Ahí se reúnen para convivir y esperar a que llegue la noche, para iniciar de nueva cuenta el recorrido. Durante la noche, se llevan en procesión a las imágenes en bulto de Cristo crucificado y de Santa Catarina⁴⁷. Quienes cargan a las imágenes son un niño y una niña. En cada “casita” se extiende un petate nuevo y él se arrodilla los niños para escuchar los rezos católicos que son dirigidos por un “rezador”, que previamente fue invitado.

Cuando las imágenes religiosas han visitado cada una de las “casitas” la comunidad se dirige hacia el *xantocalli*. Ahí don Alejandro abre un petate y extiende una casulla⁴⁸, un “velo cubre cáliz” y un *mecate* (“lazo”) blanco. Sobre estas prendas se deposita a Cristo crucificado y Santa Catarina permanecerá de pie.

La *tlamatcaciua* doña Isabel Flores inicia una serie de rezos. Al mismo tiempo sahuma el *xantocalli* y después va a la cocina. En este espacio hay tres *tlecuile* (“fogones”)⁴⁹ donde las señoras prepararán la comida del ritual. Doña Isabel riega refino o “aguardiente”, pide permiso al espíritu del fuego y le solicita que la comida quede bien cocida y que todo transcurra con bien. Después de esta rogativa, las señoras prenden cada uno de los *tlecuile*.

Hay que mencionar que cada uno de los *tlecuile* están dedicados y consagrados respectivamente a San Manuelito, a Santa Catarina y al caballito. El fuego tiene esencia y poder. Por ello

“hay que darle su ofrenda cuando no es tiempo de rituales, los niños no deben de jugar en la cocina, porque si lo hacen, corren el riesgo de que el señor del fuego los atrape en el *tlecuile*, y si eso sucediera hay que llamar a un *tlamatqui*, para que haga un ritual y sea liberado el niño de ahí”⁵⁰.

Doña Isabel Flores sahuma la primera ofrenda que consiste en chocolate y pan cruzado, para después

colocarla alrededor de San Manuelito y Santa Catarina. Las imágenes religiosas que se encuentran en el altar mayor del *xantocalli* también recibe la misma ofrenda. Durante todo el ritual, doña Isabel esta sahúmando el espacio sagrado.

Después, la *tlamatcaciua* reparte a los asistentes pan y chocolate, que previamente fueron depositados como ofrenda. Unos minutos más tarde solicita a los mayordomos que traigan tamales, tortillas, y un mole llamado *cozmolli* (“mole amarillo”). Como segunda ofrenda se deposita tepache.

Durante toda la noche del viernes de Cuaresma la *tlamatcaciua* sahuma el espacio el “rezador”, quién acompaña a la visita de las “casitas”, lee algunos pasajes bíblicos durante gran parte de la noche. En algún punto de la madrugada la *tlamatcaciua*, solicita a los asistentes al ritual que levanten a San Manuelito y a Santa Catarina para que sean colocados en el altar mayor. Dos mayordomos cubrirán las imágenes y las prepararán para el siguiente ritual que se llevará a cabo en la Semana Santa.

La Semana Santa

En el mundo católico, una de las celebraciones más importantes es la Semana Santa esta es “la última semana de Cuaresma, [...] [que] comprende desde el Domingo de Ramos hasta el Domingo de Resurrección (Iglesias, et. al, 2002: 96). Durante estos días la iglesia católica realiza una serie de rituales para conmemorar la entrada de Jesús a Jerusalén, el lavatorio de los pies y la última cena, el vía crucis, la crucifixión y resurrección de Jesús.

Esta celebración permeó sustancialmente en el mundo religioso mesoamericano, ya que desde muy temprano las ordenes mendicantes que llegaron en el siglo XVI obligaron a las comunidades a celebrar los ritos de la iglesia católica.

Uno de los métodos para lograr la conversión de la población mesoamericana fueron las escenificaciones teatrales durante el periodo colonial. Por ejemplo en la antigua Tlaxcala. “Las obras de teatro representadas [...] suman un total de once [...] escritas en náhuatl” (Macuil, 2010: 41). A estas se suman tres

47. La virgen se encuentra vestida como las mujeres de la comunidad, es decir, con un *cuemiltl*, un *tlaquemiltl* y un *quechquemiltl* (“Falda”, “blusa” y “quechquemiltl”).

48. La casulla es la “vestimenta litúrgica amplia y abierta por los costados para la celebración de la misa” Rivero (2014) véase: <http://es.catholic.net/>.

49. Este es un espacio construido para la lumbre.

50. N. García y A. Flores entrevista personal, 3 febrero 2014.

fragmentos del mismo tema: *La Pasión de Cristo* localizadas en las comunidades tlaxcaltecas de *San Simón Tlatlauquitepec* y *Atlihuetzia*⁵¹.

En gran parte del área mesoamericana existen registros coloniales de obras de teatro cuyo contenido es edificante. Esto han llamado la atención de investigadores de distintas áreas del conocimiento que han analizado estas obras de teatro⁵². Las investigaciones han permitido tener una visión más clara sobre los procesos de conversión y resistencia de las poblaciones del centro de México.

La obras teatrales permitieron a las comunidades mesoamericanas hacer suya la Semana Santa porque los protagonistas de estas fueron ellas mismas. Los hombres y mujeres aportaban todo lo necesario para llevar a cabo la puesta en escena, es decir se encargaban de construir la escenografía, compraban los trajes y todos los elementos que utilizaran los actores. Los músicos, los coros y los actores eran de las propias poblaciones.

“[...] las comunidades [...] distribuían los materiales y todo lo necesario para la escenificación. Tal es el caso de Atentzinco y Chimalpan, pertenecientes a Atlihuetzia. Don Manuel Joseph Juárez. Senácula, don Lázaro Juárez. Capitán de a pie, don Ignacio. Maestro de campo, Manuel Juárez la túnica blanca, Pascual Antonio, muchier (Mujer), don Buenaventura. Alférez, Domingo Ramos. Santa Verónica, Joseph de la Peña. Linterna, Dionisio Francisco. Robeno[...] Juan de los Santos. Centurión”

Macuil (2016:236).

Ahora, a la distancia de los siglos, se puede decir que todo este trabajo y esfuerzo era de la comunidad para la comunidad, y no de los religiosos para la comunidad. Pese a la imposición del culto católico, los pueblos adaptaron y reelaboraron los mensajes en las obras de teatro.

Por ejemplo en la Pasión de Tlatlauquitepec encontramos claramente una protesta social. Judas en las reflexiones que hace por la venta de su maestro expresa lo siguiente:

“[...]sólo ando desnudo, ando en andrajos, estoy desamparado. Lo siente mi cuerpo, y mi mujer, mis hijos. Ellos pasan gran pobreza, sin alimento [al igual] que todos mis parientes[...] El hambrellega a mí. ¡Cuántos problemas tengo! No tengo casa, ni milpa, ni propiedad. ¿Quién, pues, me dará solución? [...]”

Macuil (2010: 87-89).

Lo que expresa Judas es lo que sucedía en Tlaxcala a finales del siglo XVI. El cabildo tlaxcalteca estaba en contra de las políticas de la corona castellana para la congregación de las comunidades, esto causó tensiones y fricciones en toda la región. Durante más de treinta años el cabildo argumentaba los efectos negativos de las congregaciones. Las tierras que quedaran “si dueño” estaban a la merced de los intereses económicos de los españoles, esto sucedió desde los años de 1560 y hasta 1598. Esto se refleja en el monólogo de Judas. El actor tuvo la posibilidad de expresarlo abiertamente ante un gran público.

La celebración de la Semana Santa continúa viva en México, así como la escenificación de la Pasión de Cristo que se representa en una gran cantidad de municipios y pueblos del gran área cultural mesoamericana. Ello nos muestra que la participación comunitaria ha sido fundamental desde tiempos coloniales; ya que lejos de quedarse al margen y dejar todos los rituales a los sacerdotes católicos, las mujeres y hombres han contribuido a lo largo de los siglos con la visión del mundo mesoamericano. Ello hace que la Semana Santa sea un tiempo de explosiones de colores, olores y sabores.

En Santa Catarina se celebra la Semana Santa de una forma muy propia, no se sigue el canon dictado por la iglesia católica, porque los rituales que se realizan son muy parecidos a los que se llevaron a cabo en el Cuarto viernes de Cuaresma.

Las imágenes religiosas del altar mayor en el *xantocalli* se encuentran cubiertas con hermosos rebosos negros, así permanecerán hasta el sábado

51. El análisis y comentarios de los tres fragmentos se puede ver en: Macuil (2010) y Macuil (2016).

52. El trabajo ya clásico del padre Garibay (1992) además de los estudios de Rojas (1973) Burkhart (1996) Sten (2000) Trexler (2003) Horcasitas (2004) Sell y Burkhart (2004, 2006, 2008, 2009).

Santo. Los rituales inician en la noche del jueves Santo. Durante el día las mujeres y los hombres trabajan en la preparación de las ofrendas. En la noche del jueves Santo la *tlamatcaciua* doña Isabel Flores, se dirige al *xantocalli* junto con los mayordomos de las imágenes de San Manuelito, Santa Catarina y San Marcial. Ellos llevan en sus manos collares de flores y cirios para colocarlos en el altar. Doña Isabel los sahúma, los limpia para después ponerlos como ofrenda a los pies de las imágenes.

Los mayordomos bajan del altar a San Manuelito y a Santa Catarina para salir en procesión y visitar cada una de las “casitas” que se hicieron desde el cuarto viernes de Cuaresma. Hay que mencionar que los encargados de llevar a las imágenes son los mismos niños que las cargaron durante los rituales anteriores. Los policías llevan un palio para cubrir las imágenes religiosas.

La procesión es encabezada por doña Isabel que lleva un *popoxcomitl* (“sahumerio”). Ella limpia el camino procesional hasta regresar nuevamente al *xantocalli*. Asiste también el “rezador”, quién en cada “casita” lee algunas oraciones católicas. Al mismo tiempo los niños se hincan para bajar las imágenes que llevan. Todos escuchan cada rezo para después continuar con el camino hasta llegar al *xantocalli*.

Los mayordomos colocan un petate, sobre este a Cristo crucificado y ambos se colocan a los pies de Santa Catarina: “Ella es la mamá de Cristo”⁵³. Unos minutos después la *tlamatcaciua* solicita a los mayordomos que traigan la ofrenda que consiste en pan cruzado y chocolate. Doña Isabel sahuma y limpia las ofrendas, ella coloca todos los platos y los jarros de chocolate alrededor del petate. De igual forma ofrece los mismos elementos a las imágenes religiosas que se encuentran en

el altar. Hay que mencionar que la única imagen que permanece descubierta es la del caballito.

“Aquí ofrecemos y rezamos por los santitos; pero allá arriba, también les llega el aroma de las ofrendas e incienso”⁵⁴

Con estas palabras, don Alejandro hace referencia a que también son bienvenidos los espíritus de los ancestros, los *cenpixquime*.

Ya entrada la noche, el “rezador” se arrodilla frente a la “casita” e inicia las rogativas católicas y concluye con el rezo del Santo Rosario. Después la *tlamatcaciua* doña Isabel Flores y los mayordomos de las imágenes sahuman el espacio sagrado durante toda la noche. Unas horas después se reparte la ofrenda y de esta forma el ritual termina.

A San Manuelito se le recuesta en un petate nuevo, dentro de una “casita” que está en el *xantocalli*, y se le rodea de ofrendas -de flores, se le quema copal-, se le ruega y pide por el cuidado de la comunidad. San Manuelito es el Cristo crucificado, el que trajo la salvación a la humanidad con su muerte. Veneración y reverencia similares se rinden al espíritu del cerro, Huitzilopochtli, quién el salvó a su madre y salvó al mundo.

Ambos hombres y dioses trajeron claridad al mundo, trajeron luz a los hombres “[...] El Sol y Jesús [...] se identifican o confunden [...] El advenimiento del Sol marca el inicio de una nueva época (el mundo actual)- El advenimiento de Cristo marca el inicio de la gracia, de la salvación del hombre” (Reyes, 1960:49).

Huitzilopochtli el dios principal de los Aztecas fue quién cantó, quién habló al *tlamatqui* para decirle que era necesario ir a otras tierras. El señor de la guerra, el que guiaba los destinos y las vidas de los mexica. Ambos símbolos importantes de permanencia y continuidad tanto espiritual como terrenal. Él como San Manuelito se encuentran en lugares sagrados, adornados y perfumados con flores, copal, velas, y ofrendas. La continuidad en el símbolo es impresionante.

A medio día del viernes Santo doña Isabel, los mayordomos y la comunidad se reúnen nuevamente en el *xantocalli*. De nueva cuenta salen las imágenes en procesión cubiertas con rebosos negros, y visitan las “casitas”. A San Manuelito y Santa Catarina, los cargarán los mismos niños que lo hicieron en el ritual del cuarto viernes de Cuaresma.

53. V. Flores entrevista personal, 17 abril de 2013.

54. A. Flores, entrevista personal 23 de abril de 2014.

Al mismo tiempo y por separado, una parte de la comunidad realiza una procesión que sale de la iglesia católica. Llevan cargando la imagen de Cristo crucificado. Ellos siguen al pie de la letra lo que dicta el canón católico. Ellos toman una ruta diferente a la que caminan San Manuelito y Santa Catarina.

El resto de la comunidad, es decir los de la “tradición”, entran a la iglesia, y frente al altar mayor los niños bajan las imágenes. Ahí escuchan los rezos católicos y se sahuma el espacio sagrado. Al salir de la iglesia, la procesión se divide en dos, un vecino lleva una matraca y durante todo el camino va girando para hacer ruido hasta que la madre y el hijo se encuentren. La ruta que sigue San Manuelito es la de “costumbre” y Santa Catarina toma el camino contrario. Esto para que ambos se encuentren en uno de los caminos principales, que en realidad es un cruce de caminos. Ahí se coloca un petate, los niños bajan a las imágenes. Una de las señoras más grandes de la comunidad⁵⁵ inicia un breve discurso, ella toma el lugar de la madre de Jesús, carga a Santa Catarina y juntas descubren el rostro de su hijo. “En este momento la virgen encuentra a su hijo, le limpia el rostro y lo consuela”⁵⁶. Después de este encuentro las imágenes se dirigen al *xantocalli*.

Mientras las imágenes van en procesión, algunos policías de la comunidad se encargan de deshacer la “casita” que está dentro del *xantocalli* para colocar las imágenes que vienen en camino en el altar mayor en este momento los mayordomos descubren todas las imágenes sin dejar de sahumarlas.

Al medio día del Sábado de Gloria o Santo, las campanas de la iglesia católica repican una y otra vez. Los mayordomos, los *tlamatque* y la comunidad se reúnen al interior del *xantocalli*. En este mismo espacio don Alejandro Flores toca una pequeña campana. Él es mayordomo o capitán de San Manuelito. Con el toque de la campana se anuncia que es hora de continuar con los rituales.

Los mayordomos de la Virgen de Santa Catarina queman de 120 cohetes⁵⁷ y durante este acto los

vecinos que así lo deseen y los mayordomos pasan uno por uno al altar mayor. Se arrodillan frente a San Manuelito, después ante la Virgen de Santa Catarina y por último ante San Marcial. Cuando están arrodillados se descubren la espalda y uno de los *tlamatque* toma un ramo de *chichicastli* u (“ortiga”)⁵⁸, se pide cuidado y protección a las imágenes católicas y a los ancestros. Enseguida dan cuatro azotes en la espalda. Este mismo ritual se repite ante las imágenes restantes.

Cuando el *tlamatqui* termina de limpiar el cuerpo y espíritu de los vecinos, cada uno de ellos tira la ortiga a los pies de dos grandes cruces ubicadas frente al *xantocalli*. El motivo de los azotes de ortiga es “para quitar los pecados de los muchachos”⁵⁹. Se sacrifica el cuerpo para fortalecer el espíritu.

La acción de autosacrificio se realiza desde cientos de años. Los líderes espirituales de las comunidades enseñan con el ejemplo. Esto lo podemos ver en la lápida conmemorativa del Templo Mayor, ahí dos gobernantes se punzan con espinas las orejas para sacar sangre y la ofrecen a la tierra. De manera similar los *tlamatque* azotan sus cuerpos con ortiga para limpiarse. Doña Isabel Flores da la misma serie de azotes a don Francisco Aparicio. Ellos predicán con el ejemplo, tal cual lo hicieran sus ancestros.

Después cada uno de los mayordomos coloca sobre una mesa adornada de papeles de colores (verde y rosa⁶⁰), un cuarto de refino o aguardiente, una cajetilla de cigarros y cerillos. Los *tlamatque* recortan papel de china blanco, y con este envuelven dos huevos, y con ellos se hace la misma figura humana tal y como lo hicieron el cuarto viernes de Cuaresma.

Los *tlamatque* ruegan a Santa Catarina, a San Marcial, San Manuelito, al *Cualtepetzintle* y a los Señores Caballeros⁶¹ para que estén contentos y acepten el regalo que se ofrece. Se les invoca para

nas o 144 unidades. Véase <http://dle.rae.es/>.

58. “Planta originaria de México” véase http://www.medicinatradicionalmexicana.unam.mx/monografia.php?l=3&t=Ortigailla_o_pica_pica&id=7899.

59. F. García, entrevista personal 22 de abril de 2014.

60. El *telpochtli* se encuentra cubierto con los mismos colores de papel.

61. Los Caballeros son los espíritus que viven al interior de los cerros, ellos salen del lugar llamado las siete puertas. Esto se acerca mucho a los relatos de la salida o nacimiento de los hombres de *Chicomoztoc* (“cueva siete”). Don Mario nos acerca mucho a los relatos ancestrales. El soñaba que los Caballeros salían del sitio sagrado de las Siete Puertas. M. Flores. Entrevista personal 4 de febrero de 2014.

55. Ella fungió como *tzitquimtl* en el ritual en *tlauatzaloyan*.

56. N. García, entrevista personal 23 de abril de 2014.

57. Es un poco menos que la medida de una gruesa. Esta equivale a doce doce-

que ayuden a barrer y limpiar el espacio sagrado. Don Francisco Aparicio inicia con las imágenes en el *xantocalli*, continua con las paredes y el suelo para terminar en la puerta de acceso. Esto se hace para que los “espíritus de la tierra salgan”⁶².

Cuando don Francisco termina de barrer, el huevo ha recogido todo lo malo que pudiera haber en la gran sala del *xantocalli*. El huevo es depositado por uno de los vecinos al pie del *Cualtepetzintle*:

“Ahí es el lugar del espíritu del cerro, el huevo atrae todo lo que había aquí, y por eso se lo aventamos al Cualtepetl”⁶³.

En este instante los mayordomos de la virgen de Santa Catarina, queman de nueva cuenta cohetes, con ello se anuncia que el *xantocalli* ha quedado limpio, ha sido renovado y queda listo para el ritual que se efectuará durante la noche.

Una vez limpio el *xantocali*, los *tlamatque* sacan la mesa y la colocan frente a la puerta. Ambos riegan un poco de aguardiente alrededor de ella. Los mayordomos reparten a los asistentes los cigarros y el aguardientese. Después se retiran a sus hogares para continuar con los preparativos del ritual que se harán esa noche.

Según el rito católico: “Por la noche se lleva a cabo la celebración de la Vigilia Pascual. Dicha celebración tiene tres partes importantes que terminan con la Liturgia Eucarística: 1. Celebración del fuego nuevo. 2. Liturgia de la Palabra y 3. Liturgia Bautismal (Reyes, 1960:49). En las celebraciones que se llevan a cabo en Santa Catarina, el punto culminante del ritual de la Semana Santa es la noche del Sábado Santo.

El ritual que se lleva que acabo tiene muy poco que ver con lo que dicta la iglesia católica. En estos rituales, la vida religiosa de la comunidad se manifiesta de forma muy particular. Las profundas conexiones con el mundo mesoamericano ancestral son palpables. Se puede oler, comer y danzar gracias a que durante la noche, los mayordomos y los *tlamatque* colocaron en el altar mayor, veladoras,

cirios, tepache, etc. Las mayordomas, en la cocina del *xantocalli*, prenderán tres *tlecuile*. Las mujeres de la comunidad consideran que durante el ritual, es un espacio exclusivo para ellas y por lo tanto los hombres no pueden acceder. Ellas ofrecen atole de chocolate y pan, esta es la primera ofrenda.

Durante gran parte de la noche, las mujeres estarán preparando la segunda ofrenda que consiste en tamales, *cozmolli* (“mole amarillo”) y tortillas. Las mujeres dan a los mayordomos los platillos para que la *tlamatcaciua* (doña Isabel Flores) perfume y limpie con el *popoxcomitl* (“sahumerio”). Ella coloca la comida ritual al pie de las imágenes de cada mayordomía y del caballito. Cuando se han colocado todas las ofrendas, los músicos tocan una larga serie de sonos sagrados, entre los cuales se pueden mencionar el *motlazocamotia*⁶⁴ (“te agradecemos”) el *xochison* (“son de las flores”) o (“florido”)⁶⁵.

Los mayordomos, los *tlamatque* y la comunidad danzan durante gran parte de la noche. Esta es la última ofrenda de los rituales de Semana Santa, las imágenes de San Manuelito, Santa Catárina, y los lienzos de la virgen de Guadalupe, Santa Catarina y San Marcial regresan a la iglesia católica, estarán ahí hasta las fiestas patronales de noviembre.

La comunidad año con año realiza los rituales, tanto a las imágenes católicas como a los dioses mesoamericanos. Los rituales son para ambas visiones del mundo religioso. Cada año se refuerza el compromiso de encontrarse y continuar con la vida religiosa de la comunidad. Los *tlamatque*, las *tzitquimitl*, los mayordomos y la comunidad mantienen vivos a los dioses y a los ancestros.

Los Rituales Privados y el *Tlalticpactli*

La vida ritual comunitaria es importante ya que de esta forma se mantiene la cohesión entre los vecinos y los dioses. Antes, durante y después de los rituales que se llevan acabo en las comunidades se transmiten noticias y se mantienen al tanto de los parientes que no pudieron asistir y participar en los rituales. Los

62. A. Flores, entrevista personal 22 de abril de 2014.

63. A. Flores, entrevista personal, 22 abril de 2014.

64. Bien puede ser *motlazocamatia*.

65. En algunas comunidades Hñahñu del estado de Hidalgo, los sonos se cantan.

vecinos se relacionan y los *mecates* (“lazos”) de unión se refuerzan una y otra vez. A esto bien se le puede llamar *communitas* (Rappaport, op.cit :317).

La comunidad necesita cuidado, atención y alivio tanto corporal como espiritual. Las angustias, los problemas y las preocupaciones de los individuos, se manifiestan en una gran variedad de padecimientos como los malos sueños o bien la pérdida de la sombra a causa de un gran susto. Esto sucede cuando alguien ha tenido una gran impresión y a causa de ello no come bien, está triste, cansado y su vitalidad o energía ha disminuido en gran medida. Esta es una enfermedad y existen varias formas de curarla.

Entre los Tepehuas del estado de Hidalgo se regresa la sombra mediante una limpia y una ofrenda al sitio donde sucedió el espanto: se entrega refino o “aguardiente”, copal o incienso. Los Hñahñu del Valle del Mezquital (Hidalgo) curan el susto exponiendo a la persona al sol de mediodía y se le unta una masa de epazote (véase Avilés, 2005:43,132).

En algunas comunidades tlaxcaltecas, curar del susto implica ir también al sitio y ofrecer copal o incienso, cigarros y flores. Se gritará tres veces el nombre del asustado sobre su cabeza, esto se hace para que la sombra o el alma regrese al cuerpo de donde salió⁶⁶. Entre los tzeltales, para recuperar el alma (sombra) un sabio canta

“[...] los cantos son pronunciados ante el altar doméstico (o en algún otro lugar) [...] donde se negocia la devolución del alma a cambio de sustancias como aguardiente, tabaco, incienso y, sobre todo, los cantos mismos [...]

(Pitarch, 2013: 22).

En rituales, los *tlamatque* se encargan del cuidado físico como espiritual de los vecinos. Si no lo hacen se corre el riesgo de perder el frágil equilibrio que existe en la comunidad. Si no se atienden los padecimientos y enfermedades de los individuos, la vida ritual comunitaria estaría en serio riesgo de perderse. La siguiente generación

de *tlamatque* dejaría de existir, y por consecuencia los dioses y los ancestros se olvidarían. Por ello la salud y vitalidad de los pueblos es necesaria para que los rituales existieran y se lleven a cabo.

Cuando no es tiempo de rituales en Santa Catarina, las familias trabajan en las actividades cotidianas: En la milpa, cortan flor de azahar, recolectan hierbas para su venta en los mercados de las ciudades cercanas y en la Ciudad de México los niños asisten a la escuela.

En el momento de que algún vecino de la comunidad tiene sueños recurrentes, y este se repite varias veces, cuando se sufre una impresión grande o bien cuando los niños dejan de comer, los vecinos consultan a un *tlamatqui*, para que los ayude a sanar y los cure.

El *tlamatqui* tiene destinado un espacio especial y sagrado dentro de su casa. En el altar se encuentran presentes las imágenes católicas como la de los dioses mesoamericanos. Este lugar es el primero de todos los sitios sagrados⁶⁷ porque el *tlamatqui* se encomienda y reza cada día en este espacio, el ruega por el bien de la comunidad. Esta es la reproducción de la visión del mundo mesoamericano en el hogar.

Los *tlamatque* hablan y rezan para que por medio de sus labios los dioses, los “aires”, se presenten y digan qué hay que hacer para curar o remediar los problemas antes citados. Él inicia entonces una serie de rezos, para pedir por el cuidado y protección de la gente que lo está visitando, pide por la sanación y la cura de los males que los aquejan. Solicita a los dioses para que los malos sueños se vayan, y dejen tranquila a la comunidad.

El *tlamatqui* quema copal o incienso, prende veladoras y consulta con los ancestros mediante el *tezcatl* (“espejo de los espíritus”) o (“aires”⁶⁸). Los dioses por su parte indican el o los lugares en que se deberá de colocar las ofrendas.

67. Bien se puede pensar como un gran círculo concéntrico que va del centro hacia afuera y viceversa.

68. El *tezcatl* es la piedra de obsidiana. Don José, sabio Tepehua utiliza un cristal de cuarzo para comunicarse con los espíritus. Esto mismo sucede entre los nauas de Amatlan (Veracruz) “Los llaman espejos (singular, *tescatl* en náhuatl) y los chamanes pueden adivinar mediante la interpretación de sutiles figuras dentro del propio cristal. El chamán suele entrevistar al cliente y luego fijar la mirada en el cristal, a la vez que sostiene una vela encendida detrás de éste” Sandstrom (2010:317)

66. J. Martínez entrevista personal 20 enero de 2000. Además véase <http://www.medicinatradicionalmexicana.unam.mx/termino.php?l=1&t=levantar%20la%20sombra>.

Tal es el caso de don Francisco Flores (*tlamatqui*) él señala a la persona que le visitó un día determinado, para ir a dejar las ofrendas, que consisten en: atole de chocolate, tamales, flores, velas, cigarros, refino o “aguardiente”, huevos, harina, papeles de colores, unos pequeños ramitos de hierbas olorosas y dos pollos vivos y ocotes. Un día antes de ir a dejar las ofrendas, el *tlamatqui* recorta unos pequeños papeles de china blancos y los amarra con los cigarros. Al día siguiente y ya con la ofrenda dispuesta, emprende el camino hacia los sitios sagrados de *tlauatzaloyan*, espacio donde mora *Maceuatenancatzintli* y el *Tlatelli*. En este último sitio, aquí se encuentra una gran roca llamada *tonalconeme* (“niños almas”⁶⁹) en estos lugares el *tlamatqui* pidió por la tranquilidad de las personas que previamente lo fueron a visitar.

Cuando el *tlamatqui* se encuentra frente al *tlalticpactli* pide permiso a la señora de la tierra para poder limpiar el espacio, después riega un poco de refino y comienza a colocar la ofrenda. Se ponen papeles de colores (verde, blanco y rojo) además chocolate, tamales, cigarros y huevos. Enciende velas de cebo y ofrece el líquido vital del pollo a la señora de la tierra, a *Maceuatenancatzintli*. Le pide que acepte la ofrenda, porque se requiere de su ayuda, se le pide que libere el *tonalli* que tiene atrapado para que regrese al cuerpo de donde salió.

El *tlamatqui* se despide de la señora de la tierra, y camina hacia el *tlatelli* en este espacio sagrado se ofrece lo mismo que en el sitio anterior, se ruega a los *tonalconeme* para que liberen el calor, el *tonalli* que tienen atrapado. A cambio de la libertad, el *tlamatqui* ofrece los mismos elementos que en *Tlauatzaloyan*. La razón de que el *tlamatqui* deje ofrendas en dos sitios sagrados se debe a que la persona que le fue a pedir ayuda se encontraba muy enferma porque su *tonalli*, su esencia se encontraba dividida.

Al terminar los rituales el *tlamatqui* se despide y se dirige a su casa. Él sabe bien que *Maceuatenancatzintli* y los *tonalconeme* quedaron satisfechos por los

ofrecimientos y los rezos que se les dejó. La gente que fue a consultar al *tlamatqui* deja de tener los mismos sueños, ahora descansan y sus preocupaciones se van porque saben que él habló con los dioses, con los ancestros.

Conclusiones

La riqueza ritual y simbólica estuvo bajo la mirada amenazadora de los invasores castellanos. Ellos buscaron erradicar a sangre y fuego la vida ritual. Buscaron por todos los medios posibles que las comunidades no regresaran a los lugares sagrados y de culto. Se perseguía y castigaba a quienes se les encontraba realizando “actos de hechicería” de “paganismo”. Se buscó infundir miedo y se estigmatizaron los lugares sagrados nombrándolos como “hechizados” “malignos” “embruados” etc. Tal estigmatización continúa hoy en día, se sigue nombrado a los sitios sagrados de la misma forma: “cueva embrujada”, “lugares del diablo”, “en donde vive el mal”, etc.

Pese a todo ello los pueblos mesoamericanos han mantenido el culto a los dioses protectores por más de cuatrocientos años. Los *tlamatque* han sido los custodios del conocimiento y son los encargados de dirigir los rituales y ofrendas a los dioses que viven alrededor; en la geografía que es considerada como sagrada.

Pero esta riqueza espiritual y ritual está hoy en día en serios peligros de desaparecer; porque los métodos que se usaron en tiempos coloniales para arrancar la visión del mundo mesoamericano hoy se ven reforzados con la presencia avasalladora de los medios de comunicación.

La televisión es uno de ellos; ésta ofrece un ideal de vida que no está basado en el aspecto comunitario, sino individual. Nos muestra y enseña a la población mexicana que ser moreno es sinónimo de pobreza, y que es sujeto de programas asistencialistas paternalistas del gobierno mexicano, los cuales son dirigidos a las poblaciones indígenas.

El estereotipo de persona de éxito que presenta la televisión se encuentra basada en un fenotipo que no concuerda con la mayoría de la población. Se

69. De acuerdo con la secuencia de palabras ésta literalmente quiere decir: niños calor. Entendiéndose que el calor es la parte vital de los seres humanos y en la cultura naua se entiende como el *tonalli*. Por eso se llama así *tonalconeme* porque cuando alguien muere su espíritu, esencia y calor irá a esa roca.

imponen imágenes falsas y discriminatorias para ridiculizar a las poblaciones mesoamericanas.

Pese a las preocupaciones internacionales propuestas en la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas y que México es un país firmante. Vemos que falta mucho por hacer para aplicar la Declaración.

En México se discrimina y excluye a los pueblos mesoamericanos. Los sitios sagrados cada día son destruidos, mancillados y son foco de intereses comerciales y de explotación.

¿Qué podemos hacer nosotros frente los poderes económicos globales que buscan únicamente la riqueza sobre el bienestar de las comunidades mesoamericanas?

La educación, la investigación y la correcta aplicación de las leyes puede salvarnos de un desastre global, que no afecta única y exclusivamente los Pueblos Indígenas, sino a todo el mundo.

Por otro lado, este trabajo se suma a las preocupaciones que a nivel internacional se tienen en cuanto a la salvaguarda de la vida comunitaria, espiritual y ritual de los pueblos indígenas del mundo. Ello contenido en la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas.

En el artículo 12.1 se expresa lo siguiente:

“[...] Los Pueblos Indígenas tienen derecho a manifestar, practicar, desarrollar y enseñar sus tradiciones, costumbres y ceremonias espirituales y religiosos; a mantener y proteger sus lugares religiosos y culturales y a acceder a ellos privadamente; a utilizar y controlar sus objetos de culto, y a obtener la repatriación de sus restos humanos.”⁷⁰

Artículo 13.

“1. Los pueblos indígenas tienen derecho a revitalizar, utilizar, fomentar y transmitir a las generaciones futuras sus historias, idiomas,

tradiciones orales, filosofías, sistemas de escritura y literaturas, y a atribuir nombres a sus comunidades, lugares y personas, así como a mantenerlos.”⁷¹

Artículo 25

“Los pueblos indígenas tienen derecho a mantener y fortalecer su propia relación espiritual con las tierras, territorios, aguas, mares costeros y otros recursos que tradicionalmente han poseído u ocupado y utilizado y a asumir las responsabilidades que a ese respecto les incumben para con las generaciones venideras.”⁷²

Si el patrimonio tangible e intangible de los pueblos indígenas del mundo, es una preocupación permanente de las Naciones Unidas ¿Por qué hoy en día vemos en el mundo mesoamericano una pérdida alarmante del patrimonio? ¿Es problema de la aplicación de la Declaración? O ¿Es un problema de educación entre las sociedades que componen el ahora territorio mexicano? ¿Estamos preparados para ser una sociedad intercultural?

Se ha entendido que la educación intercultural debe de ser para las sociedades mesoamericanas. Ellas desde hace cientos de años son interculturales y multilingües. Por lo tanto la educación intercultural debe de ser dirigida a la sociedad que desprecia y discrimina a los interculturales.

Cuando se eliminan los estereotipos discriminadores, cuando se deje de pensar que ser moreno es sinónimo de pobreza y de “fealdad”, cuando la sociedad “mayoritaria” mexicana deje de considerar que las comunidades mesoamericanas son “suyas”, ya que es muy recurrente escuchar frases paternalistas y protectoras como: “nuestros indígenas” “nuestros pueblos”. Cuando se deje de “ahorcar” e impedir el progreso de los pueblos mesoamericanos. Entonces estaremos en el camino de la verdadera relación intercultural y de respeto.

70. Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (2007:6-7).

71. *Ibíd.*: 7.

72. *Ibíd.*: 10.

10. La Tierra Desde La Visión del Mundo *Ayuuk*

Juan Carlos Reyes Gómez¹

Abstract

In this chapter we briefly describe the conception of the members of the *ayuuk* people about the earth and everything around it, from our own view of the world. From the outset, we must note that we are taking as a main reference those communities that have been less influenced from the outside and, therefore, have maintained to a great extent the cultural practices based on the religious thought of our ancestors. Among these communities we can count the high and middle areas, as opposed to several of the communities in the lower zone where the federal government expropriated 18,648 hectares of communal land in 1956 and 1958 to accommodate the construction of the Cerro de Oro and Miguel Alemán dams in the Papaloapan basin.

Beyond the relocation of the affected population, an extended portion of these lands was sold by the Papaloapan Commission to people from the states of Veracruz, Guerrero, Puebla, Michoacán, Guanajuato, Jalisco and other parts of the state of Oaxaca, whose money ended up in few hands, without benefiting the community. The people who arrived from outside established several “colonies” in the municipalities of San Juan Cotzocón and San Juan Mazatlán, in the low zone of the Mixe people. The newly arrived settlers, oblivious to *ayuuk* language and culture, not only stood apart from the cultural and behavioral patterns of the people, but often imposed other canons of thought and behavior on them. In what follows, I mention some of the deities, community institutions and other instances considered sacred by the original settlers.

Introducción

En el presente ensayo describimos brevemente la concepción que los miembros del pueblo *ayuuk* tenemos acerca de la tierra y todo lo que la rodea, desde nuestra propia visión del mundo. De entrada, debemos advertir que estamos tomando como referente principal a aquellas comunidades que han sido menos influenciadas desde el exterior y que, por lo tanto, han mantenido en gran medida las prácticas culturales basadas en el pensamiento religioso de nuestros antepasados.²

Entre estas comunidades podemos contar las de la zona alta y media, a diferencia de varias de las comunidades de la zona baja donde el gobierno federal expropió 18,648 hectáreas de terrenos comunales, en los años 1956 y 1958 para reubicar a las poblaciones indígenas mazatecas y chinantecas que serían afectadas con la construcción de las presas Cerro de Oro y Miguel Alemán, en la cuenca del Papaloapan.

Más allá de la reubicación de parte de la población afectada, buena extensión de estos terrenos fue vendida por la entonces Comisión del Papaloapan³ a personas de los estados de Veracruz, Guerrero,

1. La investigación que produjo el resultado que aquí se presenta forma parte del proyecto “Time in Intercultural Context”, dirigido por el Prof. Dr. Maarten E.R.G.N. Jansen (Facultad de Arqueología, Universidad de Leiden, Países Bajos), y ha recibido apoyo financiero del Séptimo Programa Marco de la Unión Europea (FP7 / 2007-2013) en virtud del acuerdo de subvención no. 295434.

2. El pueblo *ayuuk* es uno de los pueblos indígenas que se ubica en el estado de Oaxaca, al sureste de México. Lo componen 19 municipios, distribuidos en 280 comunidades que están dispersas en tres grandes zonas: la alta, la media y la baja. De acuerdo con el INEGI (2015), cuenta con poco más de 140 mil habitantes y abarca una extensión territorial de 6,000 k², aproximadamente. Para mayor información, remitimos al lector interesado a Nahmad (1965), Reyes (1995) o Torres (2004), éste último disponible en versión electrónica en:

<https://www.gob.mx/cms/uploads/attachment/file/11723/mixes.pdf>

3. La Comisión del Papaloapan (CODELPA) fue un organismo público que formó parte de la desaparecida Secretaría de Recursos Hidráulicos de México; se creó en 1946 y desapareció en 1984, teniendo como sede ciudad Alemán, Cosamaloapan, Veracruz.

Puebla, Michoacán, Guanajuato, Jalisco y de otras partes del estado de Oaxaca, cuyo dinero, producto de las ventas, quedó en pocas manos, sin que haya beneficiado a la comunidad. Las personas que llegaron de fuera establecieron varias “colonias” en los municipios de San Juan Cotzocón y San Juan Mazatlán, en la zona baja del pueblo mixe.⁴

Los pobladores recién llegados, al ser ajenos a la lengua y la cultura *ayuuk*, no sólo se mantuvieron al margen de los patrones culturales y conductuales de los miembros de este pueblo sino, muchas de las veces, impusieron otros cánones de pensamiento y conducta que han implicado otro tipo de procedimientos y comportamientos, ante la visión del mundo del pueblo *ayuuk*.

En lo que sigue, mencionamos algunas de las divinidades, instituciones comunitarias y otras instancias consideradas sagradas por los pobladores originales.

***Täy* y *Jëkëeny*, los Creadores, los Inventores, los Constructores**

Los *ayuuk* tenemos presente que la tierra, el cielo y todo lo que en ello existe fueron creados por los dioses *Täy* y *Jëkëeny*, a quienes se les identifica como los creadores, los inventores, los constructores. *Täy* quiere decir ingenio; es la capacidad de crear, proponer, construir; es también donde todo concluye, termina, se completa. *Jëkëeny*, por su parte, también es hacer, crear, dar forma; es donde todo empieza, inicia, principia; es el nombre que se da al punto donde se genera la espiral que forma nuestro cabello en la cabeza (*kojëkëeny*, el *jëkëeny* de la cabeza), y también del punto donde se empieza a tejer la palma cuando se hacen los tenates o los sombreros (Lipp, 1991: 63). Ellos son el Fin y el Principio de todas las cosas que en el mundo existen.

Es a estos dioses a quienes se dirigen, en primera instancia, los sacerdotes y sacerdotisas *ayuuk* en el momento de iniciar la celebración de los

cultos religiosos; a quienes invocan mediante los difrasismos⁵ *Na'apë-Kojpë* ‘los constructores-los formadores’ y *Na'apë-Xäjtspë* ‘los que dan form-los que dan cuerpo’.⁶

Jëkëeny es también el nombre del último signo del calendario sagrado y ritual *ayuuk*. Este signo está estrechamente asociado al agua y se considera que es una diosa, la diosa encargada de dar forma a nuestros cuerpos en el vientre de nuestra madre; en consecuencia, es a quien se celebra rituales y se da ofrendas para pedir a los hijos y para que éstos se desarrollen, nazcan y crezcan fuertes y sanos (Weitlaner y Weitlaner, 1963: 59). Por extensión, debemos entender también que es ella misma quien da forma y cuerpo, vigor y energía a todo lo que se forma en el mundo, entre ellos las plantas y los animales.⁷

En este sentido, debemos entender que todo lo que en el cielo y la tierra existimos nos debemos a ellos: las plantas, los animales, las personas; los cerros, las montañas, las laderas, los barrancos; el cielo, el sol, la luna, las estrellas; incluso, los mismos *Koonk* (los dioses) *Kontoy* y *Tajëew*, con sus distintas manifestaciones como el Trueno, el Rayo, la Lluvia, el Viento, el Agua, el Arco Iris, y el cielo y la tierra misma.

5. Difrasismo es el nombre que se ha dado a ciertos pares de palabras o frases que funcionan como una sola unidad tanto en términos sintácticos como semánticos, es decir, funcionan como si se tratara de una sola palabra o frase cuyo significado final poco o nada tiene que ver con el significado de cada una de las partes que los componen. Algunos ejemplos de ellos en lengua *ayuuk* son: *kë'ë-teky* (brazo-pierna) ‘extremidades’; *kä'äyën-uukën* (comida-bebida) ‘alimentos’; *yu'un-pujxn* (coa-machete) ‘utensilios de labranza’. Para la escritura de los difrasismos en esta lengua, proponemos el uso de un guion entre las partes que los componen, en señal de su inseparabilidad sintáctica y semántica. (Sobre este término puede verse Garibay, 2007 [1953]: 65-67 y también Montes de Oca, 2000 y Jansen y Pérez Jiménez, 2009: 15-16).

6. *Koj*, *na'a* y *xäjts* son tres raíces verbales; la primera significa ‘construir’, ‘sembrar’ o ‘tejer (en telar de cintura)’; la segunda quiere decir ‘dar forma con barro’, y, la última denota ‘dar forma a algo pastoso, como el barro o la masa, frotándolo entre las palmas de las manos’, en tanto que la forma *-pë* que tienen en posición final es un sufijo nominalizador llamado ‘agentivo’ que indica ‘el que, la que, los que o las que realizan la acción indicada en la raíz verbal que les antecede’. En este sentido, *na'apë* es el nombre común con el cual se nombra actualmente a los alfareros y alfareras.

7. En los estudios del calendario *ayuuk*, el signo *Jëkëeny*, ha sido traducido como ‘Juez’, ‘Dueño’, ‘Rey’, ‘Espíritu’, ‘Fuerza’ (Carrasco, Miller y Weitlaner, 1961, y Weitlaner y Weitlaner, 1963); incluso, Alfonso Caso lo habría acercado al *Ahau* maya (Caso, 1963: 66). Lipp (1991: 32) lo tradujo como ‘vida’ o ‘la carne y sangre de los seres humanos’ y, según Duinmeijer (1997) *Täy-Jëkëeny* son los ‘dueños’ de los *kuxëë* (los sacerdotes y sacerdotisas *ayuuk* quienes tienen la facultad de ver e interpretar el calendario sagrado), son quienes los aconsejan, enseñan e instruyen, a través de sus sueños.

4. Al respecto, véase Aguilar Domingo (1992: 241), Robles Hernández y Cardoso Jiménez (2007: 196-197), Recondo (2007: 110) y el artículo “La continuidad ancestral de Candayoc”, en: *Ojarasca* (Suplemento mensual del diario nacional *La Jornada*), núm. 142, febrero, 2009. Versión electrónica en: www.jornada.unam.mx/2009/02/16/oja142-candayoc.html [Consultado el 6 de octubre de 2015].

***Koonk Kontoy* y *Koonk Tajëëw*: los dioses Trueno y Rayo**

Koonk Kontoy ‘el Dios Kontoy’ y *Koonk Tajëëw* ‘la Diosa Tajëëw’ son dos dioses hermanos que nacieron de un huevo cada uno que, a decir de algunas personas, fueron puestos por la misma tierra (Miller, 1956: 108 y Hoogshagen, 1994: 383). Una de las narraciones sagradas al respecto dice que estos huevos fueron encontrados por una pareja de ancianos, marido y mujer, en el remanso que forma un arroyo que pasa en el interior de una cueva que, a su vez, está dentro de un cerro llamado *To’oxykyopk* ‘Cerro Mujer’ (Miller, 1956: 105-109; Vásquez Gutiérrez, 1982; Barabas y Bartolomé, 1984; Rojas, 2012: 177-180; Díaz Pérez, s/f).

El Dios *Kontoy* es una entidad divina de enormes dimensiones y poderes sobrehumanos. Tiene forma de hombre y garras en los pies. Él mismo es *Koonk Aanäaw*, el Dios Trueno. Y la Diosa *Tajëëw* es otra entidad divina, con fuerza descomunal. Tiene forma de culebra con cabeza de venado. Ella misma es *Koonk Wëtsuk* ‘la Diosa Rayo’ (Aguilar Domingo, 1992; Hoogshagen, 1966: 316).

Ellos, los dioses *Kontoy* y *Tajëëw* son también *Nëë-Tuu* ‘el Agua y la Lluvia’ y *Tuu-Poj* ‘la Lluvia y el Viento’. Además, *Kontoy* es *Tun’ääw-Kopk’ääw* ‘la cima de los cerros-la cúspide de las montañas’, en tanto que *Tajëëw* es *Paanëë-Paawok* ‘los bordes de los ríos-las profundidades de las cañadas’ y *Jut-Äänk* ‘las grutas-las cuevas’. *Kontoy* está directamente asociado al espacio aéreo mientras que *Tajëëw* está estrechamente ligada a la tierra, de hecho se dice que es la tierra misma y que es la que, con sus movimientos, causa los temblores (Miller, 1956: 205-206; González Villanueva, 2012: 25; Kuroda, 1993: 132-134).

La Tierra es una Instancia Sagrada y es nuestra Madre

La tierra es una entidad divina, por lo que se le considera altamente sagrada. Es pura, limpia, bondadosa, amorosa. Es nuestra madre: de ella venimos, ella nos sostiene, nos mantiene, nos alimenta, nos da su calor al mismo tiempo que nos

protege, y a ella habremos de volver al final de nuestros días en este mundo (Robles Hernández y Cardoso Jiménez, 2007: 51-55, y Bautista Santaella, 2013). Este espacio sagrado en el que existimos, donde están dadas las condiciones propicias para que todas las criaturas que en él coexistimos podamos vivir, está comprendido entre *nääxwiiny*, la cara de la tierra, y *tsajpwiiny*, la cara del cielo.

Tsajpooty (dentro del cielo, en el corazón del cielo) viven los dioses *Oytyuumpë* ‘los que hacen el bien’, también llamados *Yäjkiky’yäjpë-Yäknitsookpë* ‘los que dan la vida-los que dan la salvación’, los que hacen posible el bienestar, la tranquilidad: el equilibrio y la armonía. Y *Nääxooty* (dentro de la tierra, en el corazón de la tierra) viven los seres *Ko’oytyuumpë* ‘los que hacen el mal (literalmente, los que no hacen el bien)’, también conocidos como *Yäjk’ok-Yäktëkeepyë* ‘los que causan la muerte, los que propician la pérdida’, los causantes de las maldades, enfermedades y la muerte: los problemas, las desgracias, las preocupaciones (Ballesteros, 1992; Reyes Gómez, 2015).⁸

De acuerdo con lo anterior, debemos admitir que en la tierra existen criaturas capaces de hacer el bien, así como también las hay aquellas que son capaces de causar daños a otros. Los *ayuuk* creemos que las plantas y animales que por naturaleza hacen el bien, fueron creados por los dioses que hacen las buenas acciones y que las que están siempre empeñadas en hacer el mal fueron creados por los seres que son capaces de infundir o desear la maldad. En este sentido, las personas mismas somos constantemente influenciados o inducidos tanto por los unos como por los otros; de allí que, así como podemos hacer “el bien”, también podemos hacer “el mal”, independientemente de que haya quienes siempre están procurando beneficiar a los demás, así como también quienes siempre están dispuestos a afectar a otros.⁹

8. Los seres que hacen “el mal” están representados por *Mëjku’u*, quien ha sido identificado como ‘Señor del Inframundo’ por Lipp (1991: 33), con quien estamos de acuerdo; por su parte, la iglesia católica se ha empeñado en llamarlo Diablo, Demonio, Satanás, Luzbel o Lucifer, denominación que no compartimos.

9. En este punto, vale la pena citar una de las preguntas que incluyó Fray Agustín de Quintana en su Confesionario Mixe: “Has creído que el Demonio ha criado los animales bravos, como León, Culebra, y otros animales bravos, como dicen los idólatras? (De Quintana, 1733: 9)”.

Debemos Querer, Cuidar y Respetar la Tierra y Todo lo que en ella Existe

Este espacio sagrado es el hogar de todas las criaturas que en él coexistimos: ääy-ujts ‘las plantas’, *joon-jëyujk* ‘los animales’, *jä’äy* ‘las personas’; *tun-kopk* ‘las montañas y los cerros’, *tun’ëjx-kopk’ëjx* las laderas, *paanëë-paawok* ‘las barrancas’. Todos nosotros fuimos puestos aquí por nuestros dioses, por lo que somos, por decirlo de alguna manera, sus huéspedes. El espacio entre la tierra y el cielo es, entonces, nuestro hogar común, un hogar sagrado, divino, que debemos compartir con el debido cuidado y respeto.

Este mismo espacio es habitado también por varias fuerzas divinas, altamente sagradas, que también fueron puestas aquí por los dioses. En algunos casos, éstas son manifestaciones distintas de los mismos dioses. Entre ellos *Poj* ‘el Viento’, *Aanääw* ‘el Trueno’, *Wëtsuk* ‘el Rayo’, *Nëë* ‘el Agua’, *Tuu* ‘la Lluvia’, *I’intsy* ‘el Arco Iris’, *Xëëw* ‘el Sol’, *Po’o* ‘la Luna’, *Matsä’ä* ‘las Estrellas’, quienes conviven con todas las criaturas que aquí coexistimos para hacer posible nuestra existencia (González Villanueva, 2012: 25-28).¹⁰

Varias de estas fuerzas divinas, así como todos los animales, están estrechamente asociadas a los seres humanos con quienes comparten una misma vida y un mismo destino. Esta fuerza o animal compañero es conocido como nahual y es asignado a cada persona en cuanto nace, momento desde el cual sus vidas correrán en paralelo, de manera interdependiente, de modo que lo que le pase a uno le pasará al otro, y su pensamiento, sentimiento y esencia no se podrán separar sino hasta la muerte.

En este sentido, se recomienda respetar lo más posible las distintas manifestaciones naturales y los

animales porque pueden ser el nahual de alguien ya que, si les causamos daño, seguramente estaremos causando ese mismo daño a la persona a la que está íntimamente vinculada.

Debemos Convivir con Respeto

Los seres humanos fuimos puestos sobre la tierra por los dioses para cuidarla, quererla, respetarla, no para poseerla, explotarla, dañarla. Tampoco fuimos puestos aquí para someter o acabar con otras criaturas con las que la cohabitamos. Los hombres y las mujeres somos una criatura más del universo, no somos más ni somos menos que las plantas y los animales, por lo cual debemos convivir en absoluto respeto con ellas.

Cada vez que se dañan las plantas o se derriba un árbol o se mata un animal se debe pedir permiso y se debe pedir perdón tanto a las plantas, al árbol o al animal mismo como a los dioses a quienes pertenecen. Se dirá que tenemos que disponer de ellos por necesidad, para el bien de nuestras familias y que los aprovecharemos al máximo, es decir, no se desperdiciará nada; para ello, haremos una ofrenda a los dioses que los hacen posible.

La relación que se vino a establecer después con los animales de cría, carga, tiro o monta se ha entendido como una relación de ayuda mutua en la cual nosotros hemos dispuesto de ellos pero también nos hemos comprometido a cuidarlos y protegerlos. También para ellos se celebrarán rituales y se depositarán ofrendas a los dioses, a quienes se les pedirá que los bendiga para que estén fuertes y sanos y para que nada malo les pase. En el caso de los animales cuyos productos se aprovechan se pedirá que sigan produciendo suficientemente, que se reproduzcan en gran cantidad y que crezcan grandes y gordos de modo que no nos haga falta el alimento y contribuyan a nuestros ingresos económicos con la venta de sus productos o del animal mismo.¹¹

De hecho, cada vez que nace o se compra un nuevo animal se debe celebrar un ritual para agradecer a

10. En las narraciones orales y los discursos sagrados *ayuuik* es común escuchar decir que los dioses o seres divinos también son de género masculino y femenino (por ejemplo, se habla de un trueno, una montaña, un Dios *Jëkëeny*, un *Mëjku’u*, Señor del Inframundo, masculino y otro femenino); que algunos de ellos fueron personas como nosotros antes de hacerse dioses (como el sol y la luna, el viento, el trueno y el rayo), que algunos viven en pareja, como esposos (el Dios Trueno tiene esposa), y otros más como hermanos (el sol y la luna, *Kontoy* y *Tajëëw*, el Trueno y el Rayo) y otros más son de distintos colores (hay truenos, arco iris, estrellas fugaces blancos, morados, verdes y rojos). Ver también Miller (1956: 75-99, 105-109 y 112); Lipp (1991: 24-50); Rojas, 2012:170-172 y Reyes Gómez (2015:40).

11. En varias comunidades *ayuuik* se celebran rituales a los dioses para pedir por la bendición, cuidado y protección de los animales domésticos el día 13 de junio, fecha en que la iglesia católica celebra a San Antonio Abad.

los dioses por ello, al mismo tiempo que se les pide lo cuiden y protejan y para que este nuevo ser se acostumbre y se sienta a gusto con su nueva familia: los miembros de la casa a la que pertenecerá. De la misma manera, cuando se da la necesidad de matar a una res o a un puerco se pedirá permiso a los dioses y perdón al animal por lo que se le privará de la vida; asimismo, se suplicará a los dioses que su carne rinda suficientemente y no haga mal a nadie.¹²

Las Distintas Condiciones Climáticas las hacen Posible los Dioses

Los distintos fenómenos meteorológicos como *poj* ‘los vientos’, *ämpë* ‘el calor’, *pakypyë* ‘el frío’, *në-tuu* ‘las lluvias’, que hacen posible las diferentes condiciones climáticas, están resguardados y controlados por los dioses. Ellos los liberan en los tiempos que consideran propicios para que salgan a manifestarse sobre la tierra y, cuando lo consideran necesario, igual los recogen y los guardan para volver a liberarlos¹³ cuando así lo consideren pertinente. Ellos determinan el tiempo *pootn* ‘la temporada de lluvias’ y el tiempo *xëkopk* ‘la temporada de calor’.

Al respecto, Víctor de la Cruz, citando a Wilfrido Cruz, menciona una narración zapoteca que éste registró en la cual se dice que el Rayo tiene bajo su custodia cuatro enormes ollas de barro donde guarda encerrados, en una a las nubes, en otra al agua, en la tercera al granizo y en la cuarta al aire (De la Cruz, 2007: 380). De igual modo, Macuil Martínez (2007: 3-7), recogió entre los nahuas de Tlaxcala que la señora Matlalcueytl (el volcán La Malinche) guarda, en tres enormes ollas, los granizos, los truenos y los aires, a los cuales sólo deja salir en tiempos determinados. Asimismo, Noriega Orozco (2003:529) recogió en Veracruz la siguiente narración: “... son cuatro tlamatines hombres y cuatro tlamatines mujeres quienes viven en el encanto del Cofre [el cerro Cofre de Perote]; tienen cuatro

ollas: una llena de granizo, otra llena de relámpagos, otra con truenos y la otra con nubes. Las ollas son suavemente destapadas por los tlamatines que conocen la medida exacta para no ocasionar el diluvio”.¹⁴

La Necesidad de Celebrar Rituales

Siendo nuestro hábitat un gran espacio sagrado y siendo sagradas también todas las criaturas que en él cohabitamos es necesario celebrar rituales y dar ofrendas a los dioses en agradecimiento por el todo, por lo cual se da la vida, incluso, la muerte. De esta manera, se están celebrando rituales constantemente por diversos tipos de actividades o eventos, ya sean cívicos o religiosos, a través de los cuales se entra en comunión con los dioses, la tierra y las demás criaturas, desde nuestro nacimiento hasta nuestra muerte, misma que no se concibe como el fin absoluto de nuestra existencia sino como una transición a otra vida, en otro mundo (Reyes Gómez, 2006). Algunos de estos rituales se celebran a nivel comunitario y otros más a nivel familiar (ver Carrasco, 1966; Martínez Pérez, 1988; Kuroda, 1993 y González Villanueva, 2012).

Algo importante a destacar aquí es que en la celebración de cada ritual, aun cuando éstos están destinados a los dioses buenos y a las buenas obras, siempre es necesario depositar un elemento de la ofrenda para los espíritus malignos con el propósito de que se mantengan lejos de nosotros y no nos hagan daño alguno. De hecho, en Tamazulápam, Mixe, hay un sitio sagrado exclusivo donde se celebran rituales y se depositan ofrendas a *Mëjku’u* ‘el Señor del Inframundo’ a quien se le pide vida, salud, cosechas, dinero, bienestar (Martínez Pérez, 1988, y López García, 2005:118).

Los distintos rituales los determinan los sacerdotes y sacerdotisas *ayuuuk* con base en un calendario que se compone de dos cuentas separadas, una de 260 días y otra de 365 días, que corren paralelas, integrándose en una sola para complementarse la una con la otra, de manera recíproca que, juntas, dan lugar a ciclos de 52 años.¹⁵

12. En sí, podemos decir que los animales domésticos que, en el mejor de los casos son alrededor de diez, son tratados como parte de la familia. En este punto, debemos agregar que, hoy día, quienes tienen la posibilidad de comprar un carro igual deben celebrar un ritual para pedir a los dioses lo cuiden, lo protejan y lo salven de todo mal; asimismo, hablarán al carro para que sirva bien a sus dueños, para que los lleve y los traiga sin problema alguno y para que ponga lo mejor de su parte y pueda trabajar eficientemente.

13. En lengua *ayuuuk*, las acciones ‘ser liberados’ y ‘ser encerrados’ se expresan mediante los verbos *nii’aawäätsip* y *nii’aatujkp*, respectivamente.

14. La autora describe a los tlamatines como sabios y sabias de las cosas divinas, quienes manejan o controlan el viento, los rayos, los truenos y el arco iris, los lugares donde habitan son lugares de encanto.

15. Sobre el calendario mixe ver Villa Rojas (1956), Mann y Chadwick (1960), Carrasco, Miller y Weitlaner (1961), Weitlaner y Weitlaner (1963), Caso (1963), Ballesteros y Rodríguez (1974), Andrade (1986 y 1995), Lipp (1991), Duinmeijer (1996 y 1997), Pérez y Vásquez (2010), Rojas (2012 y 2013),

De acuerdo con la cuenta de 260 días, el principal ritual a la tierra se celebra el día *Majk Uj* ‘10 Tierra’. En esta fecha, muchas familias celebran rituales, depositan ofrendas y pronuncian discursos sagrados en sus campos de cultivo, potreros y solares, para agradecer tanto a los dioses como a la tierra misma todos los beneficios que nos brinda junto con nuestras plantas y nuestros animales y para pedirles que nos sigan proporcionando todo lo necesario para poder vivir. Otros días indicados para celebrar rituales a la tierra son *Jukpii* ‘Raíz’, *Tsa’any* ‘Culebra’, *Ně’ën* ‘Agua’, *Kapy* ‘Carrizo’ y *Jëkëëny* ‘Flor’.

Al viento se le celebran rituales los días *Xa’aw* ‘Viento’ que es un día para curar los espantos también. A la casa se le celebran rituales los días *Jow* ‘Palma’ y *Kaa* ‘Jaguar’. Es también en estos días cuando se debe iniciar su construcción o cuando se debe dar gracias por su culminación (antes de ser habitada).

Las fuentes de agua, pozos, manantiales, arroyos, ríos, lagos son celebrados los días *Ně’ën* ‘Agua’, *Kapy* ‘Carrizo’ y *Jëkëëny* ‘Flor’. Es en estos días cuando se hacen rituales y ofrendas en los lugares donde brota, fluye o corre el agua y se agradece a los dioses por su existencia. Al mismo tiempo se le pide nos siga proveyendo de esta fuente de vida para que nunca nos haga falta y, asimismo, pedirle perdón por los daños que ocasionamos cuando los ofendemos, ensuciamos o pescamos en ellos.

Los días *Jo’o* ‘Perro’, *Jamy* ‘Mono’, *Tëëts* ‘Diente’ son los días propicios para celebrar rituales, depositar ofrendas y hablar a las almas de los difuntos. Igualmente, son días para pedir éxito en la cacería. Incluso, estos mismos son utilizados por las personas que tienen la intención de causar daños a otros. Los días *Paa* (?) y *Ujx* ‘Temblor de Tierra’, por su parte, son días peligrosos en los cuales no se debe celebrar ningún ritual ni realizar ningún evento importante o iniciar empresas de las cuales se espera obtener grandes logros, beneficios y satisfacciones. Por ejemplo, casarse o asumir un cargo comunitario. Siguiendo con la cuenta de 365 días, debemos aclarar que la serie que componen los últimos cinco días de éstos es llamada *muutsk tsatsok* o *tsatsok’u’unk*

‘pequeño tsatsok’. Esta serie es el equivalente de los días *nemontemi* del calendario nahua. Estos días eran considerados *aamäy xyëëw* ‘días de guardar’ (literalmente días delicados), en los cuales había que permanecer en casa y no hacer absolutamente nada. En estos días no se debía trabajar, ni viajar, eran días de recogimiento y oración pues representaban el fin de un ciclo de 365 días y el inicio de otro. En la actualidad, los días que reciben esta denominación se han trasladado a los días de la Semana Santa de la iglesia católica.

Todo es Vivo, Nada es Inerte

La tierra, en su totalidad, es un gran espacio sagrado donde hay un flujo intenso y constante de energías. Todo es activo, nada es pasivo. Todo es vivo, nada es inerte. Todo lo que existimos entre la cara de la tierra y la cara del cielo somos seres vivientes. Las plantas, los animales, las personas; los cerros, las montañas, las laderas, las barrancas; los montículos, las cuevas, las grutas; aun, las piedras, los palos, las casas, el fuego, las almas de nuestros difuntos, tienen vida.

Todos vemos, oímos, comemos, bebemos, pensamos, sentimos. En este espacio sagrado no hay seres inertes, nada ni nadie carece de sentidos y sentimientos; de hecho, se dice que en tiempos antiguos todo hablaba como hablamos las personas. Al respecto, Miller registró lo siguiente, en Camotlán, Mixe: “... antes todo hablaba: el venado, el temazate, el jabalí, las piedras, los árboles, el agua: todo hablaba. Pero cuando Jesucristo nació, todo se volvió mudo” (Miller, 1956: 207).

Algo más, nada está por estar, todo tiene una función, una utilidad. Nada sobra, nada falta, todo está completo. Todo está hecho como debe ser y todo está ubicado donde debe estar. Nada está mal hecho ni puesto o depositado en un sitio por descuido o por error. Por eso debemos respetar lo más posible las cosas porque así fueron hechas por los dioses y si algo tenemos que dañar o modificar tenemos que pedir permiso y lograr el consentimiento de sus dueños: los dioses.¹⁶

16. En nuestras comunidades, hay varias narraciones en las cuales se habla de la protesta de la tierra y el enojo de los dioses por el daño que se ha causado a los cerros con la introducción de las carreteras, por ejemplo, cuando estos trabajos se han iniciado sin la celebración de los rituales y la presentación de

Estos seres divinos con los que coexistimos nos están vigilando todo el tiempo y tienen el poder de influir sobre cada uno de nosotros tanto para bien como para mal, según nuestro comportamiento ante las instancias sagradas (donde estamos incluidos todos los que aquí vivimos) y los mismos dioses.

Cuando los sacerdotes y sacerdotisas *ayuuk* hablan a este espacio sagrado se dirigen a él como:

<i>Wijts 'ijt-këëy'yijtpë</i>	La que nos sujeta y sostiene
<i>Keepyë-mu'xpë</i>	La que nos protege y da su calor ²⁹⁶
<i>Koono'kk-kootë'kxpë</i>	Los que nos alumbran, los que nos dan su luz. ²⁹⁷

En lengua *ayuuk*, la palabra común con la que se denomina a la tierra es *näax* y el término ritual con el que se le refiere es *näaxwiinyëtë* 'la faz, cara o rostro de la tierra'. Y, como ya decíamos, se le considera sagrada y blanca; así, los sacerdotes y sacerdotisas *ayuuk* la invocan llamándola *Koni'kyxy Pyoop Näaxwiinyëtë* 'Sagrada Blanca Faz de la Tierra' (Lipp, 1991: 31; Díaz Gómez, 2008: 35; Reyes Gómez, 2015: 37).

Los Cerros son como las Personas

Como ya decíamos, los cerros son vivos, así que también ven, oyen, sienten; comen, beben, disfrutan; celebran, conviven, se divierten. Otras veces se muestran indiferentes, entristecen o se enojan. Los cerros también viven en familia, algunos son hombres

y otros son mujeres; incluso, se dice que algunas veces se casan entre ellos y tienen descendencia.

De este modo, hay cerros padres, cerros madres y cerros o montañas que son los hijos e hijas de los primeros. De los cerros hijos, algunos serán los hermanos o hermanas mayores y otros serán los hermanos o hermanas menores. Éstos también analizan, discuten, toman acuerdos sobre alguna problemática en particular. Algunas veces, muestran acuerdos y establecen pactos o alianzas al respecto, otras veces tienen diferencias sobre la misma, lo cual los lleva a confrontaciones y distanciamiento entre ellos.

Al respecto, hay narraciones en las cuales los dioses *Kontoy* y *Tajëew* discuten, se disgustan y tienen serias confrontaciones. Por ejemplo, en una narración *Kontoy* hiere en la mano a su hermana, su hermana molesta se va de casa y se refugia en el mar desde donde obstruye el paso de las aguas que bajan de la sierra mixe con lo cual causa una gran inundación sobre el pueblo *ayuuk*. *Kontoy*, por salvar a su pueblo, nuevamente tiene que herir a su hermana para que deje pasar el agua. Finalmente, el agua fluye al mar y el pueblo es salvado (Avelino Fernández, 2008: 22-29; Aguilar Domingo, 1992: 173-174; Rojas, 2012:178-180; Díaz Pérez s/f).

En otra narración, cinco cerros *ayuuk* son hermanos, unos son hombres y otros mujeres; unos son mayores y otros menores. El mayor de ello es el Zempoaltepetl y la más pequeña es La Pequeña Zempoaltepetl, que está en Mixistlán. Un día se reunieron con el propósito de discutir y acordar el número de días de abstinencias que debían guardar los hombres y las mujeres después de celebrar rituales en el cerro. *Tsää'ämët*, 'El del lugar pedregoso' insistía que éstos debía guardar 20 días; el Zempoaltepetl, por su lado, proponía que debían ser 13 días. Cada uno daba sus razones y, entre todos, discutían acaloradamente. Los demás hermanos mostraban mayor acuerdo con el Zempoaltepetl.

Ante estos desacuerdos, *Tsää'ämët* de ninguna manera quiso ceder y mejor decidió irse de allí para establecerse en terrenos de San Miguel Albarradas (actualmente territorio zapoteco, rumbo a Mitla). Después, el Zempoaltepetl ocupó

ofrendas respectivas a la tierra y a los dioses para pedirles perdón, así como su permiso y consentimiento. Ante la ausencia de estos rituales y la natural inconformidad de los dueños de los lugares, es decir, los espíritus guardianes de esos sitios, ocurre una serie de desgracias (porque los dioses buenos también se enojan y nos castigan si infringimos las normas para la sana convivencia) y los trabajos sencillamente se han estancado y no prosperarán hasta que no se celebren los rituales y no se depositen las ofrendas sagradas en su honor. Otros lugares donde suelen suceder desgracias con frecuencia son conocidos como lugares "pesados", "delicados", "peligrosos" y están definitivamente asociados con los espíritus malignos, los cuales también exigen una ofrenda con cierta periodicidad a fin de nos permitan transitar sin mayor problema por esos lugares.

17. Los dos primeros difrasismos se refieren a La Tierra. El segundo elemento del segundo difrasismo, es un verbo nominalizado, un sustantivo que deriva de la raíz verbal *mu'x* la cual se aplica, en primera instancia, a la acción que realizan las aves para proteger y dar calor a sus huevos o a sus polluelos entre su pecho y sus alas.

18. Este último difrasismo con el cual se invoca 'a quienes alumbran'-a quienes dan luz', se refiere a los astros, tanto diurnos como nocturnos.

su lugar, porque antes el que vivía allí, donde está ahora el Zempoaltepetl, era *Tsää'ämēt*. Otra hermana, llamada *Matyääkēm Nēē'okpēt* (cuyo nombre, al parecer, quiere decir 'La que platica con el agua') también migró hacia Catemaco, Veracruz (territorio mixe-zoque), donde vive actualmente. El otro cerro que se menciona es *Kupoop'ämēt* 'El del lugar de las cabezas blancas', no se dice dónde está, sólo se dice que es músico y que se dedica a la danza y al canto (Díaz Gómez, 2008: 32-35).

La Tierra y el Hongo Sagrado

Näxwiinyētē, el nombre ritual de La Faz de la Tierra, es también el nombre secreto del hongo sagrado. Se dice que este nombre es secreto porque su pronunciación debe evitarse lo más posible. No se le puede decir abiertamente o en voz alta. Cuando hay necesidad de mencionarlo se le debe pronunciar en voz baja, en secreto. Así que para evitar hacer uso de este nombre, en su lugar se suele usar *aatēpē* 'el/la que adivina, quien dice la verdad' o *Tääk-Tsi'tsk* 'Madre-Senos'. Estos son nombres más comunes y más libres de usarse, sin que, por ello, dejen de ser nombres de mucho respeto y de gran reverencia.

Tääk-tsi'tsk también es el nombre con el cual se hace referencia a La Tierra o a la Sagrada Blanca Faz de la Tierra. Igualmente se usa este nombre para referirse tanto a La Tierra como a El Hongo Sagrado. Asimismo, el nombre ritual del hongo sagrado es *Tum Uj* 'Uno Tierra', como también fue registrado por Miller (1966) y por Lipp (1991: 31).¹⁹

Por otro lado, tanto el hongo sagrado más grande y más fuerte como una culebra llamada *Jatsyutsä'äny* (literalmente culebra-venado), que es la de mayor tamaño en nuestro territorio y que es identificada como La Tierra, son llamados *Koonk*, la palabra con la que nos remitimos a nuestros dioses.²⁰

19. *Uj* es el nombre del signo que ocupa la sexta posición en el calendario sagrado *ayuuk*.

20. De acuerdo con Don Gelasio Epitacio, de San Juan Mazatlán, el hongo sagrado se clasifica en tres clases, según su tamaño: los más pequeños se llaman *pitpa*, los medianos *atkaat* y los más grandes *koonk*. Es la misma especie, lo único que los hace diferente es su grado de desarrollo y, dependiendo de este mismo, es su poder o su fuerza. Los más pequeños se tienen que ingerir en

La Tierra y la Culebra Sagrada

En nuestro trabajo de investigación hemos podido corroborar que los sacerdotes y sacerdotisas *ayuuk* identifican directamente a la tierra con *Jatsyutsä'äny* 'la culebra-venado', la *mazacoatl* de los nahuas. Ella representa a la tierra, a la cual se le concibe echada. Su aliento forma el arco iris del cual se desprende el alimento que da vida a todo ser sobre la tierra; de esta forma, nos alimenta desde su boca. Ella cuida los campos de cultivo y los protege de los animales dañinos. Ella hace posible las grandes y abundantes cosechas y así nos provee de alimentos.²¹

A *Jatsyutsä'äny*, la Culebra Venado, se le hace ofrendas en las cuevas donde vive. Se le cuida, se le respeta. Cuando se le ve en los campos de cultivo no se le debe maltratar, mucho menos matar. Se le debe hablar, pues ella entiende el lenguaje humano. Se le debe arrear con una vara o se le debe amarrar un mecate o un bejuco en el cuello, como a cualquier animal doméstico, para ir a dejarla a un lugar apartado donde nadie pueda molestarla. Se dice que es muy mansa y obediente. Maltratarla o matarla es un grave error que puede acarrear desgracias sobre la persona que haya cometido la falta; incluso, sobre la comunidad entera.

Te'ekytsya'any 'la Culebra Petate' y *Wäjtsä'äny* 'la Culebra con Cuernos'

Hay otras dos culebras que bien pueden beneficiar o bien pueden afectar a las criaturas que habitamos la tierra. Una es *Te'ekytsya'any* y la otra es *Wäjtsä'äny*. La primera es la que cuida los manantiales y nos provee de agua en abundancia mientras que la segunda es la que provoca las tormentas, los rayos, los truenos, los fuertes vientos y las lluvias torrenciales: las trombas (Miller, 1956:205-206).

mayor número (de siete hasta diez parejas); del mediano, de cuatro a cinco unidades, y del más grande sólo de dos a tres unidades (los medianos y los grandes no se ingieren en parejas). El uso del hongo sagrado en el pueblo *ayuuk* se hace con fines de adivinación y curación. Sobre estas experiencias entre las comunidades *ayuuk* véase Miller (1966) y Hoogshagen (1994) y para otros contextos a Estrada (2010) y Wasson (1966 y 1983) y Wasson y Wasson (1957).

21. Del arco iris, también se dice que debemos tener mucho cuidado; no debemos acercarnos demasiado a él porque puede atraparnos enrollándonos para llevarnos con él (también registrado por Miller, 1956: 206).

La culebra petate vive en los manantiales; si bien, no está en todos ellos, sólo está en algunos. Mayormente está en los manantiales o remansos que están algo apartados, escondidos, solitarios, semiobscuros. Estos lugares se caracterizan porque siempre tienen suficiente agua, allí el agua nunca escasea mucho menos se seca. A estos manantiales no deben ir las jovencitas solas porque pueden ser atrapadas por esta culebra. Para atraer a las jovencitas, ésta se extiende como un petate dentro del agua desde donde produce destellos de luces multicolores.

Este brillo atrae poderosamente la atención de las muchachas quienes al tratar de tocar el hermoso petate son inmediatamente enrolladas por éste y sumergidas dentro del agua. La culebra se las llevará dentro del cerro de donde mana el agua, allí vivirá con ellas. Al cabo de unos meses, tendrán hijos, y sus hijos serán pequeñas culebras; en consecuencia, estos hijos serán considerados hijos del Rayo porque la culebra y el Rayo son lo mismo.

La culebra petate es una criatura que posee grandes riquezas, si los padres de la muchacha la reciben y tratan bien, ésta los proveerá de muchos bienes. Así, cada vez que los visite les llevará leña, maíz, frijol, dinero; y, si se lo piden, sus guajolotes y sus pollos se lograrán y se reproducirán en gran medida y cada vez que siembren levantarán grandes cosechas, de modo que nunca les hará falta nada. Pero si los padres de la muchacha la maltratan y la golpean, la culebra se molestará y ella misma los despojará de todo lo que tengan para dejarlos en la más extrema pobreza.

Esta culebra es el viento, la lluvia, el trueno y el rayo, es por eso que, cada vez que va de visita a algún lugar, siempre viaja en medio de una gran tormenta, pero no debemos temerle porque mientras la tratemos bien ella siempre nos cuidará y nos ayudará (Miller, 1956: 110-111; Hoogshagen, 1966: 316; Aguilar Domingo, 1992: 171-172; Romero Méndez, 2009 y 2013: 15-17; Díaz Pérez, s/f). Por su parte, la culebra con cuernos es la que trae el agua, es la culebra de agua. Si se le respeta, traerá el agua de manera moderada; de lo contrario, puede o no traer el agua o traerla en exceso, es decir, de manera violenta y destructiva causando desgracias como derrumbes, inundaciones, estragos en los cultivos o muertes.

En Alotepec, hay personas que afirman que la culebra del agua sigue viviendo en la cima de *Naapkopk* ‘el cerro de las guacamayas’ que está en esta comunidad, donde se pide el agua y la lluvia entre fines de abril y principios de mayo. Otras dicen que, debido a las irreverencias de la gente, esta culebra voló y se fue al mar, hacia el Istmo de Tehuantepec, donde vive actualmente.

Los Animales Silvestres tienen Dueño

Aun cuando pareciera que los animales silvestres no pertenecen a nadie, y que van y vienen sin control por donde les place, ellos tienen dueño. En algunas comunidades se dice que el dueño de todos ellos es justamente la culebra (el Rayo), a quien señalan como dueña de la montaña. En otras comunidades se dice que este dueño es *Koonk Aanäw* ‘El Dios Trueno’, quien es *Kontoy* mismo, el Dios Padre de los *ayuuk*.

Es *Koonk Aanäw* quien lleva y trae a estos animales por los montes. Él los cuida, los pastorea, los baña y los cura cuando se lastiman o cuando algún cazador irrespetuoso los hiere. El Dios Trueno guarda a todos estos animales en un gran corral de piedra. Él los cría, los saca a pastorear todos los días. Él los cuida con la ayuda de su perro guía: el jaguar.²²

Los Rituales de Cacería

Es a *Koonk Aanäw*, el Dios Trueno, a quien se celebran rituales de petición los cazadores en los sitios sagrados destinados exclusivamente para ello, en los meses de julio y agosto, que es cuando más se manifiesta este Dios con los torrenciales aguaceros.²³

Un cazador que no pide permiso ni celebra rituales ni entrega presentes al Dios *Aanäw* seguramente será llamado a cuentas y castigado por él. Se le aparecerá él mismo un día o enviará al Rayo y al Trueno por él para que éstos lo conduzcan ante su presencia, en su templo. Allí le llamará la atención por dañar y

22. El conocimiento de que *Poj-Aanäw* ‘Viento-Trueno’, es el dueño absoluto de todos los animales y que los tiene guardados en un corral, así como también de la necesidad de celebrar rituales a este Dios (el Dios Trueno) para tener éxito en la cacería, también lo menciona Lipp (1991: 30 y 32). Aún más, los animales más rápidos, más silenciosos, menos domesticables, como el jaguar y el puma o el venado y el temazate, son llamados *Poj jëyujk* ‘animales viento’.

23. Este es también el tiempo en que los sacerdotes y sacerdotisas salen a su encuentro con los hongos sagrados.

tomar a sus hijos sin su consentimiento y lo pondrá a trabajar para que así, con su trabajo, el infractor tenga la oportunidad de resarcir sus faltas.

El trabajo que impone el Dios Trueno a los cazadores irreverentes es justamente ponerlos a pastorear, asear y curar a los diferentes animales que componen sus rebaños (venados, temazates, tejones, jabalíes, ceretes, tepezcuintles, etc.). Su misión será cuidar a estos animales el tiempo que dure su castigo, alejándolos de cualquier peligro.

Mientras tanto, en el pueblo se creará que el cazador está perdido en la montaña pero, aunque se le busque, no se le hallará. Después del tiempo de trabajo justo, según sus faltas, el Dios Trueno liberará al infractor y éste regresará a su casa con el aprendizaje de que los animales silvestres tienen dueño, están bajo el cuidado del Dios Trueno y para cazarlos hay que pedirselos a él, mediante la celebración de un ritual, en los sitios sagrados que representan su templo.

Cuando estos animales son pedidos al *Koonk Aanäw* como es debido, él mismo mandará a uno de ellos ante el cazador o él mismo llevará al cazador a su enorme corral de piedras donde tiene encerrados a sus rebaños, allí elegirá al más grande, al más gordo de los animales que quiera darle, para obsequiárselo. Ante este acto misericordioso, el cazador debe tratar a la presa con mucho respeto, esto es, no maltratar, aborrecer o desperdiciar las distintas partes de su cuerpo, mucho menos lucrar con ella. Asimismo, debe compartir un poco de ello en una comida ritual con sus vecinos para que éstos sean testigos del respeto que el cazador y su familia tuvieron hacia el animal cazado. Parte de esta comida ritual debe ser ofrendada al Dios Trueno, en un sitio sagrado, en agradecimiento al obsequio que ha hecho a la familia y para que siga obsequiando más de sus animales a esta familia en el futuro.

Para la pesca, se debe celebrar rituales a la Diosa *Jëkëëny*, la dueña y cuidadora de las fuentes donde nace y fluye el agua y los animales que allí viven; de lo contrario, los pescadores sufrirán accidentes en el transcurso de sus labores ya sea con sus propias herramientas de trabajo o por el ataque de animales peligrosos, sobre todo culebras ponzoñosas o,

sencillamente, el agua o el lugar puede atrapar sus almas con lo cual enfermarán (Lipp, 1991: 32).

La Relación con la Tierra

La relación que los *ayuuk* establecemos con la tierra es la relación que se establece entre los hijos y una madre y a la inversa. Nosotros no poseemos la tierra, porque no se le puede poseer. Es ilógico querer adueñarse de ella y asumimos como sus propietarios. La tierra no es nuestra, nosotros somos parte de ella, como ya lo dijo en su carta un representante de uno de los Pueblos Originarios de Norteamérica al Presidente de los Estados Unidos cuando éste le propuso comprarles sus tierras. La tierra y todo lo que hay en ella no se puede comprar, no se puede vender, porque simplemente no tiene precio.

Es un error querer enriquecerse con ella o con los recursos que en ella se encuentran. De allí que en nuestras comunidades sólo se toma lo necesario de ella y se le procura dañar o ensuciar lo menos posible porque los trabajos que en ella se realizan tienen más un sentido ritual-religioso, como lo es el caso del cultivo de la milpa, la crianza de las aves de corral y las actividades de recolección, lo cual se logra a través de un acto de benevolencia y misericordia de los dioses. Es por eso que la gran mayoría de las familias *ayuuk*, sobre todo de las comunidades más apartadas de los grandes centros urbanos siguen sembrando la milpa como un acto ritual, con base en una “tecnología rudimentaria” y “para el autoconsumo”, porque persiste en ellas la sabia enseñanza de nuestros ancestros.²⁴

Cuando una familia vende su solar o su casa a otra, lo cual sucede rara vez, no está vendiendo el terreno; en realidad, sólo está cobrando por la fuerza de trabajo invertida allí para el arreglo, cuidado y mantenimiento del lugar. El dinero que cobra por el traspaso de una vivienda es el costo de la mano de obra y de los materiales utilizados en la construcción. De este

24. Prácticamente, el único producto agrícola que se produce en excedente en la zona media y baja del pueblo *ayuuk* es el café, el cual se introdujo a la zona en los años cuarenta, convirtiéndose así, debemos reconocer, en una de las más importantes fuentes de ingresos económicos de las familias.

modo, la familia que cede un terreno no cobrará por el terreno como tal pues éste no se puede vender.

Nuestra relación con la tierra y la toda la naturaleza que la rodea debe seguir siendo igual a la que guarda hacia ella cualquier criatura que la habita. Los seres humanos no somos más ni somos menos en comparación con otras criaturas con las que cohabitamos la tierra; en consecuencia, nos debemos absoluto respeto y lo que necesitemos de ella, lo debemos pedir y lo debemos agradecer a los dioses.

Los Rituales Agrícolas

Los productos que se obtienen de la tierra no son sólo fruto de nuestro trabajo, se logran gracias al consentimiento y la benevolencia de los dioses. Para ello, tenemos que pedir, por un lado, permiso y perdón a la tierra y, por otro, la bendición y la ayuda de los dioses, tanto para que podamos realizar nuestros trabajos sin problema alguno como para que la dedicación y el esfuerzo de toda la familia se vean compensados con grandes y abundantes cosechas.

Para ello, se tiene que celebrar una serie de rituales tanto a la tierra como a los dioses que hacen el favor de proveernos de lo necesario para poder vivir; entre ellos, los alimentos que son, por ese sólo hecho, ya altamente sagrados y, por lo mismo, deben ser tratados con absoluto respeto y sin egoísmo alguno hacia quienes más necesitan de ellos.

En el cultivo de la milpa se celebran, básicamente, cuatro rituales en igual número de eventos para la obtención de este alimento: a) *yuuk* ‘la roza’ o limpieza y preparación del terreno, en la cual se pide perdón a la tierra por todos los daños que se le ocasionan, al igual que a las plantas y animales que allí viven y para solicitar la protección y la ayuda de los dioses para que nada malo nos pueda pasar, al igual que a nuestros animales y nuestros aperos de labranza durante las jornadas de trabajo que allí desarrollaremos; b) *niipk* ‘la siembra’, para que las plantas broten bien y no sean dañadas por los animales, así como también que el clima y las condiciones meteorológicas sean los propicios para su buen desarrollo y crecimiento; c) *pëjkëtääkk* ‘florecimiento total’, cuando la milpa ya ha espigado totalmente y los jilotes se han formado,

para agradecer a los dioses porque el sol, el viento y las lluvias han sido las necesarias para ello, y d) *tsijkk* ‘la cosecha’, para agradecer a los dioses y a la tierra por los frutos que nos brindan para nuestra subsistencia en este mundo.²⁵

Celebrar los rituales es honrar y dar gracias a los dioses y demás seres divinos por hacer posible la vida, es reconocer que todos los seres que coexistimos en este mundo nos debemos a ellos, es asegurar nuestra existencia. De hecho, se dice que celebrar rituales por los cultivos es “cercarlos”, es asegurarlos. *Koonk Aanääw*, el Dios Trueno, sabe quiénes han “cercado” sus cultivos de modo que ordena a sus animales no acercarse a ellos. Sabe también quiénes no han asegurado sus cultivos; en estos casos, permite a sus animales ingresar a ellos para alimentarse de sus plantas y sus frutos o, igual, puede venir en forma de viento y derribar las plantas o inundar las milpas con agua en exceso o sencillamente no presentarse allí y secar las plantas con la ausencia de las lluvias.

La Tierra y Todo lo que en ella hay es de Todos

En la gran mayoría de las comunidades *ayuuk*, los terrenos son comunales. La tierra y todo lo que en ella se encuentra es de todos, nada es de nadie en particular. Las personas hacen uso de los terrenos para cultivarlos pero se entiende que sólo lo tienen en préstamo por algún tiempo (ocho meses en promedio). De hecho, los terrenos donde se ha hecho la milpa son abandonados al término de la cosecha para que, después de algunos años, otras familias puedan hacer uso de ellos. Estas familias, a su vez, lo dejarán libre después de recoger los frutos de su trabajo para que más adelante vengan otras familias a utilizarlos y así, sucesivamente.

Hay terrenos que son ocupados por más años, quizá por tiempo indefinido, como aquellos en los que se siembran las plantas que requieren más tiempo para su crecimiento y desarrollo, como los árboles frutales, el café, la caña de azúcar, entre otros. Otra de las actividades más

25. Una descripción similar de los rituales agrícolas celebrados en Tamazulápam, Mixe, se puede ver en Martínez Pérez (1988:36-37).

recientes que requieren hacer uso de un terreno por más tiempo es la ganadería, con la siembra de pastura y el establecimiento de potreros. Pero estos terrenos igual están en préstamo, de modo que cuando la comunidad requiera alguno de ellos (mediante acuerdo de asamblea) para darle un uso de beneficio común, la familia que lo cuida lo tendrá que entregar a las autoridades en turno, pudiendo elegir libremente otro terreno para seguir desarrollando sus actividades agrícolas o pecuarias.

Estos últimos casos no han sido fáciles, ha habido ocasiones en que estas situaciones se han vuelto conflictivas en las comunidades *ayuuk* pues ha habido familias que no han querido renunciar a las tierras que han trabajado por años. En estos casos, la asamblea comunitaria debe determinar qué hacer, por ejemplo, pagar una indemnización económica a estas familias, la cual no representa el precio del terreno, porque este no tiene precio, sino por las actividades que allí han realizado las familias y por sus bienes que se verán afectados.

Otro tipo de terreno que una familia puede tener bajo su resguardo por tiempo indefinido es aquél donde ésta ha construido su vivienda. Este terreno está bajo el cuidado de la familia respectiva y podrá hacer uso de ella por tiempo indefinido ya que éste se traspasa de familia en familia, generación tras generación, de padres a hijos y seguirá bajo el resguardo de la familia mientras ésta preste los servicios obligatorios y gratuitos a la comunidad.

La Necesidad de Prestar los Servicios Comunitarios

Todos los miembros de una comunidad estamos obligados a prestar los servicios comunitarios. Estos cargos, sean civiles o religiosos, se prestan por espacio de un año, excepto el ser parte del Comisariado de Bienes Comunales que tiene una duración de tres años y que es de reciente introducción en nuestras comunidades. Después de este tiempo, se descansará por dos o tres años antes de volver a ser nombrado para otro cargo. Más aún, los cargos son concebidos como una obligación más que como un derecho.

Las personas que desempeñan los servicios comunitarios, incluidas últimamente las mujeres, son nombradas en Asamblea General y se hace mediante un sistema escalafonario. Es decir, todo servidor público tiene que empezar desempeñando el cargo de más bajo rango hasta llegar a desempeñar, a través del tiempo y, por tanto, de acuerdo con la edad, el de más alto rango y mayor competencia, el último en la escala (véase Valdivia, 2002 y Kraemer Bayer, 2003).²⁶

Este sistema de cargos jerarquizado está investido de un alto componente espiritual de modo que, en algunas comunidades, se le sigue equiparando hoy día con la estructura jerárquica que ocupan los dioses o seres divinos *ayuuk* (Lipp, 1991: 27-28).

En este sentido, cada cargo o servicio que se presta a la comunidad da prestigio y reconocimiento social a quien lo desempeña u ofrece, junto con su familia (esposa o esposo e hijos) porque los cargos o servicios no se dan de manera individual sino en familia. De acuerdo con lo anterior, hasta hace poco no se podía asignar un cargo o pedir la prestación de un servicio comunitario a una persona soltera.

Los servicios que se prestan podrán ser civiles o religiosos, es decir, se podrán desempeñar desde la iglesia para apoyar la organización de la vida religiosa o desde el municipio para apoyar la función de distintas instancias oficiales, como las que se concentran en el palacio municipal o siendo miembro de algún comité que vigila, da mantenimiento y, en algunos casos, atiende las escuelas, la casa de salud, la red de agua potable, la colección de la basura, la tienda comunitaria o la biblioteca municipal.

Estos servicios a la comunidad son obligatorios, lo cual quiere decir que la prestación de éstos

26. Esta manera de nombrar a las autoridades municipales, a través de los sistemas normativos propios, se mantiene en la gran mayoría de los municipios del pueblo *ayuuk* a excepción del de San Juan Guichicovi el cual lo hace ya desde hace varios años mediante el sistema de partidos políticos. Otro municipio donde se ha impuesto recientemente el sistema de partidos es San Juan Cotzocón, y lo mismo se ha querido hacer en el de San Juan Mazatlán. Sobre este punto debemos aclarar que éstos son los tres municipios que conforman la zona baja del pueblo *ayuuk* y son, además, los más grandes, tanto en extensión territorial como en población, por lo que manejan recursos económicos muy por encima del monto que maneja el resto de los municipios *ayuuk*, siendo también los más ricos en recursos naturales.

es condición necesaria para poder vivir en la comunidad y tener derecho al uso y disfrute de los bienes y servicios que la comunidad nos ofrece, de lo contrario, no se podrá vivir allí. Además, por estos servicios no percibiremos ninguna remuneración económica mientras dure nuestro cargo.²⁷

Otros tipos de obligaciones que se tiene con la comunidad es aportar nuestra fuerza de trabajo a través de los tequios, que también son obligatorios y no remunerados. Así mismo, se deben hacer aportaciones económicas, según el monto que se determine en Asamblea General, para la realización de las fiestas de la comunidad. Otra obligación con la comunidad consiste en asistir a las asambleas comunitarias tanto para recibir información como para tomar parte en la toma de acuerdos. De lo contrario, estaremos obligados a pagar una sanción económica que se fija en Asamblea General o por los miembros de la Autoridad Municipal.

Ser topil de la iglesia, músico o danzante es de los primeros cargos, y de más bajo rango, que se tiene que prestar a la comunidad. Ser Alcalde o Miembro del Consejo de Ancianos son los últimos, y de más alto rango, que se tienen que desempeñar. Todos estos servicios están más relacionados con la vida religiosa de la comunidad. El cargo de músico dura diez años, en promedio. Pero durante este tiempo, quienes se desempeñan como tales, al igual que los miembros del Consejo de Ancianos, están exentos de prestar otros cargos o servicios como los tequios o dar cooperaciones económicas.

Conclusiones

De acuerdo con nuestra exposición, podemos concluir que la relación que se tiene con la tierra, hoy día, en la mayoría de las comunidades *ayuuk*, es una relación profundamente espiritual en la que sus miembros estamos convencidos de que todo se lo debemos a los dioses, incluso nuestra existencia misma.

27. En Alotepec, no fue sino hasta a partir de mediados de los noventa que se empezó a dar un apoyo económico, para pasajes y comida, a los miembros de la Autoridad Municipal que tienen que salir de la comunidad con fines de gestoría, en atención a sus responsabilidades. Este apoyo económico se sigue manteniendo hoy día pero, en sí, no se les paga ningún salario por los servicios que prestan a lo largo del año, al igual que en la gran mayoría de las comunidades *ayuuk*.

Desde esta concepción se ve al cielo, a la tierra y todo lo que en ello hay (incluidos los dioses y demás seres sagrados que la hacen posible) como un todo conjugado e integrado, esto es, se tiene una visión holística, total, integral de las cosas donde todo forma parte de un todo más grande.

Este *todo* es vivo y sagrado y como tal ve, oye, siente, piensa, al igual que cada uno de nosotros: los seres humanos. Todos somos criaturas creadas por los mismos dioses y, como tales, debemos vivir y convivir con respeto. Además, sabemos que nuestra conducta o comportamiento hacia lo demás determinará en gran medida el estilo o la calidad de vida que nos han de dar nuestros dioses: todo acierto tendrá un premio y todo error tendrá un castigo.

La tierra es nuestra madre y como tal la debemos querer, cuidar, respetar. No tenemos por qué dañarla, someterla, ensuciarla. La tierra no es ningún objeto de compra-venta ni ningún medio para enriquecerse. Todos somos sus huéspedes y fuimos puestos aquí por nuestros dioses a quienes nos debemos. En este sentido, debemos agradecer su hospitalidad a través del permiso y el agradecimiento, con rituales y ofrendas.

En este sentido, los *ayuuk* debemos procurar conservar la enseñanza de nuestros sabios antepasados porque es triste y preocupante observar hoy día cómo se ha ido imponiendo otra visión del mundo y otras maneras de proceder para intentar resolver las necesidades cotidianas y cómo es cada vez más difícil detener y revertir este proceso. No obstante, este es un reto que tenemos que enfrentar y sobre el cual debemos insistir.

A nuestro parecer, consideramos que los casos más graves de distorsión de la relación espiritual con la tierra se ha dado, fundamentalmente, en algunas de las comunidades de la zona baja, especialmente donde llegaron a habitar personas que llegaron de otros estados de la república, que son ajenas a nuestra visión del mundo, y que, como es natural, han dado otro trato a las tierras del pueblo *ayuuk* que ocupan actualmente.

En estas comunidades se ha dado una explotación agrícola y ganadera a gran escala; esto es, una

producción en excedente de la agricultura y la ganadería para su comercialización, gracias al tipo de clima (cálido) y la calidad de los terrenos (húmedos y planos). Asimismo, no hay más la celebración de rituales ni la presentación de ofrendas a la tierra y a los dioses. Y, debido a que compraron sus tierras, obvio es que, por un lado, la propiedad comunal de ellas ha desaparecido y, por otro, la tierra ha pasado a ser un objeto de compra-venta.

Pero las comunidades de las zonas media y alta tampoco han sido la excepción. En éstas también se han dado conflictos de límites de tierra, en algunos de los cuales las agresiones han sido de tal tipo que ha habido muertos, heridos, migraciones forzadas y, aún más, la destrucción de algunos sitios sagrados.

Como podemos ver, el problema no es fácil. Quizá la ruptura de la relación espiritual con la tierra no se debe exclusivamente a que los habitantes de las nuevas poblaciones no conocen nuestra cultura ya que ésta también se ha dado, si bien de manera más esporádica sí de modo más alarmante muchas veces, entre los miembros de las comunidades *ayuuk*, quienes, conociendo nuestra visión del mundo y estando conscientes de nuestra posición en la tierra, la hemos violado, confrontándonos con nuestros propios hermanos, optando por la vía de la violencia y la agresión en lugar de elegir el camino de la concordia y la paz.

11. Reflexiones Sobre el Territorio y la Construcción del “Bien Estar” entre los Ñuu Savi (Mixtecos) de la Montaña de Guerrero, Mexico

Edith Herrera Martínez

Abstract

This chapter lays the foundations for a reflection on the values of land and territories in the highlands of Guerrero, Mexico. The role of territory in constructing identity and everyday life is analyzed through the Ñuu savi, ‘Mixtec’, worldview. By means of indigenous narratives it is illustrated how nature and human beings are interrelated via spiritual links and moral values.

As an indigenous scholar, I expose the intimate relationship between the Ñuu Savi peoples, peoples of the rain, with the territory, rain and mountains and illustrate how people are linked to their territory by means of spirituality, in which land is defined as a living entity, with roots and a heart. For the Ñuu Savi the territory-earth, is the father-mother who provides plants, stems, roots and fruits that are both food and medicine at the same time. Plants have both life and are holy beings, which communicate sacred meanings to procure the well-being of the community. The spiritual connection between humans and the earth is established by rituals and daily activities such as sowing. According to Ñuu Savi philosophy, humans do not only sow and harvest what feeds the body but also what feeds the being. Thus, sowing is not a mere physical activity but also represents a spiritual exercise.

In addition, Ñuu Savi peoples have a divine connection with the rain, in the form of the Savi Tyee deity, who is venerated in ancestral sacred

places (e.g. springs, waterfalls, mountain peaks, mountains, lagoons, and so on) where particular rituals are performed. Offerings are placed for diverse deities such as the Thunder, the spirit of the Earth, the Mountain and the spirit of the ancestors, grandmothers-grandfathers. Paying respect to the deities is for requesting fertility and guaranteeing the community to follow the right life path. Consequently, Ñuu Savi peoples and the territory are concepts that cannot be separated from each other. Otherwise they will cease to exist.

Regretfully, Ñuu Savi territories are currently endangered by extractive transnationalism favored by Mexican policies and agencies which offer indigenous territories to transnational companies without free, prior and informed consent and disregarding ILO Convention 169. In response, Ñuu Savi people are defending their territories which are essential for their very existence as peoples.

Introducción

Con ese texto se quiere plantear las bases de una reflexión sobre la importancia de los territorios indígenas en la Montaña de Guerrero. Esta discusión gira en torno a el pueblo Ñuu Savi (pueblo de la lluvia), denominado “mixteco” por

la política oficial. Aquí se analiza la cosmovisión y el pensamiento *Ñuu Savi* para determinar el lugar que ocupan estos territorios dentro de la vida cotidiana y en la construcción de nuestra identidad como pueblos originarios.

El pueblo *Ñuu Savi* tiene una conexión divina con la lluvia, a ella se le venera como entidad sagrada “*saví tyee*” (lluvia grande). Nuestra visión del mundo implica respetar los lugares sagrados donde se pide la lluvia y se ofrenda para recuperar equilibrio, así como aquellos sitios donde habitaron los antepasados. Le ofrendamos a las deidades: el rayo, el espíritu de la tierra, la montaña, los espíritus de los abuelos. El vínculo de los pueblos de la lluvia con el territorio no es una situación meramente física: es decir que el territorio tiene vida, raíz, corazón.

En la actualidad, estos territorios se encuentran amenazados por la política extractivista del gobierno mexicano y una legislación nacional que le abre el paso. Ante ello, los pueblos indígenas del país siguen defendiendo sus territorios: espacios vivos donde reproducimos cultura, historia, prácticas ancestrales, conocimientos tradicionales heredados por nuestros antepasados y que son necesarios para la continuidad del ciclo de la vida. Sin este territorio nuestro pueblo no podría seguir existiendo.

Saví kaku yo tan kuñu ’ún kuu ñuu yo. “De la lluvia nacimos y la montaña es nuestro pueblo”.

Yukú Kimi (“Cerro de la estrella”), el pueblo donde yo nací, es una comunidad originaria *Ñuu Savi* asentada en el municipio de Metlatónoc, dentro de la región Montaña del Estado de Guerrero en México. Aquí nos cuentan los tatas y las nanas que, cuando nace un niño ó niña en la familia, al mismo tiempo nace un *kití ñu ’ú xito ’ó na* (animal- sol- guardián) en algún lugar del mundo, entre los cerros y las montañas.

Estos entes, representados por animales, y que pueden ser águilas, tigrillos, pumas, ardillas, zorros, coyotes, mapaches, por mencionar solo algunos. Estos seres se encuentran conectados a nuestro mundo, y a ellos debemos la habilidad, la fuerza, la salud, y nuestro ciclo de vida. Esta creencia en la existencia de un

animal-sol-guardián que va acompañando a cada miembro de la comunidad forma parte de nuestra cosmovisión como pueblos *ñuu savi*.

Si nuestro animal-sol-guardián llega a enfermarse ó queda herido, nosotros también sufrimos ese padecimiento. Si esto llega a suceder, se debe buscar al *tata tu ’va* (al que sabe) para que realice el rezo, haga la ofrenda para que se recupere el equilibrio y permitir así que sane la persona.

Esta relación espiritual con la naturaleza forma parte de nuestra cosmovisión y de nuestras vidas. En ella plasmamos el equilibrio con el territorio y todo lo que en él existe. Desde el momento en que nacimos, somos relacionados con él por nuestro *kití ñu ’ú xito ’ó na*.

Los abuelos dicen que no podremos “estar bien” si no cumplimos con el respeto a las deidades; *tata vélo* (abuelo fuego), *saví tyee* (lluvia grande), por citar dos ejemplos. Ellas conllevan la fertilidad y el buen caminar del pueblo.

En ese sentido el territorio es esencial para la construcción de nuestra vida cotidiana, tanto como individuos y colectividades. En ese espacio que hicimos nuestro al pasar los siglos vamos creciendo, aprendiendo a nombrar y a acercarnos a las cosas que nos rodean desde nuestro idioma materno, en este caso el *Tu ’ún savi* “palabra de la lluvia”.

Se teje una relación no solo física, sino también con el espíritu, con las deidades y la comunidad. Los rezos y las ofrendas a deidades y espíritus forman parte de la vida cotidiana de un miembro de la comunidad, permite entrelazar las fuerzas del pasado, con el presente y prever el futuro, eso que se avecina.

Existe entonces, un respeto profundo y una relación particular con los lugares sagrados (que son los manantiales, las cascadas, las cimas, las montañas, las lagunas...). Esos espacios tienen un significado profundo, representan a nuestras deidades, a los guardianes que cuidan de nosotros y que aguardan al pueblo.

Los abuelos mayores nos heredaron la enseñanza de trabajar la tierra para buscar el alimento. Por eso cuando vamos a sembrar previamente se preparan

las semillas, las mazorcas, que tienen que llevarse al cerro para que sean bendecidas por la deidad de la lluvia. Esas son las que se sembrarán en abril y mayo, cuando llega la temporada de las lluvias.

El sembrar representa una conexión directa con la tierra madre y dadora de la vida, es decir un ser con alma, entrañas y corazón. Trabajar la tierra no solamente es un trabajo físico para nosotros, sino que constituye un ejercicio espiritual. Desde nuestro pensamiento, no solo se siembra y se cosecha lo que comemos, sino también lo que somos.

El trabajo de la tierra y del territorio, nos permite generar un lazo y vincularnos a un ser dador de vida y de alimento. Es lo que nos permite conectarnos, ligarnos a esta tierra madre y padre. Se trabaja la tierra no solamente para comer, sino para mantener la conexión con el territorio, con los seres que habitan y dan la vida.

El territorio nos da identidad, nos da referencia, nos permite ubicarnos en el mundo, así como nombramos el territorio desde nuestra visión y nuestro pensamiento Ñuu savi. Partimos de él para explicar nuestra existencia en el mundo y en esta tierra.

Del territorio utilizamos las plantas, tallos, raíces y frutos, que no solo consumimos sino también nos permiten curarnos. Esas plantas y raíces tienen vida y ser cada una, ellas respiran y nos comunican, nos ayudan a interpretar los sueños cuando las consume el tata tu'va (el que sabe). Encontramos en nuestro territorio flores esenciales para ofrendar a nuestras deidades, se localizan en cascadas y peñascos y desde pequeños nos enseñan que la existencia de cada una de ellas se conecta con una ritualidad específica. Es decir, que son seres que garantizan nuestro bien ser o bien estar.

En otras palabras, el territorio y el pueblo Ñuu Savi no se pueden separar: son uno mismo. Ambos se entienden desde la creación y el nacimiento de los Ñuu savi. Si desconectamos uno del otro ambos dejarían de existir.

El territorio es el ombligo del pueblo de la lluvia: aquí enterramos nuestro cordón umbilical al nacer. En ese espacio construimos el vivir en comunidad, también rezamos para mantener y recuperar el

equilibrio con las fuerzas vivientes como; la lluvia, el trueno, el fuego.

Protegemos ese territorio porque ahí habita nuestro animal-sol-guardián, aquel que nos cuida, nos dirige y nos da la fuerza para caminar en este mundo. El territorio es esencial para nuestro pueblo, porque somos uno mismo, nos explicamos ese hogar como el espacio no físico, sino también espiritual, ancestral, simbólico y hasta cosmogónico.

La construcción del “estar bien” desde el pensamiento Ñuu Savi de *Yukú kimi*.
Una visión diferente al desarrollo.

“*Nakooviyoñuuyo*” (Estar bien en el pueblo) implica, desde nuestro pensamiento ñuu savi, un “bien estar” no solo físico sino también espiritual y en equilibrio con los espíritus de los antepasados y nuestras deidades que habitan el territorio donde vivimos.

Para lograr ese “bien estar” primero se debe entender que no es un estado al que solo se llega, sino una *construcción constante*. Es decir que lo miramos como un proceso, claramente influenciado por el pasado, el presente y el futuro. El “*Na koo vii yo ñuu yo*” es una constante búsqueda que mantenemos como individuos y como colectividad. Es relación entre la persona, la comunidad y el territorio.

Ese “*Na koo vii yo*” implica mantener la armonía con los entes sagrados que pueblan y habitan el territorio, se basa en un respeto profundo por los lugares sagrados (manantiales, cascadas, montañas, lagunas, peñascos...). Esos espacios son importantes porque allí habitan nuestras deidades, es decir los guardianes que cuidan de nosotros y que guardan al pueblo.

Nuestra manera de concebir el “estar bien” no puede desprenderse de nuestro pensamiento, el cual se vincula a lo que podemos llamar un *lenguaje profundo* que nos enseñan los mayores desde que somos pequeños.

Nuestra Palabra de Respeto para los Seres que Habitan el Territorio.

Nos comunicamos con las deidades de la lluvia, del fuego, del trueno, para que la relación se equilibre, se

Table 11.1. Fragmento de un rezo tu'ún savi (1)

Rezo tu'ún savi

Vitin na ndee nto tixi da'á kua'ara tixi xa'á
ra

Vitin na ndee nto sutia kua'a ra

Na ndee nto Níma kua'ára

Tixi xa'ára satá kua'ara

tixi yu'úra tixi xiní kua'ara

Ka'nu kivi ka'nu

Yukunú xíxi yukunú kayu kuu nto

Yukunú távi kuu nto, yukunú xa'ni kuu nto,
yukunú xándia kuun to

Yukunú ta'vi kuunto yukunú xáni tutyi
yukunú kandikaa ve'e savi ka'un kuu nto
yukunú kandikaa ve'é savi sáka kuu nto
yukunú nuu ndikaa savi ndii savi sáka
yukunú ka'un kuu nto

yukunú távi tuchi kuu nto

yukunú ta'vi ikí kuu nto

Kakunto kakunto ve'é uxi uni kuunto ki

kakunto ve'e itia tuún itia nuú táxa

Ve' é yutí kua'á ve'e yutin kuxin,

iyo yuvanto iyo si'into ki kaku nto

Ki kakunto ñuu xiyo ki kaku nto ñuu vaá,

Mii kakunto tan nduxiin to nduxatu nto

ndusamando, dusaká nto

Tan vitin tanu tatyí na nia'a na tasi

Ndika viko ni'i na ndika vikó yakai

Ki'ín to ntitu'un da'á titun xa'á)

Ni xikoonto xa'ara nda'ara

Tan vitin tani tu'ún tani tatyí tia yaá tia tasi

Yu'ú kuu tia tatán Yu'u kuu tia xaku ndavi

Yu'u kuu tia ni'í ita Yu'ú kuu tia ku'ún kakín

ndiví Kukakin ita kakín yuku Kakin tiayu

Ndee nto yu'ú ra ndee nto nda'á kua'ara

Ndee nto xa'á kua'a ra

Vitin na ndee nto sutia kua'a ra

Níma kua'ára....

Traducción aproximada al castellano.

Ahora salgan de su mano derecha e izquierda, adentro de sus
pies,,

ahora salgan de arriba de su cabeza derecha e izquierda,
que salgan de su corazón derecha e izquierda, adentro de sus
pies, de su espalda derecha e izquierda que salgan adentro de
su boca adentro

de su cabeza izquierda derecha,

Grande el día, grande el tiempo,

son tabaco que se quema, que se hace ceniza, son tabaco que
duele, tabaco que mata,

son Tabaco que corta

son tabaco que duelen, son tabaco que mata

son Tabaco que está metido en la casa de la lluvia grande,

son tabaco que está metido en la casa de la lluvia maldad,

son tabaco que está metido en la casa de la lluvia donde hay

muerte, donde hay maldad, son tabaco que arde,

son tabaco que duelen las venas,

son tabaco que duelen los huesos,

Nacieron en la hora, nacieron en la casa eran 13 cuando

nacieron,

casa del rio grande, rio donde relampaguea, tenían

su padre y tenían su madre cuando nacieron,

en la casa de la arena roja, arena que ya no sirve, nacieron en

el norte o en el sur,

donde nacieron que se hicieron filosos, se hicieron venenosos,

se cambiaron, se volvieron maldosos,

Ahora que se corte su voz del malvado, del que se hace la

maldad,

yo llevo la abstinencia, yo traigo sobriedad, ustedes

que agarran el pulso de sus manos, de sus pies,

se instalaron en sus pies y manos,

Y ahora que se corte la voz del que hace mal, yo soy el

remedio,

yo soy el que ruega por él,

yo soy el que les ofrece la flor,

yo soy el que va a ofrendar los huevos,

voy a ofrendar la flor,

voy a ofrendar las hojas,

voy a ofrendar la paga,

Ahora salgan de su boca, salgan de su mano derecha e
izquierda,

Ahora salgan de sus pies derecha e izquierda ahora

salgan arriba de su cabeza derecha e izquierda,

que salgan de su corazón derecha e izquierda

Table 11.2. Fragmento de un rezo tu’ún savi (2)

Rezo en tu’ún savi

Vitin ndeendo nda’á ra ndee nto xa’á ra
 Vitin sañan do nda’á ra sañan do xa’á ra
 Vitin ndatuun nda’ándo
 Tan vitin ndatuun nda’á nima ni yu’vi
 Ñu siso ni yu’vi
 Míí ndo ni koyo tan ni ndayu kumi tutun
 Tan vitin ndatuun nda’á nto
 Tan vitin ndandee nto anima difuntos
 nima ni xixi na ni nikayu
 anima na yatá
 na ni koyo kumí tutún
 na ni koyo soko yukú ka’nu Ve’é saví ñuu,
 na ni koyo ve’é saví ndii, savi ñukaán
 na ni koyo soko yukú ka’nu, ndika yukú,

Vitin ndakuni tu’un nto xa’á yoko kua’á yoko kuxi ,
 yu’ú kuu ra kakín yuku ita ndo yu’u kuu tia taxi
 kumí yoso iin kumi yoso uxuni

Traducción aproximada al castellano.

Salgan de sus manos, salgan de sus pies,
 Suelten sus manos, suelten sus pies,
 que ahora se alumbre su mano,
 y ahora que se alumbre la mano del espíritu que se
 espantó,
 y ahora que alumbre la deidad ñu siso,
 Ustedes los que se cayeron, que gritaron en las cuatro
 esquinas,
 y ahora que se enciendan en sus manos,
 y ahora salgan las almas de difuntos,
 los que se quemaron, los que se hicieron
 polvo, animas de los antepasados,
 los que se cayeron en las cuatro esquinas,
 los que se cayeron en el cerro más grande, casa de la
 lluvia del pueblo,
 los que se cayeron en la casa de la lluvia de difuntos,
 los que tuvieron muerte repentina,
 los que se cayeron en el cerro grande, en medio del
 cerro,
 que ahora reconozcan sus
 palabras que arden, que pudren,
 yo soy el que va a ponerles las flores, yo soy el que
 les va a dar cuatro veces nueve, cuatro veces trece.

armonice, se recupere. Tal es el caso del “*tata tu’va*” (el que sabe) quien oficia como el transmisor de nuestro mensaje y que funge un papel fundamental para la sanación física y espiritual de las personas dentro la comunidad.

Para ello, cuando estamos enfermos del espíritu/alma, los mayores tienen que ir a ofrendar para pedir disculpas, agradecer o pedir la sanación a las deidades que pueblan nuestro territorio. Ahora para ilustrar lo anterior presento un fragmento de un rezo realizado en la comunidad para un señor principal, que se encontraba ya muy enfermo, agonizando y en peligro de muerte. El fragmento va de acuerdo con el lenguaje ritual que utilizan nuestros mayores y los *tata tu’va* (los que saben). El rezo fue realizado por un *tata tu’va* de la comunidad. Entre los elementos para realizar la limpia se encontraban; *tíma kuaan* (vela amarilla), *ita tindoo* (ramas del árbol), *ndixi* (aguardiente), *kólo* (un guajolote macho), todos estos elementos

para realizar la limpia y posteriormente presentar la ofrenda.

El “*Na koo vií yo ñuu yo*” también implica una relación de profundo respeto y agradecimiento con los espíritus de nuestros antepasados, quienes guían al pueblo, a quienes se les pide consejo. También son ellos los que nos protegen de las enfermedades o peligros.

Porque sabemos nuestra concepción de muerte es diferente a la visión occidental, para nuestro pensamiento ellos habitan con nosotros, viven en otro mundo paralelo al que nombramos “*ñuu na ndii*” (pueblo de los difuntos). Es decir, que al habitar cerca de nosotros, todavía forman parte de la comunidad.

En esta relación de respeto y de pedir que sean los espíritus de los difuntos quienes nos acompañen y nos ayuden en la vida cotidiana, es que también les

pedimos y les ofrendamos. Por ello, para curarnos también se invoca a las almas o espíritus de los antepasados.

Aquí presentamos un fragmento de un rezo que se realizó a una joven de la comunidad, quien se encontraba con malos sueños. Cuando habló con el *tu'va* (sabedor) se le advirtió mediante una lectura de la luz de una vela que su vida corría peligro. Inmediatamente la familia buscó al *tata tu'va* (señor que sabe) quien se dirigió a realizar el rezo como aquí se presentamos en el siguiente fragmento.

Otro elemento importante de la construcción del “*Na koo vii yo*” tiene que ver con el respeto hacia la comunidad. Es decir que se debe cumplir con los cargos comunitarios, con los mandatos del pueblo. Por más mínimos que sean, se deben hacer y con buena actitud, de lo contrario te puedes enfermar.

Lo vemos, la construcción del “*Na koo vii yo*” es un proceso que influye varios aspectos de nuestras vidas, desde la salud física y del espíritu, el respeto a los espíritus de los ancestros, el cumplimiento de los cargos en la comunidad y en general implica el respeto al territorio. No se puede pensar el “*Na koo vii yo*” si no respetamos la relación física y cosmogónica que tenemos con el territorio y por ende con todos los elementos, espíritus, seres que ahí habitan. Y donde nosotros y todos los demás pueblos, generamos y construimos la vida y comunidad.

El territorio constituye no solo un patrimonio material ó cultural porque si lo miramos así, lo reducimos y limitamos. Porque desde nuestra visión *ñuu savi*, el territorio no solo es una herencia estática. Es lo que nos da la identidad, es lo que nos garantiza el alimento, permite curarnos con las plantas, raíces medicinales que ahí encontramos. Mejor dicho, es algo dinámico: es lo que nos permite recrear la vida como pueblo y explicar nuestra existencia en el mundo.

Amenazas a los Territorios de los Pueblos y Estrategias de Defensa

Lamentablemente no es seguro que este patrimonio vivo, que concebimos como herencia de los abuelos y

abuelas, siga permaneciendo como tal. Actualmente las tierras y los territorios que han ocupado históricamente nuestros antepasados se encuentran amenazados por intereses de empresas y gobiernos pertenecientes a una élite que sin consideración son capaces de ofertar los territorios donde habitan pueblos originarios.

Los intereses empresariales miran con avaricia nuestros territorios, sin importarles que allí vivamos pueblos enteros, pasando por encima de derechos reconocidos a nivel internacional como el derecho a la consulta establecido por el Convenio 169 de la Organización Internacional del Trabajo (OIT). En pocas palabras se hacen negocios con nuestros territorios sin tomar en cuenta el pensamiento y la palabra de los cuidadores históricos de dicho territorio que somos los pueblos.

Bajo este panorama, es importante señalar que este tipo de amenaza latente está presente en nuestra región, donde hemos habitado, donde hemos convivido con esos territorios que conocen nuestro pasado y aguardan los más grandes tesoros del saber.

Tlachinollan, una organización de derechos humanos presente en la Montaña de Guerrero resume la situación de la manera siguiente:

“La Montaña, una de las 7 regiones geográficas del estado de Guerrero, está conformada por 19 municipios que cubre aproximadamente 692,000 hectáreas. [...] En los últimos años el territorio de los pueblos indígenas de la Montaña y Costa Chica de Guerrero ha despertado el interés del sector minero debido a los 42 yacimientos mineros que en ella se encuentran. El Gobierno Federal ha otorgado alrededor de 30 concesiones por 50 años para que diversas empresas realicen actividades de exploración y explotación minera, sin tomar en cuenta los derechos de los pueblos indígenas Nahua, Me'phaa y Na Savi. Los títulos entregados en la Montaña corresponden a cerca de 200,000 hectáreas, lo que equivale a cerca de un tercio del territorio total de la región. Actualmente se encuentran, todos, en la fase de exploración...”¹

1. XX Informe anual de actividades, Centro de Derechos Humanos de la Montaña Tlachinollan. “La Montaña de Guerrero Destellos de Justicia y Esperanza”

Por esa razón, hemos tenido que luchar y fortalecernos como hemos podido - seamos Ñuu savi, *Me'phaa'* o *Nahuas*. En los últimos años, la amenaza vino bajo la forma de las concesiones mineras otorgadas por el gobierno federal sin consulta a los pueblos. Cabe mencionar que la explotación de dichas concesiones afectará directamente nuestros territorios y los espacios donde recreamos la vida como pueblo. Efectivamente son proyectos de gran escala, a cielo abierto, cuyos daños ambientales y sociales ya están sufriendo muchos pueblos originarios en América latina y en el resto del mundo.

Esta amenaza continúa siendo un conflicto latente, lo vemos resurgir en cada momento. Y, conscientes de que los intereses económicos son grandes, no descartamos que se pretendan imponer mediante la violencia de estado, como se ha visto en otras regiones de Guerrero y del país.

El segundo momento de amenaza fue más perverso y anunciado directamente por el gobierno, cuando intentó imponer el decreto de área natural protegida en modalidad de “Reserva de la Biósfera” en la Montaña de Guerrero, donde habitamos los pueblos ñuu savi, *nauas* y *mephaa*. El despojo esa vez se encontraba disfrazado como “proyecto de conservación”, pero afortunadamente los pueblos nos enteramos y se logró parar hasta el momento mediante la organización comunitaria y la movilización.

Hemos sido testigos que en las supuestas “zonas ó áreas de conservación” prohíben corte y recolección de las plantas medicinales y curativas que utilizamos para sanarnos. Esa actividad que solemos realizar como pueblos no para beneficio económico sino cultural y de salud. Sin mencionar la tala de árboles que se prohíbe sin tomar en cuenta la necesidad que tenemos de sembrar y de cocinar.

Esa implementación de “Áreas naturales protegidas” parece fingir que nadie vive en los territorios que

pretende abarcar. A pesar de que nosotros hemos cuidado de esos territorios durante cientos de años.

Bajo su modalidad, los pueblos van perdiendo el control de su territorio, que pasa a manos del Estado mexicano, quien supuestamente se “encargará de garantizar su conservación”. En pocas palabras sigue siendo un despojo, aunque sea legalizado por el gobierno.³

Es importante señalar que también en este caso, el gobierno federal tampoco nos consultó como pueblos de la región, ni brindó ninguna información sobre el proyecto de reserva. Nuevamente se manifiesta una violación a los derechos de los pueblos para decidir sobre sus territorios, reconocidos a nivel internacional.

Ante estas amenazas permanentes que se viven en la Montaña, los indígenas nos hemos tenido que organizar en distintos niveles que va desde las asambleas comunales, el núcleo agrario y a nivel regional con los demás pueblos.

La conformación del Consejo Regional de Autoridades Agrarias para la Defensa del Territorio (CRAADT)⁴ muestra la organización colectiva de los pueblos de la Montaña para hacer frente a las amenazas de la minería y la reserva de la biósfera. Actualmente constituido por 17 núcleos agrarios, abarcando más de 170 comunidades ñuu savi, *me'phaa'* y mestizos pertenecientes a la región Montaña e incorporando a las autoridades de la Costa chica de Guerrero.

El proceso de la CRAADT es acompañado por organizaciones sociales y de derechos humanos con Tlachinollan. De las principales acciones realizadas por este consejo se encuentran las

anza” Tlapa de Comonfort, Guerrero, México, Julio de 2014. pp. 58-59.

2. Para más información sobre el tema véase “XIX Informe de Actividades. Digna Rebeldía: Guerrero, el epicentro de las luchas de resistencia. Centro de Derechos Humanos Tlachinollan, Tlapa de Comonfort Guerrero, Junio 2012 – Mayo 2013. pp 161-162.

3. La propiedad colectiva de la tierra es algo esencial para los pueblos originarios. La creación de las llamadas “Áreas naturales protegidas” amenazan este modo colectivo de concebir el territorio. La misma legislación permite que dentro de las “Áreas naturales protegidas” se contemple la creación de zonas de excepción, donde pueden darse proyectos mineros o hidroeléctricos como el caso de Wirikuta, San Luis Potosí México. Una privatización de las tierras de los pueblos indígenas conllevaría consecuencias desastrosas para su existencia.

4. El Consejo Regional de Autoridades Agrarias por la Defensa del Territorio (CRAADT) se crea durante un foro informativo realizado el 6 de octubre de 2012 en la comunidad de La Ciénega, mpio. de Malinaltepec, que contó con la asistencia de autoridades agrarias (comisariados), comisarios municipales, delegados, campesinos y estudiantes de la región.

asambleas comunitarias para blindar los estatutos comunales ante la amenaza de los megaproyectos mineros, proyectos de discurso conservacionista por mencionar algunos, así como el uso de instrumentos jurídicos que aún permite la Ley Agraria, para la defensa y protección del territorio.

Los Pueblos Desprotegidos en la Legislación Nacional y Limitados en la Legislación Internacional

Como lo mencionamos, el contexto actual de despojo territorial que vivimos los pueblos indígenas en México se encuentra condensada en la política extractivista que ha adoptado el gobierno mexicano y esa se sustenta en la legislación nacional que la hace posible en leyes vigentes.

La legislación mexicana contiene cierto reconocimiento de los derechos de los Pueblos Indígenas, dos de los cuales se encuentran en el artículo 20 de la constitución; la libre determinación y autonomía de los pueblos indígenas.

Aun así, éste reconocimiento es limitado y ello se debe a varias razones. Primero, porque se dice que serán reconocidos mientras no atenten contra el carácter indivisible y único de la “nación” mexicana. Luego, porque en varias ocasiones ese reconocimiento se acota a términos culturalistas reduciendo los pueblos y sus derechos a mantener el folclor. Finalmente se reconoce su derecho a decidir del porvenir de sus territorios, siempre y cuando no va en contra de las áreas estratégicas definidas por la Constitución mexicana (áreas entre las cuales se encuentra la minería, por ejemplo).⁵

Ante este panorama donde el marco legal que existe en el país es insuficiente para enfrentar las políticas del despojo, los pueblos buscan alternativas de defensa en la legislación internacional que de cierto modo permite a los pueblos respaldarse de los derechos fundamentales que el Estado Mexicano les deniega, entre ellos el de decidir sobre su propio territorio.

Uno de los puntos más importante referente al derecho a decidir del destino de sus territorios es el que trata de *la consulta con consentimiento previo, libre e informada* como de un derecho elemental de los pueblos. Este derecho a ser consultados constituye una herramienta jurídica fundamental y ha sido usado en la defensa de los pueblos indígenas ante los tribunales de sus países, haciendo uso del Convenio 169 de la Organización Internacional del Trabajo (OIT), donde se reconoce que “*los pueblos indígenas tienen el derecho a decidir ellos mismos, de manera libre, sus propias prioridades en el desarrollo de la región en donde habitan*”⁶. En su Artículo 15, Párrafo 2 podemos leer lo siguiente:

“En caso de que pertenezca al Estado la propiedad de los minerales o de los recursos del subsuelo, o tenga derechos sobre otros recursos existentes en las tierras, los gobiernos deberán establecer o mantener procedimientos con miras a consultar a los pueblos interesados, a fin de determinar si los intereses de esos pueblos serían perjudicados, y en qué medida, antes de emprender o autorizar cualquier programa de prospección o explotación de los recursos existentes en sus tierras.”

Existen importantes avances en cuanto al reconocimiento de los derechos de los pueblos indígenas a nivel internacional, eso es claro. Lamentablemente hace falta mucho camino para garantizar el ejercicio pleno de los derechos colectivos de los pueblos indígenas, ya que existen fuertes contradicciones con la legislación nacional y que se necesita de un gran esfuerzo para que esta última se vaya reformando.

Pero la legislación internacional también tiene sus límites en cuanto a su respaldo de las duras luchas de los Pueblos Indígenas. En efecto, faltan mecanismos adecuados para hacer efectiva la implementación de los tratados internacionales. El no cumplimiento cabal de los convenios firmados y ratificados por el estado mexicano, es evidente. Y desafortunadamente no hay ninguna instancia capaz de hacer valerlos y sancionar a los gobiernos cuando no los cumplen. El

5. El Apartado A, Sección VI del Artículo 2 de la Constitución mexicana reconoce a los pueblos indígena el derecho “al uso y disfrute preferente de los recursos naturales de los lugares que habitan y ocupan las comunidades, salvo aquellos que corresponden a las áreas estratégicas”.

6. López Bárcenas, Francisco, “La tierra no se vende: Las tierras y los territorios de los pueblos indígenas en México”, México, 2015, pp. 103.

derecho internacional, aunque es vinculante en teoría (como es el caso del Convenio 169), muchas veces no se implementa en la práctica.

Peor aún, en el 2014 tanto el Senado, como la Cámara de Diputados y la presidencia modificaron la ley reforzando la prioridad que tienen las dichas “áreas estratégicas”. Se aprobaron

“un paquete de reformas energéticas que incluyen la ley de hidrocarburos, de la industria eléctrica, de energía geotérmica y de la industria minera, que, al ser declaradas como actividades prioritarias, de interés público e interés social, se colocan como una nueva amenaza a los territorios de los pueblos indígenas y de los campesinos”.⁷

Este paquete de leyes aprobado en el 2014 solo va reforzando las profundas contradicciones entre el sistema jurídico nacional e internacional en materia de derechos de los Pueblos Indígenas.

Desarrollo: un Discurso Permanente para Legitimar los Despojos a Pueblos

La amenaza permanente que vivimos los pueblos originarios y sus territorios es parte de un proyecto (o podríamos decir de una filosofía) más amplia que antepone el capital y las inversiones a la sobrevivencia de las personas, lo que trae consigo el saqueo, despojo, invasión y explotación de los territorios. Ese proyecto o filosofía es el pensamiento neoliberal.

Su punta de lanza más utilizada es el famoso *discurso del desarrollo*. Con él, justifica sus imposiciones. Y los que se oponen son inmediatamente descalificados y se les considera ignorantes y bárbaros. Nada debería de oponerse en el camino del desarrollo, según ese. Es el discurso al que todos “deberían aspirar”, y que si no es por las buenas, se impone por las malas violentando los derechos de los pueblos indígenas.

Tenemos claro que como pueblos podemos decidir libremente lo que consideramos más importante para

la vida, desde nuestra lógica y pensamiento propio. No desde imposiciones que se basan en políticas de Estado que promueven un desarrollo que no nos beneficia en nada. Que sea un derecho implementado o no, eso no puede desviar nuestra atención: tenemos el derecho de decidir libremente y hay que hacerlo realidad.

Heredamos de nuestros antepasados una lucha que hemos llevado como pueblos de la Montaña. Hemos resistido durante siglos y sobrevivimos a las políticas de despojo y exterminio por parte del Estado mexicano. A pesar de las adversidades, aún tenemos el legado de los antepasados quienes han dejado huella en la historia. Gracias a ellos mantenemos nuestra cosmovisión como pueblos originarios, que desde sus saberes y conocimientos milenarios han preservado la continuidad en la vida colectiva y comunitaria.

Lo que cuestionamos es el tipo de “desarrollo” que se pretende imponer a los pueblos a costa de exterminar nuestro modo de vida, generando un epistemicidio de los saberes milenarios. Y las preguntas que nos queremos hacer son las siguientes: ¿Cuál es el desarrollo que necesitan realmente las poblaciones originarias? ¿No deben ser los pueblos quienes deciden sobre cómo quieren vivir?

El Discurso del Desarrollo vs. el Bien Estar y ser desde la Cosmovisión Ñuu Savi

Como ya hemos planteado, bajo el discurso del “desarrollo”, se esconden políticas del saqueo, privatización y despojo de nuestros territorios. Nos enfrentamos ante procesos de despojo del territorio, de los saberes y conocimientos. Un patrimonio que los pueblos indígenas hemos guardado por cientos y miles de años.

Los territorios que los abuelos y abuelas nos heredaron son producto de su trabajo, cuidado y hasta defensa de dichos espacios donde históricamente han habitado, siendo ellos los guardianes milenarios.

El problema es que no se reconoce este derecho ancestral y el papel que han desempeñado los propios pueblos para la protección y conservación de dichos territorios. Tampoco se respeta el modo de vivir de

7. La nueva servidumbre agraria y la resistencia indígena y campesina”, Luis Hernández, Navarro, De Ita Rubio, Ana, (Eds), Centro de Estudios para el Campo Mexicano, Ciudad de México, febrero 2016.

los pueblos y su relación histórica con sus territorios. Y, al contrario, ese modo de vivir y la relación que los pueblos hemos entretejido con los territorios deberían de considerarse como punto de partida de cualquier política de desarrollo.

Un desarrollo que no es capaz de hacerlo, no es un desarrollo para nosotros, sino para los inversores extranjeros en ciudades lejanas y otros continentes.

Desgraciadamente, la visión que se ha tenido desde las políticas de estado es de *integración* en un sentido de aculturación; un *asistencialismo* que nos toma como objetos de políticas y no como sujetos y que nos considera como niños menores de edad que necesitan todavía el “tutelaje”. Todas esas políticas conforman un racismo estructural. Nos imponen lógicas ajenas a nuestro pensamiento y cosmovisión Ñuu savi.

De tal manera, bajo el discurso del “desarrollo” se nos va imponiendo una *salud* diseñada desde la medicina moderna y que no reconoce ni retoma nuestros conocimientos tradicionales para curarnos. Tampoco toma en cuenta la visión de la salud que tenemos en los pueblos, que es un bien estar integral del espíritu- alma, la comunidad, el territorio y no solo un estado de bienestar físico.

Se nos impone una *educación castellanizadora*, que no respeta nuestra forma de comunicarnos en nuestro propio idioma *Tuún savi* (palabra de la lluvia). Los contenidos tampoco se relacionan con nuestras vidas o lo que aprendemos en el contexto comunitario. Se impone educación sin considerar el modo en cómo se aprende en nuestro pueblo desde escuchar a los mayores y el trabajo cotidiano.

Tampoco se respeta el territorio, se mira con ojos de avaricia, negocio e inversión. Bajo el discurso del desarrollo se mira a la Tierra Madre como recurso, no como dadora de la vida. Se inventan conceptos como sustentable o sostenible, como una excusa más para justificar el saqueo desmedido de los territorios: se ha hablado de minería sustentable o de minería verde cuando se refería a la minería de cielo abierto. Constatamos una *explotación del territorio* que no respeta nuestro sentido de respeto, de ofrendar para

recuperar el equilibrio y reciprocidad con los entes de la Tierra Madre, quienes son nuestros guardianes que nos cuidan. Se nos imponen modos de vivir bajo la excusa del “desarrollo”. Vivimos una serie de despojos que no solo son territoriales, sino que tienen también que ver con nuestra cultura, con nuestra salud o saberes, con nuestro idioma.

Lo que muchos siguen nombrando “desarrollo” nosotros no lo entendemos. Para nosotros lo que existe es el “*Na koo vii yo ñuu yo*” (Estar bien en el pueblo). No solo es una cuestión individual, sino que tiene que ver con un sentido profundo de lo comunitario como pueblo y estrechamente vinculado al territorio.

El desarrollo que se pretende imponer en nuestros territorios, debe considerar que para nosotros los pueblos, no solo son espacios físicos con recursos como los nombran. No es así, para nuestro pueblo el territorio es el espacio que primeramente tiene vida y ser. En ese lugar reproducimos la historia, las prácticas y conocimientos ancestrales que nos heredaron los mayores.

Para nosotros como Ñuu savi, el “estar bien”, como ya se mencionó anteriormente, se rige por principios comunitarios como el respeto y la palabra. Aunque también es determinada por la relación de alianza con los antepasados y las deidades que para nosotros representan los guardianes que guardan la comunidad.

No se puede ver el desarrollo si se matan los conocimientos, si se amenaza la vida de los seres que habitan el territorio, porque necesitamos del equilibrio con nuestro ser, la comunidad y los territorios para reproducir y dar continuidad al ciclo de la vida Ñuu savi.

Ya vivimos todo tipo de despojos durante los últimos siglos. Pero el despojo al que puede llevarnos el pensamiento neoliberal en su manera de inventar el mundo, podría ser mucho peor. Para nosotros, la entrada a un mundo globalizado siempre se hace por la puerta trasera y no contempla que existimos pueblos milenarios, que aún conservamos nuestra identidad como la Ñuu savi, nuestro idioma, nuestra manera de mirar al mundo.

De tal modo que en estos tiempos, en pleno siglo XXI, queda para nosotros seguir construyendo el proceso del *Na koo vii yo ñuu yo “que estemos bien en el pueblo”*. Y en medio de ese mundo que orgullosamente llaman “moderno”, sin darse cuenta que en 1000 años parecerá muy viejo. Los pueblos seguiremos resistiendo y en constante búsqueda en ese largo camino del “bien estar, bien ser en el pueblo”.

Porque con la sabiduría de los mayores y los saberes que nos heredaron nuestros antepasados basados en el respeto y la palabra, logramos encontrar nuestra raíz y ombligo en el territorio donde crecimos y habitamos. Actualmente debemos repensar y replantearnos cómo dar continuidad a esa construcción del ser Ñuu savi, es decir los hijos e hijas del pueblo de la lluvia.

12. El Paisaje Sagrado de Santo Tomás Ocotepec

Omar Aguilar Sánchez¹

Abstract

The aim of this chapter is to illustrate the ways in which the community of Santo Tomás Ocotepec has protected its sacred landscape since the XVI century until the present day. It does this by analyzing archaeological data, colonial maps, communal statutes, rituals, living and oral traditions and written literature in the Mixtec language.

The community of Ocotepec is part of the Ñuu Savi, Peoples of the Rain or Mixtec Peoples, one of the Indigenous Peoples of Southern Mexico. At present, the communities of the Ñuu Savi have strong spiritual, symbolic and ethic connections with the landscape, which is the residence of the Gods, and where they perform rituals and commemorate historical events. This spiritual relationship with the land, which stands in contrast to the dominant 'Western' perspective of land, has survived within Indigenous Peoples of Mesoamerica despite five centuries of colonization, exploitation and discrimination. In Ocotepec, this particular worldview was re-enacted through a mapping in the sixteenth century, and the community has recently developed a communal statute where their sacred places are recognized and protected.

This case study illustrates how a sacred landscape

has been protected through time and how it can be useful for other indigenous communities who are confronting the exploitation of land by transnational companies, which in turn only seek to exploit the land as an economic resource. An important step for enhancing the protection of indigenous lands is the explicit recognition of this particular worldview and spiritual relationship with land and territories, most notably in the *United Nations Declarations on the Rights of Indigenous Peoples (2007)* and *ILO Convention 169 on the Rights of Indigenous and Tribal Peoples (1989)*.

Introducción

A partir del siglo XVI los pueblos mesoamericanos han vivido los estragos de la colonización, primero por parte de la Corona española (colonialismo externo) y después por los estados-nación "independientes" (colonialismo interno) (Stavenhagen, 1989; Pérez Jiménez, 2015). No obstante, no han sido los únicos, ya que el colonialismo ha sido un proceso mundial que ha tenido lugar incluso en Europa², y el resultado de esta opresión económica, social, política y religiosa ha sido la imposición de una visión del mundo en detrimento de la diversidad cultural de la humanidad. Sin embargo, los pueblos colonizados no han sido pasivos sino que han creado los mecanismos para seguir reproduciendo su cosmovisión y luchado por que se les reconozca

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2. Véase el caso del Pueblo Sami.

sus derechos. Así, después de una gran negociación las Naciones Unidas adoptaron en 2007 la Declaración sobre los Derechos de los Pueblos Indígenas (UNDRIP, por sus siglas en inglés), a fin de contrarrestar las consecuencias del trauma colonial que además vienen a ser reforzada hoy día por las políticas económicas neoliberales. La UNDRIP, por tanto, es una herramienta legal para los Pueblos Indígenas en los países que la han ratificado y su debida implementación refuerza la lucha por seguir existiendo como Pueblos pero para ejercer esos derechos es necesario tener claro qué se debe proteger y, sobre todo, cómo. Esto no viene prescrito y, por consiguiente, este es el siguiente paso en la agenda.

En el contexto mexicano, el término *indio* e *indígena* denota discriminación y por ello muchos pueblos con herencia mesoamericana han preferido utilizar el concepto de *Pueblos Originarios* como parte de un proceso de re-dignificación e identidad. Sin embargo, también es necesario retomar el concepto de Pueblos Indígenas para ejercer los derechos que nos otorga la UNDRIP (2007) en los términos de que hemos sido y somos pueblos colonizados, lo cual ha sido un proceso mundial³. Así, aunque todos los derechos están íntimamente relacionados y su cabal cumplimiento es lo ideal, aquí se describirá brevemente cómo y de qué manera los artículos 25, 26, 27 y 34 de la UNDRIP pueden ser ejercidos plenamente en favor de la protección del territorio del pueblo indígena *Ñuu Savi*, en particular, y de los pueblos indígenas mesoamericanos, en general, quienes hoy día siguen protegiendo sus tierras en contra de los intereses económicos de empresas privadas, transnacionales y estatales. En especial, tomaré el caso de Santo Tomás Ocotepec (mi comunidad natal y en adelante STO) para ejemplificar cómo la relación

espiritual con la *tierra* ha sido una base importante sobre la que históricamente se ha legislado la *tenencia* o, mejor dicho, el *acceso* a la *Tierra*.

Ocotepec, una Comunidad del Ñuu Savi

Santo Tomás Ocotepec es un municipio del estado de Oaxaca adscrito al pueblo Ñuu Savi “Pueblo o Nación de la Lluvia”, un pueblo indígena en el sur de México conocido generalmente como Pueblo Mixteco⁴. La herencia cultural de STO se fundamenta en lo mesoamericano, muestra de ello son los vestigios de nuestro asentamiento precolonial, un mapa de la época colonial, la lengua, los rituales y la literatura oral, pero sin duda nuestra realidad esta mediada por los efectos de la colonización⁵. Así, nuestro presente es el resultado de la sinergia cultural entre la herencia precolonial (mesoamericana) y colonial (hispana), la cual se ha logrado en gran medida por nuestro arraigo a la tierra (*ñuhun*) que tiene como base una profunda conexión espiritual, ética y moral. Esto lo podemos observar, por ejemplo, en el ritual de curación “levantar el espíritu” denominado *nakehe ñuhun* en *sahan savi*, “la lengua de la lluvia”.

Nakehe ñuhun tiene como fin curar la enfermedad del espanto que recae en una persona como resultado de la influencia de *Ñuhun Ndéyu*, la Deidad Tierra, y consiste en un “tratamiento psíquico” que generalmente se combina con un “tratamiento físico” (Pérez Jiménez, 2011:188)⁶. Esta enfermedad tiene su origen en el momento en que una persona se “espanta”; en este instante *Ñuhun Ndéyu* se queda con parte de nuestro “espíritu”, y dado que es la tierra misma, esto puede suceder en cualquier lugar. Como consecuencia, tiempo después uno adquiere el *kuehe yúhu* “enfermedad del espanto” y para recuperar nuestra salud tenemos que realizar el *nakehe ñuhun*; es decir, el levantamiento de nuestro espanto o espíritu (figura 12.1). En caso de espantarnos en

3. La UNDRIP declara que “los pueblos indígenas han sufrido injusticias históricas como resultado, entre otras cosas, de la colonización y de haber sido desposeídos de sus tierras, territorios y recursos” (Naciones Unidas, 2008:2). También, en el artículo 1o del *Convenio No 169 de la Organización del Trabajo sobre Pueblos Indígenas y Tribales en Países Independientes* de 1989 se declara como pueblos indígenas “a los pueblos en países independientes, considerados indígenas por el hecho de descender de poblaciones que habitaban en el país o en una región geográfica a la que pertenece el país en la época de la conquista o la colonización o del establecimiento de las actuales fronteras estatales y que, cualquiera que sea su situación jurídica, conservan todas sus propias instituciones sociales, económicas, culturales y políticas, o parte de ellas” (Organización Internacional del Trabajo, 2007:17).

4. Mixteco es un gentilicio de origen *nauatl* utilizado para nombrar a los habitantes y a la lengua de quienes viven en la región histórico-cultural conocida como Mixteca, derivado de *Mixtlan* “Lugar de Nubes”, de *mixtli* “nube” y *tlán* “lugar”. No obstante, los mixtecos nos autodefinimos como *sehe Ñuu Savi*, “hijos del pueblo de la lluvia”; quienes hemos habitado de tiempo inmemorial el Ñuu Savi, “Nación o Pueblo de la Lluvia”, y hablamos el *sahan savi*, la lengua de la lluvia.

5. Ver Jansen y Pérez Jiménez (2015); Pérez Jiménez (2015) y Ríos Morales (2011).

6. Para otras relaciones entabladas con *ñuhu* ver López García (2007), Julián Caballero (2009) Jansen y Bautista García (2015) y Posselt Santoyo y Jiménez Osorio (2015).

lugares donde se acumula el agua (*yute* “ríos”, *vehe savi* “casas de lluvia”, y *nu kene ndute* “manantiales”) la enfermedad que podemos adquirir es más grave porque son lugares más sagrados o delicados (ii).

En este ritual se entabla un diálogo con nuestra entidad sagrada Ñuhun Ndeyu, quien también se asocia con los santos católicos San Cristóbal y Santa Cristina, y es referido en *sahan savi* como *velo Toba* “gran Tova o abuelo Tova”; a quien se le ofrenda y con gran respeto se le pide que por favor nos devuelva esa parte de nuestro ser que se quedó anteriormente⁷. En las siguientes líneas se transcribe y traduce parte del lenguaje ceremonial dicho en el ritual *nakehen ñuhun*, donde se puede apreciar la sinergia de la religión mesoamericana y católica. El ritual fue llevado a cabo por el señor Filemón Andrés Aguilar Hilario de 91 años de edad⁸:

En esta transcripción y traducción del discurso sagrado en *sahan savi* podemos observar con detalle la relación de respeto que se entabla con Ñuhun Ndeyu⁹, por ello el análisis del discurso en mixteco con el ritual, no sólo es necesario sino indispensable para entender el ritual, ya que “la especificación verbal del acto, la relación del acto con el efecto, es un componente importante del acto en sí mismo” (Rappaport, 2001:91). Este ritual es el resultado de la continuidad cultural mesoamericana, sinergia religiosa y resistencia ante cinco siglos de opresión. Es por lo tanto un patrimonio que debe ser protegido, de acuerdo con la UNDRIP de 2007.

Artículo 25: Los pueblos indígenas tienen derecho a mantener y fortalecer su propia relación espiritual con las tierras, territorios, aguas, mares costeros y otros recursos que tradicionalmente han poseído u ocupado y utilizado y a asumir las responsabilidades que a ese respecto les incumbe para las generaciones venideras (Naciones Unidas, 2008:10)

7. El *Nakehe Ñuhun* es un ritual en los términos de Rappaport (2001:56), al considerarlo como una “ejecución de secuencias más o menos invariables de actos formales y de expresiones no completamente codificados por quienes los ejecutan”. Para otras descripciones del ritual de “levantar el espanto” y los discursos sagrados en torno a él, ver Jansen (1982, II:461); López García (2007:206); y Pérez Jiménez (2011:188-194).

8. Originario y vecino de la comunidad de *Numuma*, municipio de STO.

9. La traducción precisa de los conceptos mixtecos al español siempre será limitada, por ello el conocimiento de la propia lengua es indispensable en los estudios sobre la herencia cultural.



Figura 12.1: El diálogo a entablar con Ñuhun Ndeyu en el ritual de *nakehe ñuhun* se inicia marcando cruces en la tierra y convidándole agua, así lo hace el señor Andrés F. Aguilar Hilario. Fotografía del autor.

Para este mismo objetivo contamos con el *Convenio N° 169 sobre Pueblo Indígenas y Tribales en Países*

Independientes de la Organización Internacional del Trabajo (OIT) adoptado en 1989¹⁰.

Artículo 13.1. Al aplicar las disposiciones de esta parte del Convenio, los gobiernos deberán respetar la importancia especial que para las culturas y valores espirituales de los pueblos interesados reviste su relación con las tierras o territorios, o con ambos, según los casos, que ocupan o utilizan de alguna otra manera, y en particular los aspectos colectivos de esa relación (Organización Internacional del Trabajo [OIT], 2007:28).

La conexión espiritual con Ñuhun Ndeyu ha generado la noción de un paisaje sagrado para la comunidad de STO; un paisaje sagrado que ha sido defendido históricamente y que ha sido sumamente importante al momento de legislar sobre la *tenencia* y el *acceso* a la tierra en esta comunidad de Ñuu Savi¹¹. Lo

10. Ratificado por el Estado mexicano el 05 de septiembre de 1990 (OIT, 2007:65).

11. En este artículo por paisaje nos referimos a lo “constituido como un registro duradero de testimonios de vidas y trabajos de generaciones pasadas, quienes han vivido dentro de este, y al hacerlo, han dejado aquí algo de ellos mismos (Ingold, 2000:189).

Tabla 12.1. Discurso sagrado en sahan savi

<i>Sahan Savi</i> (lengua de la lluvia o lengua mixteca) 1	Traducción al español
<i>San Cristobal, Santa Cristina</i>	San Cristóbal, Santa Cristina
<i>Sunu kuan nsaha a uhvi</i>	Tú eres el que lastima
<i>Sunu shtuu seheni,</i>	Tú eres el que lo hizo tropezar
<i>Sunu shtuude, velo Tova</i>	Tú lo tiraste, San Cristóbal
<i>Mita de natajinu anuji</i>	Pero hoy le devolverás su espíritu
<i>Va nakeheni, va nakuisoni</i>	Lo vine a traer, vine para llevármelo
<i>Mita ndee kuhu tee ya de sunu saa</i>	Hoy él está muy enfermo y es por tu culpa
<i>Sunu kua ja kuhu nu tee ya</i>	Tú eres el que lo enfermó
<i>Sunu a kuunu velo Tova</i>	Tú que eres San Cristóbal
<i>De ndenu, ndee yukunu</i>	estás, estás aquí en tu monte
<i>Bendición del padre, del hijo y del espíritu santo</i>	Bendición del padre, del hijo y del espíritu santo
<i>Bendición del padre, del hijo y del espíritu santo</i>	Bendición del padre, del hijo y del espíritu santo
<i>Bendición del padre, del hijo y del espíritu santo</i>	Bendición del padre, del hijo y del espíritu santo
<i>Jisondani santa bendición</i>	Nosotros cargamos la santa bendición
<i>chi de ndoyo jehe ndute ndani</i>	porque fuimos a la ciénega a bautizarnos
<i>Kamu ndenu jendute ndani</i>	Tú mismo viste que fuimos a bautizarnos
<i>Chi jisondani santa bendición</i>	Por eso llevamos la santa bendición
<i>A kunu San Cristobal</i>	Tú que eres San Cristóbal
<i>De ndenu sánu a uhvi</i>	Aquí estás y estás haciendo daño
<i>Sánu a kuhu a shtakueni nchivi</i>	Eres el que enferma y lastima a la gente
<i>De mita de sunu saha a seyini kuhu tee yaa</i>	Y hoy tú eres la causa de que mi hijo esté enfermo
<i>Nehe niño nehe de nkonoho</i>	Ven niño, ven y vámonos
<i>A kunu San Cristobal</i>	Tú que eres San Cristóbal
<i>Vajini ji yiku kuñu, nehe</i>	Vine con su cuerpo, así que ven
<i>A kunu San Cristobal</i>	Tú que eres San Cristóbal
<i>Vanakuekani tee yaha chi kaji de mita kuhi</i>	Vine a traer a este hombre porque está delicado y ahora está enfermo
<i>Sunu kunu San Cristobal de sunu shtakuehe</i>	Tú que eres San Cristóbal, tú lo estás lastimando
<i>Sunu kua kuehe ndo lahvi ya de</i>	Tú eres el causante de la enfermedad de este humilde muchacho
<i>Ndahvide chi vajide nu chuchi kahnu</i>	Tenle compasión porque viene del Dios Padre Eterno
<i>De vajini jide</i>	Y vine con él
<i>A kunu velo Tova</i>	Tú que eres San Cristóbal
<i>Sunu ku ja saha uhvi</i>	Tú eres el causante
<i>Ndu yaade shta, ndu yaade</i>	Él ya no come tortilla, ya no come

<i>De su mita nasuanude</i>	Y hoy lo vas a curar
<i>Va nakendani anude</i>	Solo venimos a recoger su Espíritu
<i>Na una, ushi tikatu ni nchinu a juninu nu anude</i>	Con 8 o 10 nudos amarraste su Espíritu
<i>Nehe tee luli nehe de nkonoho</i>	Ven niño, ven y vámonos
<i>Nehe ya iyo yiki kuñunu</i>	Ven que aquí está tu cuerpo
<i>Nehe anu</i>	Ven, Espíritu
<i>Va nakeni de ndivinu yiki kuñude</i>	Vine a traerte y ahora entrarás a su cuerpo
<i>ndivinu chi ya iyo yiki kuñunu</i>	Entra que aquí está tu cuerpo
<i>nehe nkonoho</i>	Ven y vámonos
<i>A kunu velo Tova</i>	Tú que eres el gran Cristóbal
<i>De natajini ndute jihini kohonu</i>	Aquí te doy el agua que tomo para que tomes
<i>A kunu velo Tova de ndu nihinu kohonu</i>	Tú que eres San Cristóbal, no consigues de tomar
<i>Mita chi nchikatuni tun de niya</i>	Hoy que voy amarrar, todo por aquí
<i>De natanu anuji de ndani ndute</i>	Me darás su Espíritu y te daré agua
<i>De mita ni vajini nsuu sanuu sanuu vajindani</i>	Hoy vine pero no podré venir seguido
<i>Nchi ndu tiempo ndani</i>	Ya que no hay tiempo
<i>Ndoho chi ndenu ichi yaa</i>	Tú porque vives en este camino
<i>Nehe yaha tee luli,</i>	Ven aquí niño
<i>Anunu, nehe chi yaa skajani</i>	Espíritu, ven aquí donde estoy sonando
<i>Yaha iyo ni ji yiki kuñude</i>	Aquí estoy con su cuerpo
<i>De yaha iyode de vanakeheni</i>	Aquí está y vine a traerte
<i>A kunu anunu, de nehe nkonoho</i>	Tú que eres el Espíritu, ven y vámonos
<i>Nehe tehe luli nehe nkonoho</i>	Ven niño, ven y vámonos

anterior lo podemos corroborar con el análisis e interpretación del mapa colonial en posesión de la comunidad y del artículo 75 de su *Estatuto Comunal*.

Para entender el mapa y su importancia en la lucha por la tierra es necesario un breve recuento del contexto histórico en el que se elaboró.

La Tierra en el Ñuu Savi del Siglo XVI

Las unidades políticas del Posclásico Tardío (1200-1521 d.C.) en Ñuu Savi, conocidas como *Yuvui Tayu* (petate-trono) en *sahan savi*, no tenían un territorio definido, continuo y delimitado porque su estructura política se basó en las relaciones personales, las cuales se definían por la reciprocidad, donde cada individuo cumplía con una función específica dentro

de la comunidad¹². El derecho de los *iya* “reyes” e *iya dzehe* “reinas” al usufructo de la tierra era concedido por descendencia divina, ya que ellos habían nacido de los árboles de origen, de los ríos y de la tierra misma¹³. Para poder ejercer esos derechos los *iya* tenían que mostrar respeto a sus ancestros por medio de ofrendas y rituales a los envoltorios sagrados y en diversos santuarios (templos, cuevas, ríos) (Aguilar Sánchez, 2015a).

Nuestra pertenencia a la tierra, *Ñuhun Ndeyu*, como el ser del que dependemos y nos da la vida, fue el

12. Ver Hoekstra (1990), Ouweneel y Hoekstra (1998), Jansen y Pérez Jiménez (2007), Okoshi Harada y Quezada (2008), Aguilar Sánchez (2015a; 2015b).

13. Ver los comentarios a los códices Yuta Tnoho (Vindobonensis), Tonindeye (Nuttal) y Añute (Selden) de Anders, Jansen y Pérez Jiménez (1992a, 1992b) y Jansen y Pérez Jiménez (2007), respectivamente.

aspecto más importante por el que no se tuvo una delimitación entre las comunidades del *Ñuu Savi* en la época precolonial. Después de la conquista, los españoles crearon las Repúblicas o Pueblos de “Indios”¹⁴ con límites definidos y a partir de entonces el territorio configurado a mediados del siglo XVI se volvió la base de la comunidad. Es más, *el territorio poseído se convirtió en la comunidad misma*. Así, las obligaciones y derechos precoloniales sobre la tierra fueron redefinidos en el periodo colonial y la defensa del territorio fue una prioridad de las comunidades. En este contexto fueron elaborados los mapas coloniales, documentos que los mixtecos utilizaron para reclamar su derecho ancestral al territorio ante las autoridades españolas. Para que éstas últimas pudieran validarlos, en los mapas se conjuntaron dos sistemas de representación: la escritura pictográfica mixteca precolonial en conjugación con la representación del territorio a la manera occidental. Es decir, se representó un territorio demarcado por mojoneras (concepto español para demarcar las tierras), las cuales fueron dibujadas con glifos toponímicos (nombres de lugares en escritura pictográfica)¹⁵.

Al formarse las Repúblicas, las comunidades definieron su territorio en base a un paisaje sagrado, constituido por lugares de encuentro con los dioses, donde se les ofrendaba y rendía respeto. Éstos lugares sagrados fueron elegidos frecuentemente como límites territoriales y funcionaron a partir de entonces como mojoneras. En su elección predominó “un criterio más simbólico, más en términos religiosos donde cada sitio definido como límite era importante para la realización de rituales y ceremonias que le daban identidad a la comunidad, por lo tanto era necesario que estuvieran dentro del territorio recién creado” (Aguilar Sánchez, 2015a:136)¹⁶. Estas asociaciones

dieron como resultado dos aspectos importantes que siguen configurando las comunidades mixtecas hoy en día. Primero, los sitios que funcionan como mojoneras están cargados de significados simbólicos. En la literatura oral en *sahan savi* son referidos como lugares sagrados, históricos y de origen. Como ejemplo tenemos al Cerro del Pedimento, un santuario de origen precolonial que está entre los límites territoriales de los municipios mixtecos de Santa Catarina Yosonotú y San Miguel el Grande, al cual anualmente asisten los mixtecos de varias comunidades. En segundo lugar, la carga simbólica de estos lugares para las comunidades de *Ñuu Savi* propició que fueran espacios compartidos pero al momento de las delimitaciones varias comunidades quisieron tenerlos bajo su resguardo; esto dio origen a los innumerables conflictos territoriales en la época colonial que, incluso, persisten hasta hoy en día. Por este motivo, en las colindancias frecuentemente se encuentran los vestigios de asentamientos precoloniales que en mixteco se denominan *Vehe Ñuhu Anaha* “antiguas casas de dioses”. En consecuencia, la lucha por un territorio también se convirtió en la lucha por los valores culturales y la identidad del Pueblo de la Lluvia.

El Devenir Histórico del Paisaje Sagrado de Santo Tomás Ocotepec

El mapa o lienzo de STO (Figura 12.2) refleja el proceso histórico del siglo XVI descrito líneas arriba. Fue elaborado en la década de 1580 y en él se representa el territorio de lo que fuera la República de Santo Tomás Ocotepeque, integrada por las actuales comunidades de Santa Cruz Nundaco, Santiago Nuyoo, Santa María Yucuhiti, San Pedro Yosotatu, Santiago Yosotichi y Santo Tomás Ocotepec, con cabecera en esta última¹⁷.

14. La “República o Pueblo de Indios” fue una institución política y territorial creada en la Colonia donde residía toda la población nativa y era representada por un cabildo elegido internamente por la comunidad. La República de Españoles fue su contraparte, ya que aquí vivía la población española. En adelante nos referiremos a esta institución como República y omitiremos el término de “indio”, recordando al lector la carga de discriminación que este término conlleva en el contexto mexicano.

15. Las unidades políticas mixtecas precoloniales no tuvieron límites fijos por lo tanto las mojoneras no existieron como puntos limítrofes, estas fueron introducidas con la conquista. En el Museo de Bilbao podemos observar cómo las mojoneras funcionaron en las sociedades pastoriles de la zona Vasca.

16. Equiparable con la perspectiva de Jansen y Pérez Jiménez (2008:107) cuando comentan que “la realidad geográfica contenida en los códices es más que un

conjunto de elementos cartográficos. No se trata de señalar las urbes pobladas ni de delimitar sus territorios. Los lugares son asociados e interpretados en función de presencias de poderes divinos, de eventos rituales y experiencias históricas”. Un ejemplo de esto, es la regularidad con que es representado *Ñutnoo* o *Tilantongo* en los códices, un lugar de gran prestigio donde gobernaban los descendientes, por una parte, de los primeros reyes de Apoala, y, por la otra, del famoso *8 Venado Garra de Jaguar*. Así, el parentesco con este importante linaje era un aspecto vital para los otros reyes, más que su importancia en términos de extensión, donde arqueológicamente se ha observado que Teposcolula fue un asentamiento más grande (Aguilar Sánchez, 2015a:114; Balkanski, et. al. 2000:380). 17. Se denomina lienzo porque está formado por tres tiras rectangulares de tela de algodón; las telas están unidas por una costura y mide en promedio 1.34 m de largo x 1.04 m de ancho. Alfonso Caso (1966) y Mary Elizabeth Smith (1973) fueron los



Figura 12.2: El mapa o lienzo de Santo Tomás Ocotepeque de 1580. Fotografía del autor.

La extensión territorial se ha determinado por la representación precisa de la geografía local (ríos, montes y caminos), la ubicación de los templos católicos, la orientación del mapa con la salida (este) y puesta del sol (oeste), y las glosas en lengua mixteca, náuatl y castellana. Estas últimas, al ser de tres manos y tintas, nos sugieren tres épocas distintas del documento. La primera mano, de quien elaboró el lienzo, anotó glosas en lengua mixteca y los nombres católicos debajo de cada templo; la segunda, las glosas en náuatl (en años sucesivos); y la tercera, escribió las glosas en mixteco en el año

1701, momento en que las comunidades se separaron y fueron Repúblicas por cuenta propia. Por ello, es necesario recalcar que en este artículo por Santo Tomás Ocotepeque nos referimos a la República que existió de 1580 a 1701 y por Santo Tomás Ocotepec a la comunidad que formó parte de Ocotepeque, fue República por cuenta propia a partir de 1701 y actualmente es un municipio del estado de Oaxaca; así, la desintegración territorial del primer territorio dio como resultado el surgimiento del segundo. Pero ambos son representados por la iglesia central en el lienzo.

primeros en estudiar el mapa, quienes lo describieron morfológicamente e identificaron algunos elementos del mismo. Un estudio más exhaustivo del mismo en tres niveles de análisis fue realizado por el autor de este artículo (Aguilar Sánchez, 2015a); los niveles de interpretación son el 1) descriptivo (análisis de formas visuales); 2) interpretativo (identificación de conceptos y temas); y 3) la evaluación (exploración de los significados intrínsecos), retomados de Jansen y Pérez Jiménez (2011:181).

En escritura pictográfica mixteca se registraron 25 lugares, los cuales tienen su correspondencia física en el entorno, y dada la continuidad y la herencia cultural del pueblo Nuu Savi es posible identificarlos. En este sentido, como se mencionó

Tabla 12.2. Discurso sagrado en *sahan savi* (2)

<i>Sahan Savi</i> 2	Traducción al español
<i>Tuu ndahavi nchi luuli ha de yaha kiinda kii kakinda kaándai,</i>	Si brotaban (nacían) las personas chiquitas (niños y niñas) aquí venían a acostarlos, decían
<i>in a kuaa kaándai, tuu ndahavi nchi luuli de suu kii kakinda yaha,</i>	una noche estaban, si brotaban los niños pues venían a acostarlos aquí,
<i>sede vaji na kiti naayuti nchiluli ñuka,</i>	y entonces venía algún animal a lamer al recién nacido,
<i>de naha ndahati, na modo na suchi kui kacho,</i>	y se veían sus huellas (de los animales), de modo que se sabía que ser sería,
<i>na kua ndui kacho ichi nuu kacho,</i>	en que se convertiría en adelante, digamos
<i>sukua iyo tiempo yaha kaándai,</i>	así fue en aquel tiempo aquí dicen (las personas mayores),
<i>suka kahandai suka ni iyo tiempo,</i>	así dicen (los abuelos) que fue, así fue en aquel tiempo,
<i>kuachi kaku nchi luli sede vaanta vasianta yaha, suka kahanda,</i>	apenas nacían los niños y los venían a dejar acá, así dicen (los ancestros),
<i>nduna jito chi kaa maa kaándai, suka kahanda.</i>	nadie los cuidaba sino que solos estaban acostados, así dicen (los abuelos).
<i>Su kiti ñuuka, kiiti a nayuti nchi luuli ñuka sede naha ndaha,</i>	Y pues del animal, aquel animal que vendría a lamer al niño, entonces se verían sus manos (huellas),
<i>naha ndati, de ñuka sede kuno na kua nduu nchi luli ichi nuu kacho,</i>	se verían sus manos, y en ese momento uno sabe en que se convertirá ese niño en el futuro,
<i>nsua nii iyo tiempo kahanda</i>	así fue en ese tiempo, dicen (las personas mayores)
<i>nsua niini a kahanda tiempo,</i>	así escuché que decían hace tiempo,
<i>de a nda nduhu a nkakundani, a nduu jinindani, kuachi historia ni kuaa a iyo.</i>	nosotros que nacimos (mi generación), ya no lo vimos, sólo la historia es lo que hay.
<i>Va ni naa tiempo nkuu ñuka vii</i>	Quién sabe en qué tiempo fue eso
<i>ma shihina de modo nduu nchivi kahanda, bueno a nduu nchivi,</i>	es que en un principio la gente se convertía, bueno se transformaba,
<i>modo nasa kua iyo nasa kua iyo shihina</i>	es decir, no se sabe cómo estuvo, como estuvo en un principio
<i>modo a nduu niji nchivi kahanda vii,</i>	pero las personas se convertían y uno las veía, dicen pues,
<i>de a mita de suu ntuka, de modo a nduu yuhunda ñuka,</i>	y ahora pues ya no, de modo que ahora se convierten a escondidas,
<i>de modo nakua kuu da su nduka jino,</i>	de modo que ya no sabemos que pasa,
<i>de suu su saa de su ñuka da de su a jininda nakua kuúnda ñaa vi.</i>	y pues del modo anterior, a partir de ahí se sabía quiénes eran ellos.

líneas arriba, la representación de estos lugares tuvo como base los simbolismos religiosos e históricos, por lo tanto estamos ante un paisaje sagrado. Esto lo hemos podido determinar por el análisis de las glosas y glifos toponímicos del lienzo, las fuentes históricas, la literatura oral y el *Estatuto Comunal* (en adelante EC); este último es el documento que “*regula la vida al*

interior de la comunidad” de STO y establece los derechos y obligaciones de los comuneros y avecindados para el uso y acceso a la tierra (Asamblea General de Comuneros [AGC], 2013). La inclusión de este documento en nuestro análisis es de gran importancia porque aquí se incluye la lista de los sitios sagrados de nuestra comunidad. En nuestra lengua y cosmovisión



Figura 12.3: Escena central del lienzo donde se representa la iglesia de STO, el Yute Suji y el aniñe “palacio precolonial”. Fotografía del autor.

estos lugares sagrados se denominan *Nu chiñuhun*. Así, para argumentar la defensa de las tierras comunales de STO en base a un paisaje sagrado e histórico expondremos algunos casos.

Del total de glifos toponímicos, uno es un lugar de origen; 23 son mojoneras que representan los límites territoriales de la República de Ocotepaque en el siglo XVI; y el último representa el *yuvui tayu* de Ñuu Kuiñi (Pueblo del Jaguar), hoy en día es la comunidad de Santa María Cuquila. El primer glifo toponímico que expondremos representa el lugar de origen del *Yute Suji* “Río de Nagual”, de *yute* “río” y *suji* “nagual”; el cual es de suma importancia para la identidad de STO, ya que de éste río retomamos el nombre en *sahan savi* de nuestra comunidad como Ñuu *Yute Suji*, “Pueblo del Río de Nagual”, como ha sido nombrada desde tiempo inmemorial. En documentos coloniales de 1703, pertenecientes a la comunidad vecina de Santa María Yucuhiti, se registró como *Santo Tomás*

Yuteduxi y *Santo Tomás Yutaxuji*¹⁸ y ambos términos significan “Río de Nagual”. Retomamos este nombre por la siguiente narrativa:

El *Yute Suji* está pintado en el lienzo y pasa debajo de la iglesia del centro que tiene la glosa de *Santo Tomás Ocotepaque* (figura 12.3). Esta misma disposición la podemos observar hoy en día, donde el río está a 300 metros de distancia al *este* de la iglesia de STO, por lo que el mapa es una muestra fiel de la geografía

18. Es importante mencionar que en este documento denominado *Transcripción del documento de 1591* (paleografiado por la etnohistoriadora Itzel González Pérez) se deja en claro que en términos históricos la cabecera política y administrativa de la República de *Santo Tomás Ocotepaque* se ubicó en lo que hoy es *Santo Tomás Ocotepac*. En la foja 187v leemos lo siguiente: “Habiendo salido [Don Juan Rodríguez de Medina] oy jueves que se cuentan quince del mes de febrero de mil seicientos y tres años seran como a las ocho horas de la mañana; poco más o menos del pueblo de Ocotepaque sugeto al de Santo Tomás Yuteduxi a dar cumplimiento a lo mandado por la Real Provicion de su magestad”. En este documento Yucuhiti, como es conocido actualmente el municipio, es referido como Ocotepaque y tiempo después cambiaría por el actual topónimo. Para un análisis más exhaustivo ver Aguilar Sánchez (2015a:238; 2015b:138-139).



Figura 12.4: El lugar precioso de donde nace el *Yute Suji*. Fotografía del autor.

local. Por si esto fuera poco, en el EC el *Yute Suji* está inscrito como *nu chiñuhun*. Además, el lugar de donde nace el río se representó como un lugar precioso. El jeroglífico topónimo es una joya y de la glosa adjunta en *nauatl* se puede leer “*xiuctemaloya*”, donde *xiuct* proviene de *xiuhitli* o *xihuitl*, “turquesa”, haciendo referencia a un lugar hermoso, un lugar de origen, un lugar sagrado (figura 12.4).

El valor de la narrativa es un aspecto sustancial de la relación ética con la tierra y el entorno. Es decir, el día en que nacemos no sólo formamos parte de una comunidad humana sino también estamos inmersos en una relación intrínseca con el paisaje, del cual ahora también formamos parte, teniendo en claro que todo lo que transcurre a nuestro alrededor indudablemente nos afecta directamente. Por si esto fuera poco, el lugar donde los recién nacidos adquieren su estatus en el mundo, es una cueva donde está presente el ser divino más importante para el *Nuu Savi*, el Dios Lluvia, lo que refuerza aún más la sacralidad de este paisaje. La cueva es un *vehe savi*, una casa de lluvia, lugar donde mora esta deidad (figura 12.5).

Las *vehe savi*, generalmente cuevas o abrigos rocosos, han jugado un papel primordial en el devenir de las comunidades de *Nuu Savi*. Al Dios Lluvia se le va a visitar con gran respeto a su casa y



Figura 12.5: Ubicación y relación entre *Yute Suji*, *vehe savi* e iglesia en el paisaje ritual de STO. Modificado de Google Earth.

como parte de la ofrenda se le lleva comida, música, tabaco, bebidas, velas y veladoras para pedirle que ya no tarde más en hacerse presente en los campos, pero que sea de manera benevolente y no violenta para que las semillas broten y la milpa crezca; así, su presencia permitirá la continuidad de la vida. Esta relación con *Savi* es tan esencial que por ello nos consideramos el “Pueblo de la lluvia”, *Nuu Savi*, e incluso la subregión en la que se encuentra STO, la Mixteca Alta, fue conocida en tiempos precoloniales y coloniales como *Nu dzavui ñuhu*, la tierra de la lluvia “divina y estimada” (Reyes, 1593:2).

Por esta razón, las “casas de lluvia” son los santuarios más frecuentes en toda la Mixteca y en éstas se celebra el ritual de *je kankan savi*, “ir a pedir la lluvia”, conocido generalmente en español como “Petición de Lluvia”. El ritual se realiza ya sea el 25 de abril, 3 de mayo o 15 de mayo, según el calendario litúrgico de cada comunidad, en la cual también tienen lugar los festejos a los santos católicos como San Marcos, la Santa Cruz y San Isidro Labrador, respectivamente (Posselt Santoyo & Jiménez Osorio, 2015)¹⁹. En

19. Los principios de los rituales y los lugares sagrados en *Nuu Savi* son mostrados extensamente en la tesis doctoral en proceso de los arqueólogos Ivette Jiménez Osorio y Emmanuel Posselt Santoyo, a quienes agradezco y reconozco, ya que con un profundo respeto y nivel de análisis nos han compartido sus experiencias en torno a su estudio de los rituales de 1) Bendición de

Tabla 12.3. Discurso sagrado en *sahan savi* (3)

<i>Sahan Savi 3</i>	Traducción al español
<i>In tiempo de kiinda músico,</i>	En un tiempo vienen los músicos,
<i>Kiinda modo taa nduna savi neénda nehe kacho,</i>	vienen cuando la lluvia no llega temprano,
<i>taa nduna savi kenda nehe tiempo,</i>	cuando la lluvia no viene a tiempo,
<i>De tun nkuu musico teñunda veladora.</i>	y cuando terminan los músicos (de tocar), prenden las veladoras.
<i>De su ta nkiinda músico,</i>	Y así cuando vinieron los músicos,
<i>ta nkiinda sáá,</i>	cuando vinieron esa vez,
<i>nduu náasa na kuiya kua, nkiisa,</i>	no recuerdo en que año fue, pero vine
<i>nkiisa see jinisa yaa da ni,</i>	vine y entonces conocí este lugar,
<i>de su nkií músico,</i>	y pues vinieron los músicos,
<i>de mita iñinda kuinda,</i>	y entonces estaban parados tocando,
<i>a modo yaa jeénda kacho,</i>	de modo que hacían música pues,
<i>de ndijeka koyo a gota chi vi.</i>	y empezaron a caer las gotas.
<i>Ajá!, de koyo ntia,</i>	¡ Enserio!, en verdad caían,
<i>se jinini modo na ñua nkantijani kacho da ni.</i>	así vi y a partir de ahí creí pues.
<i>Kuu músico da de,</i>	Los músicos tocaban y
<i>sua koyokidade de ni kuu yaa ni kuu.</i>	así caían (las gotas) y así tocaban y así caían.
<i>Jiini nchivi chi a teñuu veladora,</i>	Y la gente veía pues ellos estaban quemando veladoras,
<i>teñuu suja ii teñuu,</i>	quemando copal sagrado, estaban quemando.
<i>De kije koyoka, koyoka chi vi,</i>	Y empezaron a caer más (gotas), caían más pues,
<i>ñukua kua neénda savi kahanda modo.</i>	y así es como llega la lluvia, dicen.
<i>Suka kahanda.</i>	Así dicen (que viene la lluvia).

Tabla 12.4. Discurso sagrado en *sahan savi* (4)

<i>Sahan Savi 4</i>	Traducción al español
<i>Kiinda músico uu,</i>	Vienen los músicos pues,
<i>kiinda tiempo ah,</i>	vienen en un tiempo,
<i>túu nduu túu nduu kuun savi nehe da de.</i>	si no hay, si la lluvia no llega temprano (llueve después de lo usual).
<i>A kuu jenda a ku Ndeskoyuyu,</i>	Entonces van a <i>Ndeskoyuyu</i> ,
<i>ndeskoyuyu jenda o de Nunuma</i>	van hasta <i>Ndeskoyuyu</i> y a Nunuma (a las casas de lluvia)
<i>de see suni kiinda yaha kiinda.</i>	y después también vienen aquí, aquí vienen (<i>vehe savi Yute Suji</i>).



Figura 12.6 (superior): Vehe Savi Ndeskoyuyu ; Figura 12.7 (inferior derecha): Vehe Savi Keniñi; y Figura 12.8 (inferior izquierda): Yuku Savi, “Cerro de lluvia”, o Vehe Savi, “Casa de Lluvia. Fotografías del autor.

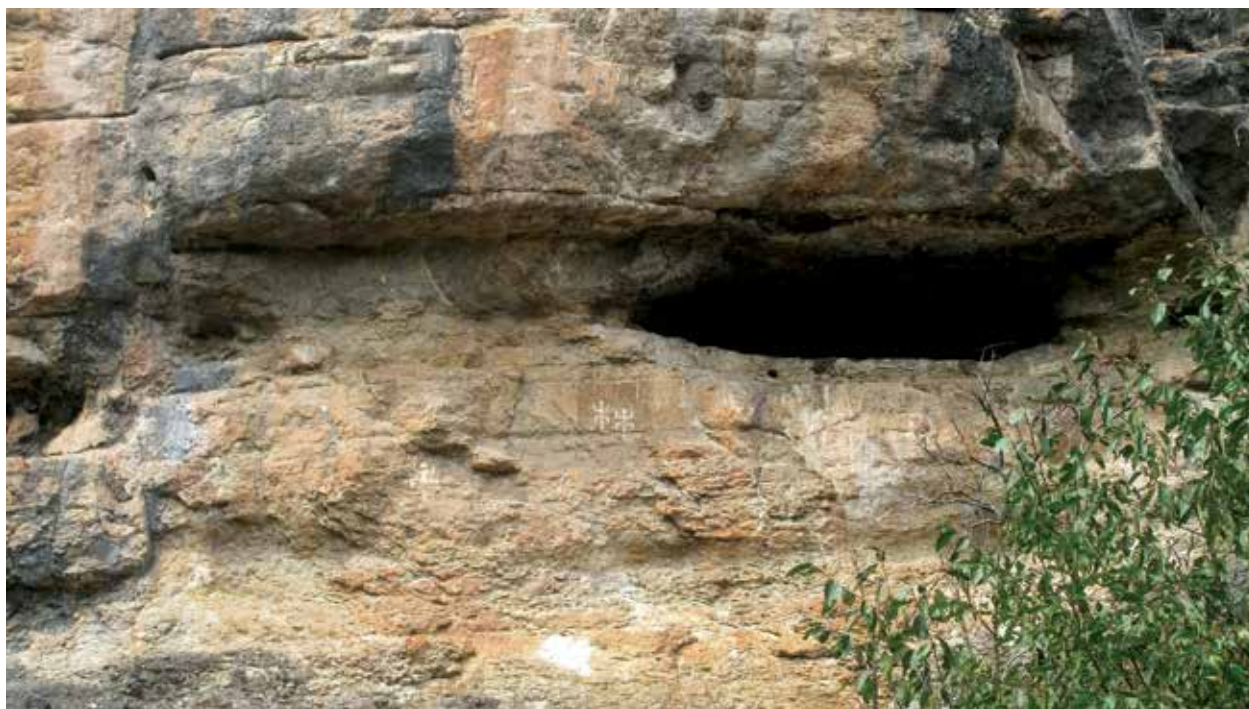


Figura 12.9: Kava Ande Tuni significa “Peña del Símbolo” y en este nu chiñuhun se pueden observar “lagartijas” talladas sobre la peña. Fotografías del autor.

este día, comunidades enteras de Ñuu Savi, como San Pedro Molinos, Yutanduchi de Guerrero, Santa Cruz Nundaco y San Felipe Tindaco, festejan en los santuarios de origen precolonial e incluso algunas realizan la misa católica en las *vehe savi*, lo cual podemos considerar una gran victoria de la religión mesoamericana. En el EC de STO se mencionan

cuatro *vehe savi* como *nu chiñuhun*, que se identifican por el paraje donde se ubican, *vehe savi Keniñi*, *vehe savi Ndeskoyuyu*, *vehe savi Itundi* y *vehe savi Yata Yuu Ito*. En éstas también se va a pedir lluvia, no obstante, a diferencia de otras comunidades de la Mixteca, en Ocotepéc el ritual se lleva a cabo cuando la lluvia no llega a tiempo (figuras 12.6 y 12.7).

En el lienzo tenemos el topónimo *Yuku Savi* “cerro de la lluvia” pero la representación de la lluvia sobre y dentro del cerro nos sugiere una *vehe savi* (figura 12.8)²⁰.

los manantiales o *Kuii Ndute*; 2) Petición de Lluvias en las *Vehe Savi* (Casas de Lluvia) y 3) Pedimentos en las *Vehe Ñuhu Anaha* (antiguas casas de dioses). 20. Dentro de cada municipio del Ñuu Savi existen varias casas de lluvia y este topónimo se refiere a una de ellas. Por ahora, la identificación precisa de este lugar no se ha hecho pero por su ubicación en el mapa, debe estar entre los municipios

La asociación de las cuevas y abrigos rocosos como lugares liminales donde experimentamos encuentros con lo divino es un aspecto vital del paisaje sagrado de STO, muchos de los cuales son lugares históricos y de origen. Así, en el EC se consideran como lugares sagrados *Kava Ande Tuni* “peña de símbolo” y *Kava Limu* “cueva con pinturas rupestres”, peñas en las que se encarnan los pasos de los primeros mixtecos, nuestros ancestros o donde vivieron los *tee tiumi* (hombres-tecolote) (Figura 12.9, 12.10 y 12.11)²¹. De esta manera el paisaje “se vuelve liminal, una localidad de encuentro con lo sagrado y de experiencias religiosas” (Jansen & Pérez Jiménez, 2008:108).

Así, el lienzo como la expresión de un paisaje sacro, histórico y de origen –no como la representación simplista de un territorio– se hace palpable en la

de Santa María Yucuhiti y Putla Villa de Guerrero, ya que en el lienzo está cercano al cerro conocido localmente como Chapultepec, “cerro del chapulín” en lengua *nauatl*. En mixteco es *Shini Tika*, de *shini* “cabeza” y *tika* “chapulín”, y se traduce al español como “en la cabeza del chapulín” o “en la cima del chapulín”, haciendo alusión al cerro como un chapulín. Este paraje también aparece en el lienzo de Santa María Yucuhiti como un sitio en disputa para el año 1708. 21. “Las formas del paisaje son generadas en movimiento: esas formas, sin embargo, son congeladas en un medio sólido; así, un paisaje es la más sólida apariencia en el cual una historia puede declararse por sí misma” (Ingold, 2000:198).



Figura 12.10. *Kava Ande Tuni*. Fotografías del autor.

escena norte. Ahí quedó plasmada la noción mixteca del tiempo y el espacio en el siglo XVI. En primera instancia tenemos el glifo toponímico que representa a la comunidad de Cuquila en estilo precolonial, compuesto por cerro, jaguar, tablero con greca y una pareja (figura 12.12). El tablero representa la palabra *ñuu* que significa “pueblo” o “lugar” y la

pareja sentada sobre éste nos indica su posición como gobernantes²². En la base del glifo tenemos la glosa de *Cuquila* y por ello no cabe duda que representa a la comunidad de Santa María Cuquila en el siglo XVI. Hoy en día, para los pueblos aledaños y la misma

comunidad su nombre en *sahan savi* es *Ñuu Kuiñi*, que significa “Pueblo de Jaguares”, de *Ñuu* “pueblo” y *Kuiñi* “jaguar”, por ello está pintada la imagen del jaguar dentro del cerro. No obstante, a partir de la Colonia se ha traducido generalmente como “Pueblo de Tigres”. El fraile dominico Antonio de los Reyes (1593:89) traduce en el siglo XVI *Cuquila* como

ñuu cuiñe pero tanto *kuiñi* como *kuiñe* (con la grafía actual) significan “jaguar” porque la /e/ de la variante de Teposcolula del siglo XVI que usan los fraile – Francisco de Alvarado y Antonio de los Reyes – corresponde a la /i/ en la variante actual de Cuquila y Ocotepec²³.

22. Lamentablemente no se registran sus nombres y por ello es de suponerse que eran bien conocidos para sus contemporáneos, incluso que estaban vivos.

23. La conclusión del cambio fonético de la /e/ por la /i/ se hace tomando como



Figura 12.11. Kava Ande Tuni. Detalle de pinturas. Fotografía del autor

Actualmente la comunidad de *Ñuu Kuiñi* colinda y está al norte de Ocotepec, como se puede observar en el lienzo, y su iglesia y

base el estudio comparativo de las relaciones fonéticas entre el *sahan savi* de Teposcolula del siglo XVI y la variante actual de *Ñuu Ndeya Chalcatongo* que realizan Jansen y Pérez Jiménez (2009: xx-xxii). Este mismo ejercicio se está haciendo para la variante de STO teniendo como resultado que la vocal /e/ en Alvarado, /i/ herida para Chalcatongo, es /i/ para Ocotepec y Cuquila. Por ello *Kuiñe* de Alvarado (1593) y Reyes (1593) es *Kuiñi* en nuestra variante y ambos significan “jaguar”. Otro resultado preliminar de nuestro análisis es con respecto al diptongo /ui/ de Alvarado que en *Ñuu Ndeya* se reduce a /u/ y en STO a /vi/. Ejemplo: lluvia= *dzahui/ sau/ savi* /; cielo = *andevui / andiu/ andivi* /; y ofrenda = *tuvui / tahù / tahvi/*.

asentamiento se encuentran “sobre un extenso sitio del periodo Posclásico” (Rivera, 2008:64). Es decir, la comunidad de Cuquila no fue reubicada después de la conquista española sino que corrió con el mismo destino que otras ciudades mesoamericanas al construirse, sobre el centro ceremonial precolonial, la iglesia católica (figura 12.13). Por otro lado, a menos de 2 km al suroeste de la iglesia de Cuquila, se conservan los vestigios de un asentamiento precolonial más antiguo, un *vehe ñuhu anaha*: una “casa antigua de dioses” (figura 12.14). El sitio está



datado para el clásico tardío mesoamericano, dentro de la fase denominada *Las Flores* que va del 300 a 950 d. C. (Robles García, 1997:108; Spores, 2007:29-47; Rivera, 2008:58). Ambos asentamientos –del Clásico y Posclásico– nos confirman la ocupación humana de larga duración en el área. Esto es sumamente significativo para el entendimiento del lienzo, ya que consideramos que la representación del asentamiento más antiguo corresponde al glifo “cerro y coa” por su relación espacial con otros elementos del lienzo, su ubicación precisa sobre el paisaje y sobre todo como un lugar de los ancestros.

El glifo “cerro y coa” está acompañado de la glosa en *nauatl* *Tepetlbizacu* o *Tepetlbizucu*, sin embargo, como se ha podido ver en un estudio anterior, “la mayoría de las glosas en *nauatl* que acompañan a éstos pictogramas no dan el significado concreto de cada glifo debido a que las glosas son ilegibles y que el escribano no era nativo hablante del *nauatl*” (Aguilar

Figura 12.12 (izquierda): Glifo toponímico de *Ñuu Kuiñi* o Cuquila en el lienzo de Ocotepaque; Figura 12.13 (inferior): Los vestigios del asentamiento precolonial de *Ñuu Kuiñi* del Posclásico, de 900-1521 d.C.





Figura 12.14: Asentamiento precolonial Nuu Kuiñe del Clásico, 300-900 d.C.³³⁷. Fotografías del autor.

Sánchez, 2015a:217). En *sahan savi* la lectura es *yuku yata*, de *yuku* “cerro” y *yata* “coa”, pero el signo de la coa también se utilizó en los códices para representar conceptos más abstractos, ya que *yata* también significa “atrás” o “antiguo”. Por ejemplo: *kivi yata* “días pasados” o mejor dicho “en el pasado”²⁵. Entonces este *Yuku Yata* como “cerro de la coa” o más bien como “cerro antiguo” es “un lugar de los ancestros”²⁶. En este mismo sentido, la comunidad

mixteca de San Antonio Huitepec denomina *Yuku Yata* a su “Pueblo Antiguo” (Julián Caballero, 2009:36). Propongo, entonces que el glifo toponímico *Yuku Yata* hace referencia al asentamiento del clásico, Nuu Kuiñe, ubicado al este del *Yute Suji* (figura 12.15).

Al representarse *Yuku Yata* como un lugar más antiguo que Cuquila –asentado sobre sus propias ruinas del Posclásico para 1580– nos da una clara muestra de la gran noción de tiempo y espacio de los mixtecos en el siglo XVI; de una conciencia histórica que no se limitó a pocos años, sino a cientos o miles y

24. Dado que el nombre en *sahan savi* de Cuquila es usado por propios y extraños de forma indistinta para nombrar tanto a los asentamientos precoloniales como a la comunidad actual, consideré prudente en este trabajo referirme al asentamiento antiguo del clásico como *Nuu Kuiñe* y, tanto al emplazamiento del posclásico como a la comunidad actual, como *Nuu Kuiñi* por compartir el mismo espacio. Además, la comunidad misma se autodenomina hoy en día *Nuu Kuiñi* (comunicación personal de la profesora Adelina Cortés Sánchez, originaria de Santa María Cuquila).

25. Ver el comentario de Jansen y Pérez Jiménez (2007) de la página 4-III del código Añute.

26. Alvarado registra *yata* como “coa, atrás y “antiguo”, siendo este último de gran interés para nuestro estudio pero cabe aclarar que hoy en día en Ocotepec y Cuquila el término más usado para coa es *takáa*, que a decir de Maarten Jansen (comunicación personal 2016) es una contracción colonial de *yata* “coa” y *kaa* “metal”. También, es interesante notar que en estas mismas comunidades el tér-

mino usado para el arado es *yata*. Recordemos que el arado es una introducción colonial y Alvarado lo registra como *yutnu yata idzu ndeque*, de *yutnu* “palo”, *yata* “coa” o “atrás”, *idzu* “venado”, y *ndeque* “cuernos”. El hecho de que hoy en día al arado se le denomine *yata* nos sugiere el gran impacto que tuvo en el siglo XVI como herramienta en la labor agrícola; adquiriendo tanta importancia como la coa que motivó su popularización como *yata*. Además el uso de la contracción es mucho más práctico en comparación con la descripción del siglo XVI. Actualmente el arado sigue teniendo un papel primordial en las comunidades indígenas en el ciclo agrícola; con él se revuelve la tierra, se realizan los surcos para la siembra y, dependiendo de la humedad de la tierra, se realiza la primera limpieza de la milpa.



Figura 12.15: La perspectiva del artista que elaboró el lienzo y la ubicación espacial de la escena norte del lienzo de STO.

que incluso se vio reforzada por los grandes cambios causados por la colonización.

En la escena norte también tenemos a *Lomo Tikete* o “loma de malacate”. Este mismo lugar se menciona en el EC como un lugar sagrado y en el lienzo corresponde al glifo toponímico ubicado al oeste del *Yute Suji* (figura 12.15 y 12.16). *Kete* es “malacate” y *lomo* es una adaptación al mixteco de la palabra castellana “loma”. En su vocabulario de 1593, Alvarado registra *itnu* como “repecho”, que a su vez significa “pendiente, cuesta o declive de un terreno” –según el Diccionario de Autoridades de 1726-1739²⁷–, por lo tanto podemos leer este glifo toponímico como *Itnu Tikete* para el siglo XVI. Lo anterior tiene como consecuencia tres proposiciones: 1) *itnu* es el término para “loma”, ya que Alvarado también registra *itnu naho yucu* como “loma entre dos cerros”; 2) con lo anterior, el glifo que representa a la “loma” o “*itnu*” en el lienzo es una hondonada producto de la “unión de dos cerros”, como hemos podido abundar en estudios anteriores (Aguilar Sánchez, 2015a:188-190; 2015b:139-139; figura 12.17)²⁸. 3) *Ytun*, en la variante de STO, significa “loma” y corresponde al *itnu* de Alvarado –aunque también se emplea *nuu jiki*–. Esto lo sabemos por

27. <http://web.frl.es/DA.html>

28. Smith (1973:45) traduce *itnu* como “pendiente” o “loma” y considera compleja su identificación en la pictográfica por la variedad de formas en que se representa en el Mapa No. 36 y el códice Sánchez Solís (montaña con o sin pendiente, una plataforma con o sin decoraciones geométricas y una roca). En el Mapa No. 36 hay dos topónimos similares a la representación de *itnu* en el lienzo de Ocoatepeque, uno es descrito como *itnu* y el otro como *barranco*. Así, para la identificación precisa de los demás lugares del mapa de STO con este glifo hay que considerar la multiplicidad de significados.



Figura 12.16: Glifo toponímico *Ytun Tikete* en el lienzo. Fotografía del autor
Figura 12.17: Construcción gráfica de *Itnu naho yucu* como “loma entre dos cerros”. Retomada de Aguilar Sánchez (2015b)



Figura 12.18: Vestigios precoloniales en *Lomo Tikete*. Fotografía del autor.

las glosas en *sahan savi* que se insertaron en el lienzo en 1701, las cuales representan las mojoneras para esta época²⁹. Como ejemplo tenemos la glosa *ytun naman* “loma de jabón”, por lo tanto la lectura del topónimo “loma de malacate” en nuestra variante del siglo XVIII es *Ytun Tikete*.

Ytun Tikete está presente tanto en el lienzo como en el EC por lo que no cabe duda de su importancia para STO, pero los motivos de su presencia en ambos documentos se excluyen e incluyen a la vez. Es decir, la comunidad incorpora *Ytun Tikete* en el EC debido al papel que éste desempeñó como punto estratégico en las disputas por límites territoriales en la primera mitad del siglo XX. Este lugar fue el principal testigo de cruentas batallas y de atrincheramiento de los habitantes de Ocatepec contra la comunidad de San Miguel Progreso, con quien colindamos al noroeste³⁰. Una vez terminada la lucha se reconoce

oficialmente las tierras comunales de STO por medio de la resolución presidencial que tiene como fecha el 10 de julio de 1940, publicada en el diario oficial de la federación el día 25 de Noviembre de 1940 y ejecutada el día 19 de Abril de 1941 (AGC, 2013:1). En honor a esta última fecha, Ocatepec creó un núcleo rural denominado *19 de abril* y anualmente realiza un acto cívico-social en *lomo tikete* para rememorar la lucha y la defensa de las tierras comunales.

Esta es la historia más reciente pero el porqué de su presencia en el lienzo no se debe a este hecho sino a su importancia en el siglo XVI. Probablemente se trate de un santuario de la época precolonial, un *vehe ñuhu anaha*, relacionado con la práctica de hilar, ya que en el lugar se puede apreciar los restos de un basamento y grandes terrazas de este periodo. Su función se definirá con futuras investigaciones (figura 12.18). En síntesis, la inclusión de *Ytun Tikete* en ambos documentos se debe a su historicidad y simbolismo. Considero que su defensa en el siglo pasado –incluso con la propia vida– fue motivado

29. Para una mayor descripción de las glosas, función, temporalidad y características ver Smith (1973) y Aguilar Sánchez (2015a; 2015b). En el lienzo son seis las glosas que inician con el término de *itnu* pero hace falta un estudio más exhaustivo de las glosas de 1701, su identificación en el paisaje y, sobre todo, de la documentación de la herencia histórico-cultural que existe alrededor de esta toponimia.

30. Hoy en día podemos observar algunos amontonamientos de piedras en el lugar pero no estamos seguros si son los restos de las trincheras de aquellas

épocas o son reconstrucciones recientes.

Tabla 12.5. Discurso sagrado en *sahan savi* (5)

Sahan Savi	Traducción al español
<i>¡Tañini nunu ve!</i>	¡Buenas tardes!
<i>Konekahnu ininu chi a ndúhu de ni</i>	Ten grande el corazón porque yo
<i>tiempo a nde kuu inini da de</i>	desde el tiempo que tengo uso de razón
<i>kachinda veelo, kahandade kivi yata</i>	los abuelos decían, así hablaban días atrás (tiempo atrás)
<i>ja Lomo Tu Tachi ya ndushika</i> <i>Santo Tomás de Aquino.</i>	que en esta Loma de Viento apareció Santo Tomás de Aquino.
<i>Kachindade, ya ndushika Yaa kachi ndade.</i>	Así dijeron, que aquí apareció el Santo dijeron ellos.
<i>Nda tuhun ñuka kua a jinini.</i>	Esa es la historia que sé.
<i>Yaha ku nu ndushika yaa kachinda, kachinda veelo,</i>	Aquí fue donde apareció el Santo dicen, así dicen los abuelos,
<i>de yaha kuu nu kiinda teñuúnda veladora, teñuúnda iti,</i>	y aquí es donde vienen a quemar veladoras, a quemar velas
<i>ta kenda fecha, ja sa 7 de marzo kuu inini</i>	cuando llega la fecha, el 7 de marzo me parece
<i>a kuu viko Santo Tomás de Aquino.</i>	es la fiesta de Santo Tomás de Aquino.
<i>De su yaha chivi, ndehe.</i>	Aquí es pues, mira (señalando el lugar donde apareció).
<i>Yaha ku nu a ndushika Yaa</i>	Aquí es donde apareció el Santo
<i>de nda yuu ya da de,</i> <i>su jino na tiempo kua kaa nda yuu yaa</i>	y de estas piedras que está aquí, no sabemos desde que tiempo están aquí estas piedras
<i>kusa sua kaa aja de su</i> <i>yaha kuan ndushika yaa kachinda.</i>	de por sí han estado así y pues aquí es donde apareció el Santo, dicen (los abuelos).

no sólo por una cuestión territorial sino por su importancia como lugar sagrado en la memoria cultural de Ocotepec.

Para seguir con el argumento expuesto en el inicio de este artículo es necesario mencionar dos lugares más que son de gran importancia para Ocotepec. *Kava Ndosó Ñuhun*, “la peña del señor del fuego”, de *kava* “peña”, *ndoso* “señor, gobernante, ser divino” y *ñuhun* “fuego”, es un *nu chiñuhun* en el EC. Para 1701 se registra en el lienzo como *cabandosonun* y para 1726 está inscrito en un documento de tierras en el Archivo General de la Nación (Smith, 1973:153). En ambos documentos es un límite territorial y, en contraste con los anteriores elementos del lienzo, hasta el día de hoy sigue funcionando como una mojonera, de la cual parten términos los municipios de Santo Tomás Ocotepec, San Esteban Atlatluuca y Santa Cruz Nundaco. También, *Kavan Ndosó*

Ñuhun es un lugar sagrado para las comunidades aledañas; así lo dejan ver las diversas narrativas que existen al respecto³¹.

Kava Ndosó Ñuhun está estrechamente relacionada con las narrativas acerca de la conformación de las comunidades del pueblo *Ñuu Savi*. Los *ndoso* son nuestros ancestros, hombres y mujeres de grandes habilidades que fundaron las comunidades y nombraron los lugares a su paso, gobernaron, contrajeron matrimonio y poseyeron la capacidad de llevarse cerros y peñas enteros sin dejar rastro, así como ir de una región a otra en tan solo una noche³². Conocer las hazañas de estos seres con grandes poderes es conocer la realidad de las comunidades de *Ñuu Savi*, que como los *iya* de la época precolonial, son seres primordiales y divinos.

31. Ver Alavez Chávez (2006:103, 171 y 176).

32. Ivette Jiménez y Emmanuel Posselt han reunido un gran corpus de narrativas en torno a los *Ndosó* como parte de su investigación doctoral en proceso.



Figura 12.19: En *Lomo Itu Tachi* están los restos de cuatro *Vehe Ñuhu Anaha*; al pie de una apareció Santo Tomás de Aquino y en su cima se puso la cruz católica. Fotografía del autor.

El último lugar a considerar es un *nu chiñuhun* registrado en el EC como *Itu Tachi* que significa “Loma de Viento”, de *itu* “loma” y *tachi* “viento”. Un lugar sagrado particularmente importante, ya que aquí apareció el primer santo de Ocotepec, Santo Tomás de Aquino. A este respecto, el señor Alfonso Mauricio García de 81 años de edad nos compartió la siguiente narrativa en el lugar indicado³³.

En la última parte de esta narrativa él nos comenta que desconoce el porqué de la distribución de las rocas en ese lugar pero que siempre han estado ahí. Ésta es precisamente la memoria cultural que es necesario reintegrar, ya que la contestación a esta duda nos lleva a la explicación de la aparición del santo. Es decir, aquí yacen los restos de cuatro *vehe ñuhu anaha*, que consiste de un patio rodeado de cuatro basamentos alineados a los cuatro

rumbos del mundo y localizados a menos de 500 m al oeste de la iglesia católica de STO. Sobre el *vehe ñuhu anaha* del lado este encontramos los restos de una cruz y en su esquina sureste apareció *–ndushika* – Santo Tomás de Aquino. Lo anterior nos sugiere que este *nu chiñuhun* fue el principal centro religioso de la comunidad de *Yute Suji* al momento de la llegada de los españoles y por ello aquí apareció el primer santo católico, quien tomó el lugar de la deidad o deidades veneradas en este lugar, iniciando así la evangelización de la comunidad de *Yute Suji* en el siglo XVI (figura 12.19). El nombre mismo del lugar sagrado nos indica una relación con la deidad mesoamericana del Viento, *Tachi*, quien como parte del proceso de evangelización y extirpación de la religión mesoamericana fue interpretado como “diablo” por los frailes en la época colonial, connotación que ha perdurado hasta el día de hoy. Por último, su posición con respecto a la iglesia católica nos sugiere que este es el lugar que en el lienzo se

33. Originario y vecino de la comunidad de José María Morelos, municipio de STO.

representó como un templo precolonial, a donde llega la pareja de Ñuu Kuiñi (figura 12.3).

En síntesis, el mapa de STO es la expresión de un paisaje sagrado, que fincó sus bases en la gran conciencia histórica, sagrada y de origen de su comunidad. Una conciencia histórica que hoy día se recalca en su Estatuto Comunal donde el Comisariado de Bienes Comunales tiene “bajo su responsabilidad y en coordinación con el consejo de vigilancia el resguardo del lienzo” como patrimonio del pueblo (AGC, 2013:7)³⁴.

La Tenencia de la Tierra en Ocoatepec

El *Estatuto Comunal* es un documento jurídico que tiene STO como comunidad agraria reconocida por el Estado Mexicano y se fundamenta en leyes nacionales e internacionales³⁵. El EC “regula la vida al interior de la comunidad” y su elaboración corre por cuenta de la Asamblea General de Comuneros, máximo órgano de decisión de la comunidad. Por lo tanto, en este documento la comunidad resalta lo que considera pertinente proteger y cabe resaltar que Ocoatepec ha hecho énfasis en reconocer y resguardar sus lugares sagrados o, mejor dicho, sus *nu chiñuhun*.

TITULO QUINTO, CAPÍTULO V.- DE LAS TIERRAS PARA CEREMONIAS SAGRADAS O LUGARES SAGRADOS. Artículo 78.- Son tierras para ceremonias sagradas o lugares sagrados, son aquellas que tradicionalmente ha utilizado la comunidad para realizar sus ceremonias tradicionales, rituales o aquellas que son consideradas como sagradas por los antepasados (AGC, 2013:21).

No obstante, hay que reconocer que la inclusión de los lugares sagrados o lo concerniente a la religión en términos del EC no es una tarea fácil por la discriminación existente y el colonialismo interno; teniendo como resultado que otras comunidades indígenas opten por no reconocer explícitamente sus lugares sagrados en sus estatutos comunales³⁶. Además, al no ser el EC redactado en la propia lengua, al momento de describir nuestra herencia en términos de *lo sagrado* se utilizan generalmente los conceptos antropológicos ligados a la colonización, en idioma español, lo que restringe el significado e importancia que tiene en la lengua de origen. Con esto se le resta, desde un inicio, el valor y la credibilidad a nuestra herencia. Así, las historias de origen se describen como “mitos” y “cuentos” y los lugares sagrados donde mora el Dios Lluvia, *vehe savi*, son referidos como “sótanos, grutas o cuevas”, y con esto se le despoja del valor moral que tienen como parte de la cosmovisión del pueblo Ñuu Savi. El reto por lo tanto va en dos sentidos: 1) usar términos en español que denoten en lo posible un significado similar al que tiene en la lengua de origen, y 2) lo ideal sería una descolonización de nuestro EC con la utilización de los propios términos en nuestra lengua o, mejor dicho, redactarlo completamente en *sahan savi*³⁷. Para lograr esto es necesario el estudio de la herencia cultural Ñuu Savi desde su cosmovisión; es decir, desde la propia lengua y por ello aprenderla debe ser sin lugar a dudas una prioridad y un compromiso para aquellos que se dedican a su estudio. En este camino, nuestros antepasados nos han dejado una gran lección de éxito, ya que la creación de los mapas en la colonia fue la solución para defender nuestras tierras teniendo como base nuestra cosmovisión, y ahora el EC de STO es un ejemplo a seguir, ya que incluye una lista de 24 lugares que son explícitamente resguardados por la comunidad y su protección es delegada al

34. El comisariado de Bienes Comunales, es el órgano de representación y gestión administrativa ante las diversas dependencias gubernamentales y no gubernamentales, económicas y sociales (AGC, 2013:4).

35. ARTÍCULO 1.- El presente estatuto comunal se fundamenta en los artículos 10, en relación con el artículo 107; 23, fracción I; 99, fracciones II y IV, 101 y 106 de la Ley Agraria en vigor; en el artículo 2 de la Constitución Federal; en los usos y costumbres vigentes en nuestra comunidad. Así mismo, establece los principios de protección y desarrollo de las tierras y recursos comunales; el ejercicio de la personalidad jurídica de la comunidad sobre dichas tierras y recursos como lo prescribe la fracción VII del artículo 27 de la constitución política de los estados unidos Mexicanos; toma en consideración el convenio N. 169 de la Organización Internacional del Trabajo, el cual forma parte de la Ley Suprema del País de acuerdo al artículo 133 de la Carta Magna (AGC, 2013:1)

36. En 2013 la comunidad agraria de Santa María Yucuhiti actualizó su estatuto comunal con el apoyo del Proyecto Mixteca teniendo como resultado final un enfoque ecologista: “se consideró elaborar un estatuto que no solo atendiera los asuntos agrarios, sino también los productivos y de desarrollo rural, así como los concernientes a la conservación de sus recursos naturales” (Asamblea de Comuneros, 2013:3), y aunque se retomada brevemente la herencia cultural en el Título Quinto, Capítulo I, artículo 107, lamentablemente se deja de lado la cuestión espiritual y sagrada.

37. La descolonización de nuestro Estatuto Comunal se enmarca dentro de la teoría poscolonial y la descolonización de metodologías. Ver Smith (2008) y Pérez Jiménez (2015).

máximo órgano de representación y gestión agraria, el Comisariado de Bienes Comunales.

Queda prohibido destruir estos espacios sagrados y ceremoniales, se restringe el pastoreo, en caso de visitantes solo podrán visitar estos lugares en compañía de una autoridad, se castigará cualquier conducta negativa por alguno de los casos anteriores; asimismo, queda prohibido rozar o sembrar en dichas tierras. Es obligación del Comisariado de Bienes Comunales vigilar la integridad de las tierras destinadas para ceremonias sagradas (*ibidem*).

De esta manera, tanto el *mapa colonial* y el *Estatuto Comunal* son documentos agrarios legales que han regulado de manera interna la gestión de la tierra en STO, desde la época colonial hasta el presente, por lo tanto deben ser respetados conforme a lo que se dicta en la UNDRIP de 2007 y el Convenio N° 169 de la OIT de 1989. Considerando especialmente los artículos:

UNDRIP. *Artículo 26.* 1) Los pueblos indígenas tienen derecho a las tierras, territorios y recursos que tradicionalmente han poseído, ocupado o utilizado o adquirido. 2) Los pueblos indígenas tienen derecho a poseer, utilizar, desarrollar y controlar las tierras, territorios y recursos que poseen en razón de la propiedad tradicional u otro tipo tradicional de ocupación o utilización, así como aquellos que hayan adquirido de otra forma (Naciones Unidas, 2008:10).

UNDRIP. *Artículo 27:* Los Estados establecerán y aplicarán, conjuntamente con los pueblos indígenas pertinentes, un proceso equitativo, independiente, imparcial, abierto y transparente, en el que se reconozcan debidamente las leyes, tradiciones, costumbres y sistemas de tenencia de la tierra de los pueblos indígenas, para reconocer y adjudicar los derechos de los pueblos indígenas en relación con sus tierras, territorios y recursos, comprendidos aquellos que tradicionalmente han poseído u ocupado o utilizado. Los pueblos indígenas tendrán derecho a participar en este proceso (*ibid*:11)

Convenio N° 169. *Artículo 14.* 1) Deberá reconocerse a los pueblos interesados el derecho de propiedad y posesión sobre las tierras que

tradicionalmente ocupan... 2) Los gobiernos deberán tomar las medidas que sean necesarias para determinar las tierras que los pueblos interesados ocupan tradicionalmente y garantizar la protección efectiva de sus derechos de propiedad y posesión (OIT, 2007:28-29.)

En esta contribución se ha mostrado la importancia de la relación espiritual con la tierra a través del tiempo y cómo por medio del *mapa colonial* y el *Estatuto Comunal* se ha protegido el paisaje sagrado local. Además, es importante mencionar que con la introducción del concepto de territorialidad en el periodo Colonial –como se vio líneas arriba–, las cuestiones sobre tenencia y acceso a la tierra han mediado las relaciones sociales, políticas, religiosas y económicas dentro de las comunidades indígenas. De tal manera que la pérdida de parte o todo el territorio implica la extinción de nuestra esencia como comunidad y como pueblo. En STO el sistema de acceso a la tierra regula toda la vida comunitaria y esto se hace explícito en su EC, categorizándolo en tres grandes aspectos:

- Aspecto social: El acceso a la tierra para el sustento y la vivienda sólo es posible si se pertenece a la comunidad y esta pertenencia se adquiere por parentesco, ya sea por descendencia o por contraer matrimonio con alguien de la comunidad. Para ello, existen dos categorías respectivas, el comunero y el avecindado, ambas son definidas por la Asamblea General de Comuneros³⁸.
- Aspecto político: El acceso a la tierra implica un compromiso con la comunidad, ya que las tierras son comunales; por este motivo todas las personas que gozan de este derecho tienen la obligación social y moral de brindar sus servicios para el bien de la comunidad. A estos servicios

38. Artículo 25.- Son comuneros los hombres y mujeres titulares de derechos comunales que se encuentren legalmente reconocidos con tal carácter. Artículo 27.- Para los efectos del presente estatuto, se consideran como avecindados a los mexicanos mayores de edad de cualquier pueblo o estado que han sido reconocidos con tal carácter por la asamblea general de comuneros... Artículo 28.- Se consideran como comuneros a los hombres y mujeres que por razones de trabajo, salud o estudio, se encuentren radicando en otro pueblo, estado o país, siempre y cuando estén al corriente en la prestación de sus obligaciones comunitarias, quedando sujetos a lo que determine la asamblea general de comuneros (AGC, 2013:8-9).

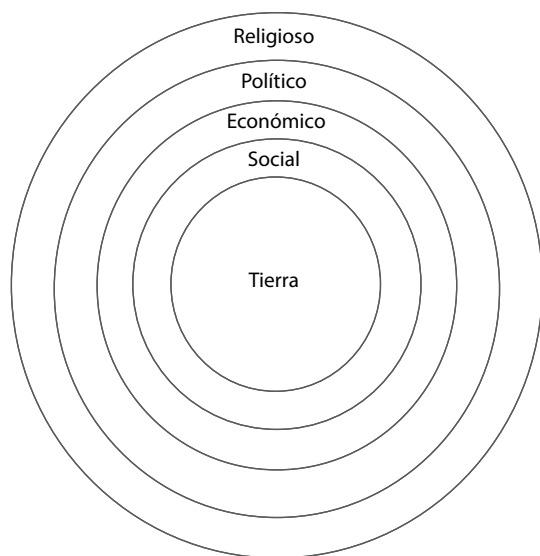


Figura 12.20. Los aspectos comunitarios que regulan el acceso a la tierra. Imagen del autor.

se les denomina “cargo” o “comisión” y las personas son nombradas en asambleas generales para fungir como representantes del municipio; serán las autoridades de la comunidad ante el gobierno estatal o federal durante un año o tres, dependiendo del rango del cargo, y sin goce de sueldo.

- Aspecto económico: Se da en dos niveles, 1) las tierras son comunales, en el entendido de que es de uso exclusivo para las personas que pertenecen a la comunidad (ver aspecto social), y 2) el beneficio de la tierra es restringido, ya que el usufructo de determinadas tierras son destinadas a una familia que las ha trabajado por herencia o por que las ha adquirido de otro comunero. (Figura 12.20).

Para la protección de esta forma de regular el acceso a la tierra se tienen los siguientes artículos.

UNDRIP, *Artículo 34*: Los pueblos indígenas tienen derecho a promover, desarrollar y mantener sus estructuras institucionales y sus propias costumbres, espiritualidad, tradiciones, procedimientos, prácticas y, cuando existan, costumbres o sistemas jurídicos, de conformidad

con las normas internacionales de derechos humanos (Naciones Unidas, 2008:13).

Convenio N° 169, *Artículo 17.1*. Deberán respetarse las modalidades de transmisión de los derechos sobre la tierra entre los miembros de los pueblos interesados establecidas por dichos pueblos (OIT, 2007:12).

En resumen, como efecto de la colonización y la explotación, a partir del siglo XVI la protección del territorio y la tierra ha sido parte fundamental de los pueblos mesoamericanos, ya que se convirtieron en la base primordial de nuestra existencia como *pueblos* y eje fundamental de nuestra vida y las relaciones con el entorno. Por lo tanto, se ha defendido un territorio utilizando los medios legales de la época teniendo como principio nuestra relación espiritual con la tierra. En consecuencia, los mixtecos vivimos en un paisaje profundamente histórico y sagrado en el cual convivimos con nuestros ancestros y deidades, como en las *vehe savi* o *vehe ñuhu anaha*. Pero también debemos reconocer que el proceso histórico de discriminación sobre los pueblos indígenas ha tenido grandes efectos, como la pérdida paulatina de la lengua y con ella de toda una forma de concebir el mundo.

Comentarios Finales

Con la invasión española en el siglo XVI y la subsecuente colonización, la relación de profunda conexión religiosa, simbólica y ética de los pueblos mesoamericanos con el entorno ha estado en conflicto con la visión occidental, donde todo puede ser dominado, explotado y comercializado. Los españoles introdujeron la noción de territorialidad, promovieron la creación de delimitaciones fijas, estáticas y lineales entre las diferentes comunidades mesoamericanas e impusieron la propiedad privada donde antes no tenía cabida. Esta situación ha provocado innumerables conflictos por la tierra a través de la historia; 1), entre las comunidades indígenas y los españoles; 2), entre las propias comunidades indígenas y; 3) entre las comunidades indígenas y las empresas estatales y transnacionales. La primera se dio durante la colonia (s. XVI-XVIII); la segunda, comenzó en el siglo XVI y ha perdurado hasta hoy en día; y, la tercera, es producto del colonialismo interno y el capitalismo global y avasallante de nuestros días.

A pesar de la situación de discriminación y marginalización social, política, religiosa y económica, las comunidades del Ñuu Savi han creado los mecanismos para seguir reproduciendo su visión del mundo. El resultado ha sido que hoy en día el acceso a la tierra rige el ámbito social, político y económico teniendo como base los valores espirituales y éticos. En este sentido, los artículos 25, 27 y 34 de la UNDRIP de 2007 vienen a reforzar la manera en que se ha legislado la tenencia y el acceso a la tierra en nuestras comunidades. Muestra ejemplar de esta lucha se puede ver en Santo Tomás Ocotepec, donde desde los primeros años de la colonización la comunidad ha legislado sobre su territorio, y a pesar de la desintegración de la República de Ocotepeque en 1701, los lugares registrados en el mapa siguieron manteniendo su profundo significado simbólico, tal como se observa en su Estatuto Comunal. Por ello, aunque hemos analizado dos documentos en dos épocas distintas, la elaboración de cada uno refleja la continuidad de una gran conciencia histórico-cultural, de su memoria cultural. Por este motivo deseo expresar mi más profundo respeto hacia mis antepasados por ser la muestra de resistencia ante siglos de opresión.

Así, tomando como ejemplo el caso de STO proponemos que los *mapas coloniales* y *estatutos comunales* sean considerados como documentos legales por parte de las instancias internacionales implicadas en la protección del territorio indígena. En primer lugar porque tales documentos expresan la voz propia de las comunidades y al ser incluidos como documentos legales se promovería su estudio y protección como parte de la herencia cultural de los Pueblos Originarios. El segundo lugar, el estudio mismo de los mapas coloniales puede ser sustancial para que se les reconozca a los pueblos indígenas los territorios que han ocupado desde tiempo inmemorial, ya que conlleva las siguientes implicaciones:

1. Identificación cultural: La identificación del territorio representado en los mapas coloniales es indispensable para determinar la comunidad de origen y por lo tanto el origen cultural. Es decir, las comunidades indígenas por la misma defensa de la tierra fueron las que más elaboraron mapas en este periodo, generalmente con escritura

pictográfica. Por lo tanto estas comunidades tienen derechos y pueden proteger sus tierras de acuerdo con los artículos 26, 27 y 34 de la UNDRIP de 2007 y los artículos 14 y 17 del Convenio N° 169 de la OIT de 1989.

2. Paisaje sagrado e histórico: Una vez identificado el paisaje en el mapa es necesario conocer el significado intrínseco de los diferentes elementos presentes mediante el estudio de la herencia cultural como un todo desde la cosmovisión de las propias comunidades indígenas. Es decir, a partir del estudio del patrimonio vivo, los rituales, los discursos sagrados, la literatura oral y escrita en la propia lengua, podremos interpretar de una mejor manera el paisaje representado en los mapas; un paisaje sin duda sacralizado que es reforzado por la presencia de santuarios precoloniales que enfatizan la gran continuidad cultural y, por ende, de la esencia de la espiritualidad indígena. Para su protección contamos con los artículos 11, 12, 13, 25 y 31 de la UNDRIP, que velan por el patrimonio cultural, y con los artículos 5 y 13 del Convenio N° 169 de la OIT.

Así, con el estudio de los mapas desde esta perspectiva coadyuvaremos a la libre determinación de los pueblos indígenas, la protección de su territorio y su herencia cultural. Sólo de esta manera nuestros esfuerzos tendrán sentido en el presente y nos ayudarán en la construcción de un mejor futuro en favor de la libertad, la diversidad, el respeto, la equidad y la dignidad humana.

Agradecimientos y Dedicatoria

Este trabajo está dedicado al municipio de Santo Tomás Ocotepec-Yute Suji y a la nación Ñuu Savi con mi más profundo respeto y cariño, esperando que este texto sea útil en la construcción de una metodología, replanteamiento y reintegración de nuestra herencia histórico-cultural.

Agradezco a todas las personas que directa e indirectamente coadyuvaron a la realización de este trabajo. En especial, quiero reconocer a las autoridades municipales, agencias y núcleos rurales del municipio de Santo Tomás Ocotepec que hicieron posible mi visita a los sitios sagrados de la población. Asimismo,



Figura 12.21. De izquierda a derecha, Roberto Salustiano Ayala Cortés, Donaciano Bautista Aguilar, Ignacio Artemio López Aguilar y Jorge Benjamín Escobar, en *nu chiñuhun Siki Kava Tuun* “Arriba de la Peña Negra”.



Figura 12.22. De izquierda a derecha, David Hilario Cortés, Máximo Bautista Cruz, Elías Bautista Aguilar, Rolando Cruz Santiago y Donaciano Bautista Aguilar en *nu chiñuhun Kava Koo* “Peña de Víbora”.



Figura 12.23. De izquierda a derecha, Raymundo Isaías López Ávila, Alfonso Mauricio García y Donaciano Bautista Aguilar en *nu chiñuhun Lomo Itu Tachi* “Loma de Viento”.

mi amplia gratitud a quienes a pesar de su edad y de no estar cumpliendo con cargo alguno en el momento de mi visita, me acompañaron y me transmitieron su sabiduría en el andar de los caminos y senderos (figura 12.21, 12.22 y 12.23). Particularmente, quiero agradecer a las siguientes personas:

- Constantino Moisés Silva Bautista, Presidente Municipal de Santo Tomás Ocotepec y a todo su cabildo.
- Profesor Andrés Lorenzo Ramírez Vázquez, Comisariado de Bienes Comunales de STO, y a los integrantes de la oficina que él representa.
- Donaciano Bautista Aguilar y Elías Bautista Aguilar de la comunidad de Benito Juárez, STO.
- Jorge Benjamín Escobar Silva, Ignacio Artemio López Aguilar y Roberto Salustiano Ayala Cortés (87 años de edad), de la comunidad de Genaro V. Vásquez, STO.
- Aquilino Avendaño Santiago, David Hilario Cortés y Maximiliano Bautista Cruz de la Comunidad de Lázaro Cárdenas, STO.
- Rolando Cruz Santiago (17 años de edad) de la comunidad de Emilio Portes Gil, STO.
- Raymundo Isaías López Ávila y Alfonso Mauricio García (81 años de edad) de la comunidad de José María Morelos, STO.
- Jorge Victor Silva, Hermelindo Emigdio Silva García, Marcelino Silva Sánchez (74 años de edad) y Sebastiana Guadalupe Silva Avendaño (62 años de edad), de la comunidad de Miguel Hidalgo, STO.
- Francisca Cirila Reyes Jiménez (87 años de edad) de la comunidad de Nunuma, STO.
- Anatolio David García Rodríguez de la comunidad de Emiliano Zapata, STO.
- Profesora Adelina Cortés Sánchez de la comunidad de Santa María Cuquila, Tlaxiaco.

Finalmente, agradezco y dedico este trabajo a mis más grandes maestros, a mis abuelos, padres y hermanos.

13. The Use of Prehispanic Roads in Perú

The Case of the Road Between Xauxa and Pachacamac

Luisa Marcela Najarro Rivera and
Camila Capriata Estrada

During the 15th century, most of the Andean region was governed by the Incas who managed to expand along the present territories of Colombia, Ecuador, Peru, Bolivia, Chile and Argentina. Researchers were impressed by the rapid development and expansion of the Inca Empire, considering its origins as a rural society whose main economic activities were raising native livestock (for wool and for carrying goods) and agriculture. However, further studies indicate that the empire was established on the basis of acquired knowledge and traditions that were present in the Central Andes for millennia (D'altroy, 2003; Murra, 2002).

An important factor leading to the development and expansion of the Inca Empire was the construction of a complex road network, only comparable to the ancient Roman roads. This road network facilitated the mobilization of populations, armies and colonizers. The network, also known as Qhapaq Ñan, was formed by a series of main and secondary sections, allowing a fluid communication between cities, shrines and administrative centers within the *Tawantinsuyu*. Because of its importance and uniqueness, The Qhapaq Ñan or great Andean Road was declared World Heritage by UNESCO in June 2014.

In this article we will discuss what factors influenced the use of the prehispanic road network, from the time of its construction to the present. We will focus on the road between Xauxa and Pachacamac, in which the Portachuelo-Piticocha section is located, analyzing the continuity in the use of this road as a trade route and the subsistence of ancestral exchange traditions.

The Qhapaq Ñan

The Qhapaq Ñan was a road network used in prehispanic times to communicate and integrate diverse populations throughout the Andean region. During Inca times, the network reached its peak extending over 60,000 kilometers.

Various authors suggest that several roads forming part of this network were built before Inca times, and were used by different ethnic groups as pilgrimage routes. Based on their studies, they purport that the Incas built on the technology and infrastructure of their ancestors in order to improve the roads and to extend the network by creating new sections (Hyslop, 1992; Rostworowski, 2014).

The construction process included the use of a variety of techniques and materials that allowed the road to adapt to the geography of each region, crossing deserts, mountains, plateaus and rivers. In some sections the surface of the road was covered with rocks, while others needed the use of drainage systems, contention walls and artificial fills to gain ground on steep slopes, and stairways to help hikers in steep climbs. Also, it was necessary to build bridges, both hanging bridges made with ropes of vegetal fibers, and bridges with stone foundations and wooden structures (López, 2014).

The proper operation of the road network would not have been possible without the participation of local populations in its construction and maintenance.

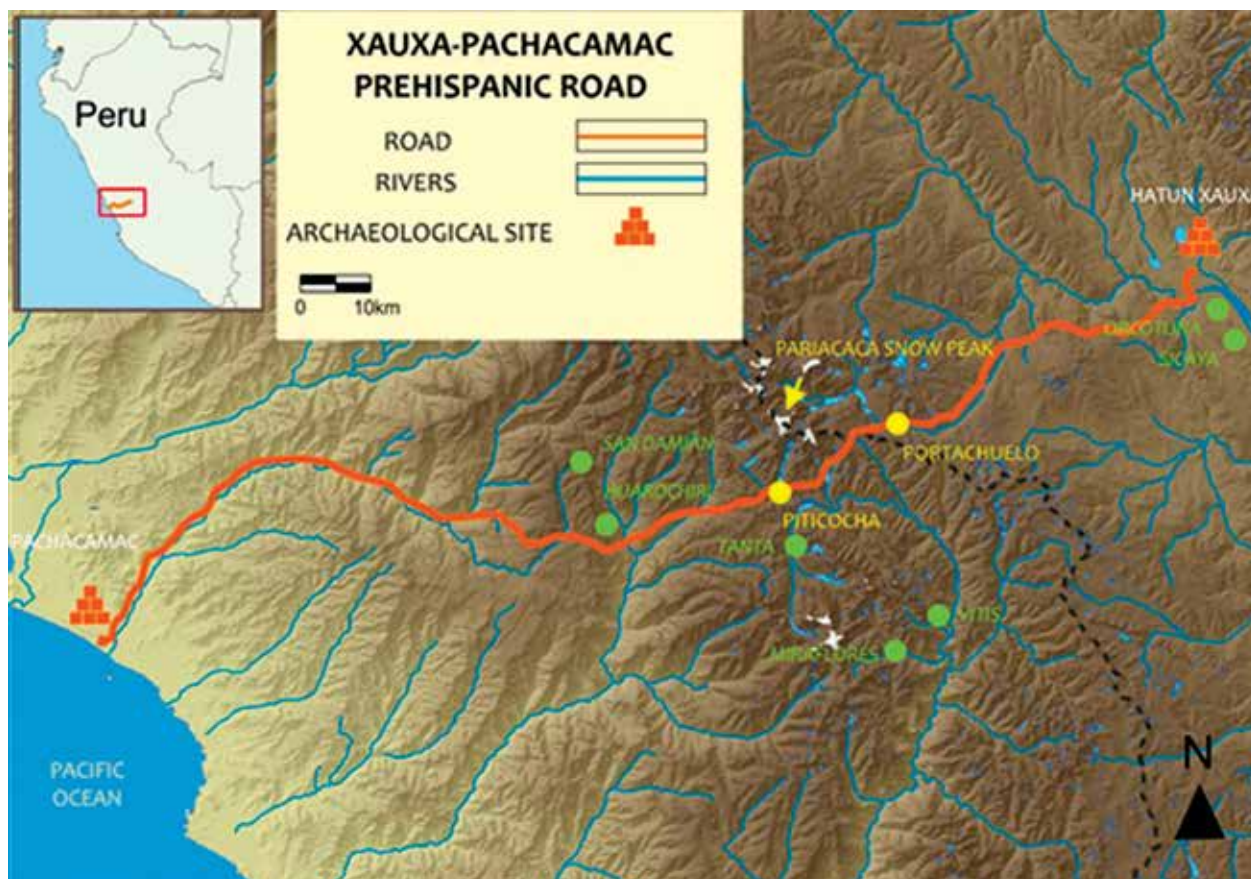


Figure 13.1. Xauxa-Pachacamac road

During the Inca times, tributes to the empire were paid in the form of labor. The construction of basic service establishments to provide comfort and safety for travelers such as *tambos*¹, *colcas*² and *chaskihuas*³ (López, 2013: 25) was also necessary. According to Klarén, the *tambos* were located at intervals of approximately one day walking (2004: 47).

The Qhapaq Ñan was composed of two main roads that crossed the Andean region from south to north: the first started in Cuzco, the imperial capital, and extended to the present territory of Ecuador; while the second crossed the Peruvian coastline desert. Along the way, a series of secondary roads linked to the main roads went from west to east connecting the

coastal region, with the highlands and the amazon region (Abad *et al.* 2009).

The Xauxa-Pachacamac Road and its Use in Prehispanic Times

One of the most important roads within the Qhapaq Ñan network was the one connecting Hatun Xauxa, a ceremonial and administrative center located in the Mantaro valley in the central highlands of Peru, with the Pachacamac Sanctuary, located a few kilometers from the Pacific Ocean in the Peruvian central coast (figure 13.1). The road runs east to west along the western slopes of the Andean Mountains, having an extension of approximately 230 kilometers. The associated infrastructure included a series of *tambos* along its way (Hyslop, 1992; López, 2013). At its eastern end, it connected with the main road leading to Cuzco. In Perú, this road connected the Pachacamac Sanc-

1. Places used for resting and replenishment of travelers.

2. Storage facilities.

3. Places designed to host messengers travelling along the roads.



Figure 13.2. Llama drivers on an Inca road by the Mullucocha Lake.

tuary with another important shrine in prehispanic times: the Apu Pariacaca, a sacred mountain peak standing at 5000 meters above sea level that was constantly visited by pilgrims even before the Incas (Rostworowski, 2014). In prehispanic times, mountains were considered sacred by Andean societies because they were presumed to hold divinities controlling meteorological phenomena such as rain, snow, lightning and thunder, and regulate water sources which had a direct influence in the fertility of animals, plants and human beings (Astuhumán, 2007: 21). In the Pariacaca area, one particular section of the road merits attention: Escalerayoc, located by the Mullucocha Lake (figure 13.2), where over one thousand steps were built in order to climb the mountain (Abad *et al*, 2009).

On the other hand, the Pachacamac Sanctuary was a well-known oracle long before the arrival of the Incas and the formation of the Tawantinsuyu. It was believed that the Pachacamac deity controlled earthquakes,

and as in the case of Pariacaca, was one of the most important oracles before and during the Inca Empire (Rostworowski, 2014). According to Astuhumán, this oracle network allowed the Inca and their priests to acquire valuable information and knowledge. The Incas constructed temples and buildings for these oracles and their representatives, where offerings were received and *chicha*⁴ was consumed in their honor, allocating great amounts of material and human resources (Astuhumán, 2007: 40). Additionally, this road served economic purposes and was used for the exchange of valuable goods between the coast and the highlands (Hyslop, 1992). The administrative center of Hatun Xauxa, located in one of the most agriculturally productive regions of the Andes, was associated with the existence of more than one thousand storage facilities or *colcas*, where local goods were stored and redistributed along

4. Alcoholic beverage made from fermented maize used in ceremonies and feasts throughout the Andean region.

the empire (D'altroy, 2003). The coastal valleys, on the other hand, produced great amounts of coca leaves, a product largely valued and consumed from prehispanic times to this day.

The Xauxa-Pachacamac Road during Colonial and Republican Times

Despite the end of the Inca Empire with the arrival of the Spanish conquerors in 1532 A.D., the Xauxa-Pachacamac road continued to be used due to its importance as the main communication system between the central coast, where the new capital of Lima was founded, and the central highlands.

The use of the Qhapaq Ñan was vital during the expansion and conquest campaign of the Inca Empire for mobilizing and supplying the armies, as well as for transporting chiefs and population (Murra, 2002). The roads were also used for exchanging and redistributing resources such as metals, food, coca leaves and textiles among different regions and ecological zones, indispensable for the survival of the empire (Hyslop, 1992). According to López, caravans of thousands of llamas moved along the Qhapaq Ñan with their respective drivers, carrying tons of food, clothing, tools, weapons and other goods that were stored in warehouses or *colcas* located at the provincial administrative centers, the *tambos* located along the road and in the city of Cuzco (López, 2013: 20). However, despite the effort of maintaining the communication systems, the new economic structure imposed by the Spaniards had a direct impact on this traditional system. The economic system used in the Tawantinsuyu had been the basis of most prehispanic economies even before the Incas. Although at that time, the emerging colonial state started to incorporate it in their administration, the main problem was not the lack of maintenance of the roads, bridges, storage facilities or posts (*tambos*), but the fact that the new economic system did not take into account the traditional economic ways in which the exchange of indigenous labor and products was not part of a market system with monetary transaction (Glave, 1989: 119). Therefore, the reciprocity and redistribution system, indispensable for sustaining the Inca economy, was ignored, as well as the principle of vertical complementation of

ecological zones, which generated a gap between the people and their need to get supplies for subsistence consumption (Alberti & Mayer, 1974).

According to historic documents, in 1542, ten years after the conquest, the Spaniards implemented a new postal system using the preexisting roads and associated infrastructure, in order to recover and reorganize the system. New laws were established including the “Ordenanzas de Tambos”, promulgated in Cuzco by Vaca de Castro. These “Ordenanzas” (ordinances) were issued to reestablish and regulate the use of the roads and *tambos*. The continuity in the use of this network followed new economic interests of the Crown, which included the control over the agricultural resources and indigenous labor. In this sense, the new regulations included the signaling of the roads, the implementation of new *tambos*, and the creation of new protocols for the distances traveled and the amount of load transported by the indigenous people.

In the process, several old *tambos* were abandoned or reused for other means. Between approximately 1532 and 1543, the road network became a set of product transaction routes, communication paths and posts offices. Among these routes, the road between Xauxa and Pachacamac continued to be used to for communication between Lima, the capital of the viceroyalty, and the city of Jauja, the former provincial administrative center of Hatun Xauxa, and from there with the cities of Cuzco, Potosí⁵ and Buenos Aires. The road became an important trade route, a political route and a way for people to mobilize along colonial *tambos* which, while still serving as resting places, became small markets (Alberti & Mayer, 1974; Glave, 1989).

With this new economic system, the *tambos* became places to sell livestock, coca leaves and other products that were not available at the capital. As a consequence of this different economic model, a new form of transportation service emerged: the “arrieros” or llama drivers. This subsistence system based on the use of animals, especially llamas, to transport products, was associated with the development of a market

5. Town in Bolivia where most exploited silver mines were located during the colonial period.

with small-scale production of textiles, agriculture and livestock (Contreras, 1987; Glave, 1989).

In this way, from the 16th century onwards, the llama-driver service constituted a method for peasants and their families to transport and commercialize resources using llama herds. In the beginning, this system ensured them access to products coming from different ecological zones, subsequently becoming indispensable for their subsistence. Contreras states that “within this context, the muleteer –with llamas or mules– constitutes a fundamental activity in relation to allowing the developing of the economic and social life in the colonial Andes” (1987: 53).

By the end of the 17th century, the system switched from using llamas to the use of mules due to their lower cost and greater loading capacity (Glave, 1989). This type of mobility and exchange allowed different families involved in this occupation to establish economic and long distance relations that over the years became kinship groups (Molina, 2011). As a result, muleteers began to define a complex and hierarchical exchange network, the product of the articulation between domestic economy among families and remote communities through the exchange of agricultural products, livestock and textiles. Thus, kinship and ritual kinship were established among people who practiced it (Contreras, 1987).

In the Republican era, specifically towards the end of the 19th and beginning of the 20th century, a new road plan was established by president Leguía. This plan aimed to create faster forms of communication by building roads and railway lines (Manrique, 1983). As a consequence, new points were established breaking the usual exchange circuits (Contreras, 1987; Valderrama, 1983).

The Present Use of the Xauxa-Pachacamac Road

While it is true that most prehispanic cultural forms were eradicated after the Spanish conquest, some aspects of the traditional social and economic organization still survive within local communities. Clear examples of this are the llama drivers in the rural community of Tanta, located by the Xauxa-

Pachacamac road, in the Yauyos province. The peasants from this village still use part of this road, specifically the section located between Portachuelo and Piticocha, as a non-monetary exchange and communication network with other nearby villages such as Miraflores and Huarochiri.

Nowadays, families from Tanta community, located at 4323 meters above sea level, near the Pariacaca snow peak, are dedicated to raising camelids, cattle and sheep, and exploiting natural resources such as the grasslands, common in this region. Additionally, some families are llama drivers, an occupation that has its origins in the colonial era, and that still represents a way for them to obtain staple resources (figure 13.3).

The llama-drivers of Tanta represent a clear example of the continuity in the use of prehispanic freight systems. Even though according to Glave (1989), llamas were replaced for mules and horses for load transporting towards the end of the 17th century, these locals continue to use them due to the fact that these animals have more resistance over long journeys, require less equipment, are more docile and are better adapted to high elevations, especially the routes in the Pariacaca region (Custred, 1974). According to Custred, the traditional use of llamas as a primary transportation system represents a rational adaptation to the existent ecological and cultural conditions (1974: 282).

Based on Qhapaq Ñan Project records⁶, Tanta's llama-drivers have four exchange routes which they use in different months of the year. The first one is towards the districts of Vitis and Miraflores in the Yauyos province, and to the rural community of San Damian in Huarochiri. This journey takes place in May, when the llama drivers go to this place to obtain products such as potatoes, llama salted meat or *charki* and trout. In exchange, the llama drivers offer their service to transport crops from the fields to town. Sometimes other products such as ponchos and blankets made from alpaca wool are also used in the exchange to obtain potato sacs.

6. The information concerning trade routes used by muleteers in Tanta was recorded by the Qhapaq Ñan Project, with support from the Peruvian Culture Ministry in 2013, in a documentary called “Los Arrieros del Pariacaca”.



Figure 13.3. Llamas at Pariacaca Snow Peak.

The second route, which uses secondary paths surrounding the Xauxa-Pachacamac road, takes place between October and November. Tanta's locals go to Huarochiri to obtain lima beans, barley and dry peas, products that are not available at high altitudes (figure 13.4). The third route takes place between January and March. The llama drivers travel to the Mala basin taking trout fished in nearby lakes to exchange for sweet potatoes, pumpkins, yucca, lúcuma⁷ and apples (Ministerio de Cultura, 2013).

Finally, the last route leads east to the Mantaro Valley in order to exchange products with the local communities of Sicaya, Orcotuna and San Jerónimo in the provinces of Jauja and Huancayo. This is the longest route, taking up to 6 days for the round trip. The llama drivers use a great part of the prehispanic

road from the Pariacaca Mountain, passing through the more than one thousand steps in Escalerayoc, to finally reach the Mantaro basin. In this case they take colorful blankets, alpaca wool sacs, and cheeses to sell or exchange for other products (Ministerio de Cultura, 2013).

Due to the time and effort required, and to the consolidation of new roads and motorized transport networks, this last route is being abandoned. Today, only a few people from Tanta travel to the Mantaro Valley, mostly using trucks or buses provided by their municipality. Nevertheless, some have chosen to continue the ancestral tradition using the old Inca road to maintain the social and commercial bonds that they have established for generations with families in these towns.

7. It is a widely consumed fruit in the Andes (Pouteria lúcuma).



Figure 13.4. Llamas herds in Huarochiri

Discussion

As explained above, the Qhapaq Ñan road network was built to perfectly adapt to the surrounding Andean landscape and its geography in the different ecological zones. It was also a way of integrating diverse ethnic groups since prehispanic times. During the Spanish conquest and the colonial period, the network continued communicating cities that would eventually form the Peruvian nation.

The use of the road has varied through time, and most changes were a consequence of the new socio-economic model imposed by the Spaniards during the 16th century. However some Inca cultural traditions were not totally eradicated. Aspects of the socio-economic organization, especially within local communities, remain until today (Rostworowski,

2014). One example of this cultural continuity is the offerings known as “*apachetas*”, a small accumulation of rocks that travelers or llama drivers leave along the road. They are usually located at crossroads and at the top of high mountains. The offerings, also containing coca leaves, corn, exotic feathers and even old sandals, are dedicated to the “gods of the roads”, and are believed to help travelers get rid of their fatigue and gain energy to continue their journey (Duviols 1977: 127).

Murra (2002) proposes that the development of commerce in the Andes and the use of roads helped establish social relations and kinship, by exchanging ritual offerings and supplies among communities. Humphrey (1998), Custred (1974) and Cipolletti (1984), also state that gifts or product exchange helped create social relationships which in the end

guarantee their subsistence. A clear example of these cases is what happens with the llama drivers of Tanta, who continue to practice barter with the neighboring communities of Miraflores and Huarochiri. One factor that encourages them to continue this practice is the fact that they do not want to lose the kinship and ritual kinship relations that they have established with these communities (*Los arrieros del Pariacaca*, 2013).

In this context, the Peruvian State represented by the Vice-Ministry of Interculturality, the body responsible for consolidating and protecting the rights of Indigenous Peoples, is committed to the implementation of policies for the recognition and positive valuation of cultural diversity. In 2011, a Law on the Right to Prior Consultation with Indigenous and Native Peoples, recognized in Convention 169 of the Labour Organization (ILO), was created for the purposes of establishing a dialogue between the State and Indigenous peoples concerning administrative measures or legislation that may affect their collective rights. The law was created in response to mining policies and territorial exploitation. It therefore seeks to regulate conflicts of interest between the State, private investment and Indigenous Peoples who, until that date, did not have active participation in decision making concerning the projects to be executed in their territories.

However, because the Ministry of Culture is a relatively young institution compared to other ministries in Peru, strategic guidelines have not yet been implemented to safeguard indigenous traditions and customs, such as the exchange routes carried out by the muleteers of Tanta, who currently continue to exchange their products, as portrayed above, with their neighboring communities. It is for this reason that declarations such as the Intangible Cultural Heritage of Peru, while fitting the purpose of protecting and disseminating Peruvian cultural manifestations, at the same time, fail to emphasize the continuity of more daily practices such as those carried out by the muleteers of Tanta because the priority of the Vice-Ministry of Interculturality seems to be focused on traditional dances, peruvian cuisine and national festivities such as the “Señor

de Muruhuay”, “La Virgen de la Candelaria” or “El Qoyllorit’i Cusco”, which promote tourism at national and international level.

As a result, this responsibility falls to smaller projects that have a socio-cultural component such as the Qhapaq Ñan Project and, in this particular case, the Xauxa-Pachacamac Section Project, which carries out conservation and archaeological work with the participative inclusion of the Indigenous Peoples that have lived near the roads since the Colonial and Republican era. In the case of the people from the rural community of Tanta, who, despite being affected by the advance of new markets, continue to practice exchange with other neighboring villages because they have already established a bond of kinship. The Qhapaq Ñan Project seeks to include them in the generation of inter-institutional agreements through community meetings and participatory workshops with the purpose of empowering them as a community and generate a new market segment without neglecting the ancestral tradition of use of the old Inca road to maintain the social and commercial bonds that they have established for generations with families in these towns.

Conclusion

Despite the radical changes imposed by the Spanish conquest over local social and economic models, trade has endured over the Andes. In most cases, traditional means of exchanging products have disappeared, giving way to monetary transactions in a market system. However, barter has subsisted among many communities along the region, and the existence and use of ancient roads have guaranteed the persistence of old patterns of interaction among different ethnic groups (Lautaro and Dillehay, 1979). Today, the case of Tanta’s llama-drivers persists almost as an isolated case, but it is not the only one found in the Andean region. Projects such as the Qhapaq Ñan Project, funded by the Peruvian government, not only focus on archaeological conservation and preservation of the ancient road, but also on keeping alive these ancestral traditions that have established exchange networks based on kinship and kinship ritual relations for generations.

SELF-DETERMINATION

14. Home Birth, Home Invasions

Encroaching on the Household's Sovereignty in the Andes

Margarita Huayhua

This chapter critically analyses how employees of public institutions intrude in a Quechua household in the name of women's sexual and reproductive rights in the southern Andes in Peru. Quechua-speaking dwellers, the descendants of the Inca civilization, have gained recognition of territorial rights and are legal citizens. However, this does not preclude the intrusion of state officials into the intimate sphere of Quechua lives, such as their social practice of home birth.

According to the perspective of Peruvian elites, any society that does not emulate a westernized lifestyle is seen as a problem. In the case of the Andes, Quechua-speaking villagers are imagined as 'the Indian problem' for maintaining a different cultural outlook through everyday practices in their villages. This perspective is linked to a long historical process of framing natives of the new world: America as 'other' because of their difference with respect to Spanish society at that time. Seeing natives as 'other' in Latin America has led to a society in which inequality is the norm. Such inequality in the 21st century is maintained through a process of racialization in which those who are marked as 'Indians' are considered inferiors in need of being elevated to 'civilized' ways of life through education, and other necessary means, particularly in Peru. Unmarked members of Peruvian society subordinate Indigenous Peoples with the help of those who want to emulate state officials. That is, elites: men and women benefit from and participate in the institutionalized racism exercised against natives as Moreton-Robinson (2000) suggests for the case of Australia, and those who act in their capacities as state officials play the role of oppressors in relation to natives as Bell Hooks (1981: 123-124) points out for

the United States and the black population (Moreton-Robinson, 2000: 58-59). Women from the elite and those who want to be part of that elite oppress native women and men by framing them as racial inferiors. This kind of oppressive relationship is illustrated by an intervention at the village or at the individual level under the banner of 'development', that is, to change villagers' production and reproduction practices, even though they are in their own homeland.

In the case study that follows, I illustrate how Quechua villagers' intimate space, that is, household sovereignty, is violated, by examining how an exchange between health workers and a Quechua-speaking couple leads to a dispute in which women with professional credentials override Quechua personal rights, of men and women alike, to run their lives, specifically the practice of giving birth at home without the presence of strangers. Government officials, women in this case, have the prerogative of intruding on the lives of people merely because they have been identified as ethnically and racially 'other'.

This work is part of my long-term research to uncover and expose the multiple ways in which relations of domination (hierarchies) are (re)produced in Latin America, particularly with respect to Native Andeans. For instance, racism and social oppression take place in small spaces of everyday life (to borrow a phrase from Andrew Canessa), and they frequently build on crossed expectations of rights and responsibilities. The dispute between a couple and two health officials about the circumstances of the couple giving birth to a child might seem small on the face of it, but it is resolved entirely by the health officials asserting absolute right of coercion,

and it takes place in the most intimate part of the house, next to the new mother's bed. As in the United States, racism does not function by means of large-scale categories and blanket discrimination alone, but through micro-aggressions that pervade the most intimate spaces of everyday life. The oppression that rural Native Andeans suffer is not an abstraction, but fully concrete in every aspect of their lives. My larger research program shows how this plays out in quotidian practice below and above the conscious intentions of all those implicated, and through the use of both Spanish and Quechua, that is, through behaviors that are both linguistic and social.

At the Beginning

The Inca civilization developed into what are today known as Ecuador, Peru, Bolivia, the southern part of Colombia, and the northern parts of Chile and Argentina. The Incas were conquered by Spaniards who destroyed whatever they found in their way (de las Casas, 2003). The inhabitants of the conquered civilization were framed as barbaric others, 'Indians' in need of being guided to 'recognize' and worship the Christian god, among other things. Once the Spanish colonial order was established, the Spanish Crown allotted the conquered territory to the conquerors and colonial officials, and the so-called Indians were resettled in *reducciones* across the Inca territory in order to control them and make sure that each family head would comply with a *corvée* labor draft, taxes, and other obligations imposed on them.

Túpac Amaru and his wife Micaela Bastidas (Walker, 2014) and Túpac Katari and his wife Bartolina Sisa rebelled against the colonial system of exploitation, but the rebellion failed. The representatives of King Charles III of Spain ordered the reinforcement of the Spanish language in a failed effort to require natives to abandon the Quechua language, along with banning the use of Inca symbols (such as dress, songs, and dramas) in order to erase any memory of Native history across the Andes, as well any medicinal practice linked to rituals.

After the Latin American colonies gained their independence, Native Andeans' conditions of life did not improve. In 1824 Simón Bolívar decreed that

indigenous communities be abolished as entities, that community lands be parceled, and that any 'remaining' land be sold as state property. Bolívar's decree was used by estate owners and local elites to grab Native Andeans' land and enslave Native Andeans. The new creole governing elite introduced a liberal model of government that targeted the heart of indigenous social organization and their means of livelihood: the community, a space of socio-economic and political practice. Native Andeans fought back with arms and the judicial system to keep their remaining land, and obliged the estate owners to pay natives for their labor on the estates.

Fast forward to the 1960s. Faced with endemic uprisings by Native Andeans, the Peruvian military government of Juan Velasco decreed the Agrarian Reform, which dismantled the haciendas in 1969. For Velasco and the leftists of that time, this was one way of resolving 'the Indian problem'. Native Andeans reclaimed the land for themselves and with it their territorial rights. After the 1970s, Native Andean communities thrived.

Do Communal Land Rights Guarantee Autonomy?

Native Andeans' rights over their land have not necessarily guaranteed the right to autonomy. Rather, during the 1980s and the beginning of the 1990s, Native Andeans were pushed to use chemical pesticides and fertilizers to increase the productivity of their land to compete in the market. This effort was one way of forcing Indigenous Peoples' transition from subsistence to market-oriented production, in order to make them part of the 'progress' of the 'nation'.

By the middle of the 1990s, Native Andeans dwelling in rural areas became the target of state institutions, and the reproductive rights, both of women and men, became an issue. The Peruvian government, after its participation in the Fourth World Conference on Women in Beijing China (1995), announced its decision to make the Conference's outlined Platform for Action part of its policy. A section of this policy is the provision of free health insurance to 'benefit' mainly women, such as Quechua speakers. Health insurance is claimed to be a way of securing maternal

health and reducing maternal mortality. With the health insurance, pregnant women receive a monthly allocation of food, and they are required to visit a clinic on a monthly basis for checkups and to deliver their babies in a health facility. The insurance for village women has become a trap, because it has meant that they have had to abandon their practice of childbirth at home, where they could also maintain privacy in what - for them - is the most intimate of activities.

To oversee compliance with the terms of the insurance, health personnel summon women to visit the clinic, and if women do not deliver at a health center, they will be visited in their households. The household is the last bit of social space in which Quechua social practices are maintained and socialized across generations, literally the last refuge for being Quechua.

To examine how the intimate space of Quechua villagers is violated through the case of home birth, let us take as an example, a trip to the village of Uqhupata.

The Village of Uqhupata

Uqhupata is a small rural village situated in the highlands, about 8 kilometers northwest of the city of Cuzco. The village is made up of three hamlets: Selva, Munhaspata, and Llawlliq'asa. Most dwellers of these hamlets moved to the center of the village ten years ago for access to electricity and running water. The village has an elementary school, a high school, and a clinic.

A Quechua-Speaking Household

The household compound usually comprises a kitchen, two independent rooms, a place to do the laundry, a corral, and a patio. The patio is the central point around which all rooms are distributed. It has a threshold with no door. It is a place in which villagers freshen themselves up, arrange their tools and crops, or where they feed their dogs and chickens. The patio is also a place where villagers exchange products with peddlers, and receive representatives of NGOs and public institutions.

Hosting a Guest

For Quechua villagers, the household is the space of all sociability. Villagers observe strict ceremonial

behavior when properly receiving a guest in order to maintain boundaries and the territorial sovereignty of the household, as well as to protect the household's sacred interior from exposure to 'social critique' (cf. Allen, 1981).

I will now relate a detailed account of a dispute between government agents and members of a household. But what is at stake here are not the facts of the dispute. What is at stake is the *location* of the dispute - the agents enter the house without appropriate greeting rituals and violating the boundaries of the household without accepting and following the appropriate norms of host-guest relationships, and ultimately they enter a space in which no guest would ever be received, the sleeping area, where they confront the couple next to their bed. Not merely through their words, but through their actions, in their very presence, the medical agents assume sovereign domain of the household and its inhabitants, a position that they do not relinquish throughout the dispute. The hosts, Hari and Sita, are not merely disputing the facts of the case - they are disputing and defending the very basis of Quechua sociability, the very basis of their personhood.

Following the villagers' own conventions about appropriate behavior on the part of both the guest and host is central to the villagers' sense of self, and sense of self-esteem. They offer *kuka* leaves or food to welcome their guests. To fail to offer *kuka* leaves or food would be considered a sign of rudeness or bad manners; as Angela Parker points out about Native American Mandani-Hidatsa, it would be a discourtesy not to offer food. Not to offer food as Lewis Henry Morgan (2003 [1881], 45-48) wrote of Native North Americans "would have been a discourtesy amounting to an affront. If hungry, [the visitor] ate; if not hungry, courtesy required that he should taste the food and thank the giver."

Hospitality "creates a moral space in which outsiders can be treated as provisional members of the house, as aspects of" its sacred interiority, as Shryock (2004:36) suggests, writing of Jordanian hospitality. Because hospitality, as Shryock points out, "creates a momentary overlap of the inner and outer dimensions" of a household (37). Offering

cups of coffee, or food to welcome and please a guest configures the relationship between host and guest.

Host-Guest Relationships

When Quechua-speaking villagers visit a household to help, they are treated as guests by the household's members. The host offers *kuka* leaves, *aqha* (corn beer) and food. Let us visit the home of Hari and Sita. It is early in the morning; Hari and Sita are in the patio receiving visitors for a day of work, greeting one another, with deference accorded to the older of the two: "good morning..."

Hari spreads a bundle of *kuka* leaves on the floor so everybody can take what they want, while Sita brings a gallon of *aqha*. Hosts and guests are sharing *kuka* leaves and *aqha*, and conversing about the mud with *icchu* straw they will prepare to make adobe bricks.

Hari talks about the size of the room he wants to build. He points to a space that is about four square meters as an example, while his cousin asks if that is the size of the room Hari wants. The size of the room establishes the number of adobe bricks needed. After chewing *kuka* the host says, "let us begin the work." In this interaction, the participants display respect for each other and, as the protocol of hosting demands, the host shares plenty of *kuka* and *aqha*.

Table 14.1. Dialogue 1

Hari: <i>Kay uhuman-chay uhuman cuatro metroscha Kashan(.)</i>	Hari: This inside part here- ((pointing)) might be four meters inside there(.)
CO: <i>Anchhaynapichu kanqa(?)</i>	CO: It would be like that size(?)
Hari: <i>Aha</i>	Hari: Yes ((arranging some <i>kuka</i> leaves))

Agents' Visit to a Quechua Household

Let us switch scenes now and look at a visit to the same house by two representatives of the Ministry of Health. I shall refer to them as 'agents', as I do for all government employees and NGO workers in the community.

Does the agents' behavior show consideration for their hosts? Do participants agree on the issue being considered? What is at stake for the participants?

We need to keep in mind that Hari learned Spanish in his late teens in the city of Arequipa and Sita learned some Spanish during her childhood when she was sent to a household in the city of Cuzco as a domestic servant.

It is a sunny morning. The two agents, I shall call them A2 and A3, arrive at Hari and Sita's house to follow up on the birth that happened at midnight. Hari receives them in the patio of his house.

Ignoring the Host to Demand an Explanation

In lines 1-3 of table 14.2 the health visitors display a lack of respect for the hosts by not greeting them and not acknowledging the host's greeting.

Unlike visits of relatives and villagers, where sharing *kuka* leaves is indispensable, and where an effort is made to entertain and amuse relatives before conducting any business (e.g., trading or working), visitors who are strangers, that is, agents of public institutions, are received without *kuka* leaves. Sharing *kuka* leaves is a feature of being a member of a community, but is also used to make strangers from elsewhere an honorary member of the household, and Quechua norms of sociability demand that it be followed by food.

Villagers refrain from offering *kuka* leaves to urban strangers, since they have been told countless times that chewing *kuka* is a disgusting thing that only backward and filthy people do. Even the simplest act of sharing *kuka* leaves is today permeated with the self-evaluation of relations of social-domination.

As we can see from the dialogue above, there was never even a chance to offer *kuka* leaves or food. Instead, one of the agents, A2, enters the household complex and immediately demands an explanation: why has the host's wife delivered her baby at his house. Her phrase "I've said clearly" implies that the agent's word, if understood, should obviously be followed because she has the authority. The condescending nature of the statement (line 1, 3) reminds the host not only of the status of the visitors, but also of their

Table 14.2. Dialogue 2

1	A2: <i>Qué ha pasado(?)</i> ⁵	A2: <i>What has happened(?)</i>
2	H1: <i>Señorita buenos días(.)</i>	H1: <i>Good morning, Miss(.)</i>
3	A2: <i>Por qué ha dado a luz acá=↑ he dicho bien claro en Pampa(.)</i>	A2: <i>Why has she delivered here↑= I have said very clearly ((childbirth is)) to take place at Pampa ((the clinic))</i>
4	H1: <i>>Pero me ha dicho pues< para:: me has asegurado para el 10 todavía(.)</i>	H1: <i>>But you told me< that:: you assured me that it would not be until the 10th ((the due date))</i>
5	A2: <i>Cómo te voy asegurar(.)</i>	A2: <i>How could I have assured you that(.)</i>
6	H1: <i>Para 15 incluso señorita(.)</i>	H1: <i>Even for the 15th Miss(.)</i>
7	A2: <i>Se puede- se puede adelantar su parto(.), cómo vas a confiar en el parto(.)</i>	A2: <i>It can be- she can go into early labor (,) how can you be sure about a birth date(.)</i>
8	H1: <i>Señorita disculpe pero me has dicho para hoy día= para que baje al último control o no(.), para hoy día era(.)</i>	H1: <i>I'm sorry, Miss you told me to go down to the clinic today= for her last pregnancy checkup didn't you(.), it was for today(.)</i>
9	A2: <i>Pero si le ha venido el dolor por qué no le has llevado de frente(?)</i>	A2: <i>But why didn't you bring your wife to the clinic if she had contractions(?)</i>
10	H1: <i>Pero ↑señorita yo estuve de viaje(.)</i>	H1: <i>But ↑Miss I was on a trip(.)</i>

authority. It is difficult for the host to manage the authoritarian conduct of the agents on the spot. The burst of questions put him in an awkward position, since his welcoming greeting was ignored. The visitors failed to follow the conventions of hospitality, and shunned the welcome the host gave them.

To handle the situation, in line 4, the host hastily asserts that the due date had been set for the 10th or even the 15th by the agent herself. After the host mentions that the birth took place before the probable due date, in line 8 agent A2 asserts that births can happen long before the estimated due date, and that the host is wrong for understanding the due date as an absolute certainty. Faced with the accusation that he lacks common sense, the host tries to recover some control saying *siñurita disculpe*, that is, “*señorita* with all respect you may notice that the last pregnancy checkup was scheduled by you for today (October 30).” His response seeks to deflect the blame for the home birth.

However, the birth was on the 29th, 16 days before the due date; thus, to avoid any responsibility on her part, the agent attempts to make the host responsible (see line 9). Her statement presupposes that there were signs of labor; the host should have brought his wife to the

clinic without delay. Faced with this accusation, the host tells the agent about his trip. He is getting upset, particularly with the agents' intention to hold him responsible for something that it is assumed he knew.

The agents step into the bedroom. A2 stands at the headboard of the wooden bed and A3 stands at the bed's footboard, while the host stands in the middle between both agents. Sita is lying in the bed with her newborn. The discussion continues in the bedroom.

Is There Always Labor Pain before Birthing?

The presence of the woman suffering from puerperal fever (an infection that occurs after childbirth) did not stop the agent's rudeness. From line 11 to 16 the agents scold Sita for not having gone to the clinic. Sita responds that there was no labor pain, so there was no need to go to the clinic. The agent forcefully asserts in line 13 that there is no justification for her to have stayed home if she was having contractions, more so when the agent was there that Saturday.

Sita reiterates quietly that *mana sinurita sabarutaqa nanawanchu* ('on Saturday miss I didn't feel any pain'). She is interrupted by agent A3, who says that even the

Table 14.2. Dialogue 2 (continuation)

11	A2: <i>Sita qué ha pasado(?) por qué no has venido el sábado a la posta(.)</i>	A2: What has happened Sita(?) why didn't you come to the clinic this past Saturday(.)
12	H2: <i>Mana siñuritasabarutaqa °nanawanchu°</i>	H2: On Saturday, Miss I didn't °feel any pain°
13	A2: <i>El sábado yo he estado ahí(,) si sentías lo que te dolía has debido de ir el sábado(.)</i>	A2: Last Saturday I was <u>there</u> (,) if you felt pain you should have come on Saturday(.)
14	H2: <i>Mana siñurita sabarutaqa/ nanawanchu</i>	H2: On Saturday, Miss I did not feel /any pain
15	A3: <i>/Ayer también estaba el doctor(.)</i>	A3: /Yesterday, the physician was also there(.)
16	A2: <i>Ayer también estaba el ↑doctor(.)</i>	A2: Yesterday the ↑physician was there too(.)
17	H1: <i>Pero señorita ayer ha ido con sus ovejas= a hacer chacra(,)/tranquilo(.) en la noche dice que-</i>	H1: But yesterday, Miss she went to the <u>farm</u> (,) with her sheep= /without any difficulty(.) she said that during the night-
18	A2: <i>/Por ESO PUE/ >Pero ella<- ELLA SE DA CUENTA PUES/ ella se da cuenta(.)</i>	A2: /SO/>But <u>she</u> <- <u>SHE IS WELL AWARE</u> /she realizes it(.)
19	A3: <i>/Ella sabe(.)</i>	A3: /She knows it(.)
20	A2: <i>>No es que es de un °mes o dos meses< (.)</i>	A2: >It doesn't happen one °or two months before<(.)
21	A3: <i>Es que nosotras no /sabemos(.)</i>	A3: We don't /know(.)
22	A2: <i>/Nosotras no sabemos</i>	A2: /We do not know it
23	H1: A::/	H1: A::/
24	A3: <i>/Usted no sabe= yo tampoco sé=</i>	A3: /You do not know it= neither do I
25	H1: <i>Pero si claro(.)</i>	H1: Of course(.)
26	A3: <i>Todavía no tenemos/ hijo(.)</i>	A3: <i>We don't have any /childrenyet(.)</i>
27	H1: <i>/Si le dolidría a la señora yo- no creo/que haya salido ayer(.)</i>	H1: /If my wife was in pain I- I don't think / She would have gone out(.)
28	A3: <i>/La señora sí=/no(,) siempre hay(.)</i>	A3: /The Mrs. herself yes=/no(,) <u>there is always pain</u> (.)
29	A2: <i>Siempre hay(.)</i>	A2: There is always pain(.)
30	A3: <i>Trabajo de parto es 12 horas=/en ellas es 6 horas(.)</i>	A3: The active phase of labor is 12 hours= ((but)) /for them it is 6 hours(.)
31	H1: <i>/A::</i>	H1: /A::
32	A2: <i>/Cómo va a ser media hora</i>	A2: / <i>How will it be half an hour/</i>
33	A3: <i>Es que/no puede ser que me digas ahoritita va venir/ el dolor y mi bebe se sale(.)</i>	A3: / <u>You cannot tell me that in this very moment/ the pain comes and I deliver my baby</u> (.)
34	H1: <i>/Si no-</i>	H1: /But-
35	A3: <i>/Es algo absurdo papá(.)</i>	A3: /It is absurd <i>papá</i> (.)
36	H1: <i>Si no viendo eso ayer no habría salido pues en la tarde en el carro hacia Yawriski(.)</i>	H1: But if I had seen her begin labor I wouldn't have traveled to Yawriski yesterday(.)
37	A2: <i>No= eso ya es cuento=nosotras sabemos ya(.)</i>	A2: No= it is a tall tale= we know that
38	A3: <i>Eso ya es cuento papá=no pue(.)</i>	A3: That's a tall tale <i>papa</i> = it is not like that(.)

physician was at the village clinic the next day - Sunday - the day on which she must have felt contractions, since the birth took place shortly thereafter (lines 14-15).

The host is not willing to accept blame for activities performed within his household, nor to allow anyone to blame his wife. To support his wife's statement in line 17 he asserts that there were no contractions since his wife brought her sheep to pasture without any problem. When the host turns to explain that the birth happened at night, he is cut off by A2's angry response. In line 18, A2 reiterates that the woman was fully aware of the impending birth: *ella se da cuenta pues*. It is presupposed that the woman is conscious of what goes on in her body, more than anybody else. In the subsequent lines (19-26), the agents assert that labor pains are obvious and cannot be ignored even though the agents explained that they don't have the experiential knowledge: "We have not yet had a child." When the agents are faced with the host's refusal to put the blame on his wife (line 27), from line 28 to 35 they tirelessly argue that there are always labor pains before

delivery. They assert that it is illogical to say that the birth can occur as soon as labor pain starts. They use the word 'illogical' as - in colloquial Peruvian Spanish - something that you cannot possibly agree with. Birth happens after many hours of pain; to say anything to the contrary is absurd, irrational even. The host keeps replying that his wife didn't have labor pains; if she had, he would not have been so insensitive as to travel. The agents refuse to accept the host's position by reiterating that the host is simply lying (see lines 37-38).

The host is not willing to be insulted or to allow these strangers to dominate him and his wife in his own house; therefore, he focuses on the issue of responsibility.

Am I in Charge of Following up with Pregnant Women?

By asking who is at fault for the birth occurring at home, the host unwittingly agrees that the birth shouldn't have occurred in the household.

Table 14.2. Dialogue 2 (continuation)

39	H1: <i>Pero para esto quién tiene la culpa señorita(?)</i>	H1: But miss whose fault for is it that(?)
40	A2: <i>COMO QUE QUIEN TIENE(,) USTEDES PUES TIENEN QUE SABER EN QUE MOMENTO= YO NO VOY A VIVIR CON USTEDES Y CUANDO LES ESTÁ DOLIENDO LES TENGO QUE LLEVARLES(,)</i>	A2: ((WHAT DO YOU MEAN)) WHOSE fault is it(,) YOU SHOULD KNOW IN WHAT MOMENT THE DELIVERY WILL BE= I WILL NOT LIVE HERE WITH YOU AND WHEN SHE FEELS PAIN HAVE TO BRING YOU ((sarcastically))
41	H1: <i>Señorita disculpe= ustedes <u>son profesionales</u> o no son profesionales(?)</i>	H1: Excuse Miss= <u>are you professionals</u> or aren't you(?)
42	A2: <i>POR ESO PUES(,)</i>	A2: OF COURSE(,)
43	H1: <i><u>Usted controla las carretillas o no señorita(?)</u></i>	H1: <u>You're in charge of checking upon pregnant women through the pregnancy cards, aren't you Miss(?)</u>
44	A2: <i><u>CLARO</u> /ENTONCES(?)</i>	A2: <u>OF COURSE</u> /SO WHAT(?)
45	H1: <i>/Entonces <u>quién es el que va a controlar(?)</u> yo voy a controlar a mi señora/YO NO SOY PROFESIONAL(,)</i>	H1: /Then <u>who will do the checkups(,)</u> I should do the checkups on my wife's pregnancy/ I AM NOT A PROFESSIONAL(,)
46	A2: <i>/Se va- se <u>adelanta pues el parto(,)</u> se adelanta(,)</i>	A2: /It goes- <u>labor can be earlier than predicted(,)</u> it can be earlier(,)
47	A3: <i>Obviamente usted nos puede colaborar/ muy bien(,)</i>	A3: You can obviously help us/ very well(,)
48	H1: <i>/Entonces <u>DEBES DECIRME PUES SEÑORITA</u> desde 27 ó 28 <u>ya tienes que cuidar(,)</u> <u>prácticamente así(,)</u></i>	H1: /Then <u>in practical terms YOU MISSNEED TO TELL ME</u> that I have to take care of my wife since the 27 th or 28 th (,)

Table 14.2. Dialogue 2 (continuation)

49	A3: / <i>Siempre por lo menos moquito con sangre se nos baja a lo menos↑ antes de 12 horas(.)</i>	A3: /There's always at least a little bit of mucus with blood ↑12 hours <u>before</u> the childbirth(.)
50	A2: <i>Antes(.)</i>	A2: Before(.)
51	A3: <i>Aunque haiga- sino hay dolor ellas saben↑ muy bien(.)</i>	A3: Even if- if there is no pain they know↑ very well(.)
52	H2: <i>Manan siñurita pasamuwanchu imapas(.)</i>	H2: Nothing came down Miss (.)
53	A3: <i>Hasta el líquido se pierde antes todavía cuando/</i>	A3: Even the fluid comes down before/
54	A2: / <i>Agua sale(.)</i>	A2: /water comes down(.)
55	A3: / <i>Si es que ha esfo- ha hecho esfuerzo=ha trabajado la chacra=ha caminado=ha subido(.) siempre papá(.) es que no puede decir que rapidito ha venido=no es pues papá=eso es algo absurdo(.)</i>	A3: /If she has- If she has done work on the farm= and made force= walked= and climbed up(.) there is <u>always</u> pain <i>papá</i> (.) she cannot say that the baby just fell down= it is not like that <i>papá</i> = that will be an absurdity(.)
56	H1: <i>Eso también según del cuerpo es señorita(.)</i>	H1: Missthat is different with each person's body(.)

In line 40 agent A2 retorts ironically. The assertion can be rephrased as ‘are you telling me that I should live and sleep with you so that *I* know when the woman goes into labor in order to bring you to the clinic?’ Here again, visitors are violating basic tenets of respect for the autonomy of the household.

To counter A2's rebuttal, the host questions the agent's professional status and duties in lines 41-43, which raises questions about the agent's responsibility to monitor the pregnant woman's status. Agent A2 retorts loudly, accepting that it is her duty to monitor the woman's pregnancy (lines 42, 44).

In line 45 the host asks “who will do checkups? Am I supposed to do checkup on my wife's pregnancy?” It is a rhetorical question; is he the one who should take the responsibility for calculating the due date? The rhetorical question ends with a forceful phrase “I AM NOT A PROFESSIONAL;” hence, the host shouldn't be held accountable for the premature birth.

The new mother has become a mute witness to the ongoing dispute between her husband and the agents at her bedside. The agents insist on maintaining their domineering attitude, undermining the household members' autonomy to go about their business as they

wish at home. The agents don't give up in their effort to make the new mother accountable for the home birth.

Birth Time is Experientially Known by Pregnant Women

In lines 49 to 51, both agents A2 and A3 insist that even if there is no pain prior to delivery, a pregnant woman's body expels mucus with blood. Their insistence is contested by the mother in line 52, who asserts that nothing came down from her body that would have suggested that she was close to giving birth. Ignoring Sita's reply, the agents continue to insist that before birthing a woman's water will break (lines 53-54), and more so if Sita has done work on the farm. For the agents, to say that the delivery had happened without warning is simply impossible, an irrational claim (line 55). The host is not intimidated by the agents' insistence on placing responsibility on his wife, even when they frame the couple as irrational. In line 56 he says (correctly) that each person's body is different. The agents address Sita.

Food in Exchange for Birthing at a Clinic

In lines 57 to 61, the agents highlight the relation between the prenatal food packages and the health

Table 14.2. Dialogue 2 (continuation)

57	A3: <i>Qanpas reclamawanki riki imamantapas= chhayna nuqapas reclamaayki mamá= derechoypi kashani riki (?)</i>	A3: You're demanding all sorts of things from me right= so I'll proceed in the same way as you and make demands of you <i>mamá</i> = don't I have the right to do so(?)
58	H2: ° <i>Mana siñurita</i> °	H2: °No Miss° ((I don't demand))
59	A2: <i>Reclama sus alimentos=/ reclama todo</i>	A2: She demands her package of food=/ she demands everything
60	A3: <i>/Te tenemos que reclamar(.)</i>	A3: <i>/We have to demand things of you(.)</i>
61	A2: <i>Así como te damos el seguro es para eso=el seguro no es para que des a luz en tu casa(.)</i>	A2: The insurance we give you is for that= the insurance is to prevent you from giving birth at home(.)
62	H1: <i>ESTA BIEN SIÑURITAEAL ALIMENTO RECLAMA SU DERECHO(.)</i>	H1: SEÑORITAITISMYWIFE'SRIGHTTOASKFOR THE ((prenatal)) PACKAGE of FOOD(.) IT IS FINE(.)
63	A2: <i>Y EL SEGURO/ Y EL SEGURO PARA QUE ES(?)</i>	A2: AND THE INSURANCE/ WHAT IS THAT FOR(?)
64	H1: <i>EL SEGURO(?) POR ESO PUES SEÑORITA ME COMPRENDE O NO ME COMPRENDE SEÑORITA(.) SI NO ME COMPRENDE YO LO BAJO HASTA DONDE SEA(.)</i>	H1: THE INSURANCE(?) WELL MISS. DO YOU UNDERSTAND ME DIDN'T YOU MISS(.) IF YOU DO NOT UNDERSTAND ME I'LL GO WHEREVER IS NECESSARY(.)
65	A3: <i>BAJA(.)</i>	A3: GO(.)
66	A2: <i>BAJA(.) BAJA/ QUEJATE DONDE SEA AUNQUE SEA AL PRESIDENTE=A MI NO ME INTERESA(.)</i>	A2: GO(.) GO/YOU CAN COMPLAIN WHEREVER EVEN TO THE PRESIDENT= I DON'T CARE(.)
67	H1: <i>/CLARO NO HAY PROBLEMA PARA MI TAMBIEN SIÑURITA(.)</i>	H1: /RIGHT MISS I DON'T HAVE ALSO ANY PROBLEM TO PROCEED(.)
68	A2: <i>↑ ESCUCHAME(.) el hecho es que tú no entiendes en tu cabeza(.)</i>	A2: <i>↑ LISTEN TO ME(.) the point is that you don't understand in your head(.)</i>
69	H1: <i>POR ESO PUES YO EN DONDE SEA YO VOY HA DECIR SEÑORITA YO HE VIAJADO-YO HE ESTADO DE VIAJE/(.) YO VOY HA DECIR ASI TAL COMO FUE(.)</i>	H1: OF COURSE MISS I'LL SAY WHEREVER THAT I WAS TRAVELING- I WAS ON A TRIP/(.) I'LL SAY IT AS IT HAPPENED(.)
70	A2: <i>Ustedes con el seguro TENÍAN LA OBLIGACIÓN DE AVISAR E IR A PAMPA(.)</i> <i>↑POR LO MENOS NO IR=por lo menos decirle al promotor= y el ↑me llama a mí y yo subo con la ambulancia(.)</i>	A2: <i>Those of you with the health insurance HAVE THE OBLIGATION TO REPORT AND GO TO PAMPA(.)</i> <i>↑ WELL NOT TO GO= but at least to inform the village health helper= and he↑would call me and I then come with the ambulance(.)</i>
71	A3: <i>>A LA UNA DE LA MAÑANA=DOS DE LA MAÑANA/<(.)</i>	A3: <i>>ONE IN THE MORNING= TWO IN THE MOR/NING<(.)</i>
72	A2: <i>/YO SUBO(.)</i>	A2: <i>/I'LL COME UP(.)</i>
73	A3: <i>/La señorita hubiera estado en tu casa/</i>	A3: <i>/ The Miss would have been at your house/</i>
74	A2: <i>/A MI ME LLAMAN(.)</i>	A2: <i>/THEY CALL ME(.)</i>
75	A3: <i>CUALQUIER RATO(.) ENTONCES(?)</i>	A3: <i>AT ANY TIME(.) SO(?)</i>
76	H1: <i>Si yo estaría agarrando un día=dos días de dolor hay si tenía derecho de decirme no(?)</i>	H1: You have the right to tell me if I have kept her at home for one= or two days but she didn't have pain(?)

insurance offered by the government. In line 57, A3 asserts her entitlement to an explanation. During the exchange in the Quechua language, notice that the agent treats the entitlements as establishing a personal relationship between herself and Sita, rather than an institutional one. This is entirely intelligible in Quechua terms to the new mother, but obliges the agent to also follow Quechua norms for hospitality.

In line 61, A2 reasserts that Sita cannot claim her prenatal food package without accepting the obligation to have their child at the government health center in Cuzco. In line 62 the host rejects the demands (and the behavior of the agents) and asserts that it is his wife's right to ask for her food allocation. Agent A2 retorts by demanding an answer to "what is the purpose of the health insurance" (line 63). The host is overpowered by the agents in his own house; control over the issue at hand is now out of his hands. In lines 64 to 69, the participants are entangled in angry dispute. The phrase *el hecho es que tu no entiendes en tu cabeza* (line 68) frames the host as lacking the capacity to understand the health insurance and its rules. According to the insurance terms, pregnant women have the right to receive a monthly allocation of food, but they must deliver at a health center.

The agents do not accept responsibility for being so far off in calculating the due date and so, in lines 70 to 75, show a concerted effort to blame the couple for failing to inform them appropriately about the impending birth. Their readiness to arrive no matter what time a woman goes into labor is loudly highlighted by *YO SUBO*, 'I'll come up', which is reinforced by A3's statement. The host, confronted with the agents' claims, asserts that they don't have the right to demand anything because the birth has happened without prior labor pains.

But above all, the host defends himself and his wife from the agents' harassment and intrusion on his own house. However, he could not prevent the violation of their household territorial sovereignty.

Coda

Under Quechua norms the medical officials, as visitors, should have behaved as guests, showing

appropriate respect to the hosts, within the prescribed bounds for receiving guests. The host, in turn, could not prevent their violation of the interiority of the household and its members, particularly since his welcoming and respectful attitude was not reciprocated by the health workers. His moral conduct was doubly called into question, by the health workers who rebuked him for traveling while his wife was pregnant, and by the very fact that the couple was forced to discuss this in their own home. The exchange between the participants also shows that it is not only the woman who is questioned for delivering at home, but above all it is the man, who is the father of the newborn. The host is shouted at, required to respond to the event that took place within his household. He stands up to defend his moral conduct and that of his wife, but he is humiliated and portrayed as lacking reason for not understanding the issue at hand, even though he is fluent in Spanish.

The agents position themselves as being entitled to demand that both the woman and the man obey and comply with the insurance terms. In other words, ethnic others, women and men, are overpowered by agents who distinguish themselves as government officials.

In the end, nothing is settled; the agents' aim to make the host responsible has failed. Although the medical agents' "claims [include]...demands... [that] usurp the host's right to ordain according to his free will, even...[when] custom lays down what he should wish to ordain" (as Pitt-Rivers put it; 1968: 26-27), the host has not surrendered to the visitors' demands. However, household members are no longer entitled to control the space of their household, that is, the self-government and establishment of boundaries are bracketed.

My goal here was not to focus on the facts of the dispute but rather to show how social relations of oppression are engendered by the ongoing dispute. The dispute discloses presuppositions about what a proper host and guest are considered to be, what the standards for proper birthing are, what the place in which a pregnant woman should deliver is, and so forth. The dispute I examine here reveals opposing points of view about the world, particularly related

to where birthing should happen. Quechua couples put limits on what they are willing to accept in order to defend their sense of being themselves: Quechua. Meanings - especially presuppositions - can be challenged to maintain the interlocutor's points of view, and each party's understanding of the small world of the household and what should take place in it. The interactions show how Spanish and Quechua are both used to reinforce and impose 'modern' and urban standards for child delivery.

Acknowledgments

I am grateful to Gillian Feeley-Harnik, Claire Insel, Bruce Mannheim, John Thiels, and Manuel May Castillo for their helpful comments on earlier drafts. Any shortcomings are mine. I would also like to thank the Mellon Sawyer Postdoctoral Research Fellowship at the Teresa Lozano Long Institute (LLILAS) and the Native American and Indigenous Studies (NAIS) Program at the University of Texas (Austin).

Fieldwork was supported by the National Science Foundation (NSF), the Mary Malcomson Raphael Fellowship, the Inter-American Grassroots Development (IAF) Fellowship, and the Rackham Pre-doctoral Fellowship at the University of Michigan.

15. How Does Culture Relate to Health?

A Case Study on Indigenous Peoples in Taiwan

I-An Gao (Wasiq Silan)

Indigenous Peoples' Disadvantaged Health in Taiwan: Initiating Problematization

The state of Indigenous Peoples' health is in crisis globally. There is a substantial gap in life expectancy between Indigenous Peoples and non-Indigenous people. For example, the gap is 6 years in Mexico, 7 years in Canada, 10 years in Panama, 11 years in New Zealand, 13 years in Guatemala, and 20 years in Nepal and Australia (United Nations, 2009: 158). Taiwan has a middle position with a life expectancy gap of 10.7 years (Council of Indigenous Peoples, 2012). The Ministry of Health and Welfare, Council of Indigenous Peoples, Ministry of Interior and public health experts initiated the exploration of the causes for this health disparity during the past few years. They found that the evidence of this disparity is associated with the following factors: lack of access to adequate health care for Indigenous Peoples, inadequate state financing of accessible services for Indigenous Peoples, geographical distance or isolation from health services, high out-of-pocket expenses for paying for them, a lower quality of services, and culturally inappropriate or insensitive methods of rendering health care services to Indigenous Peoples (United Nations, 2009; Wong, Allotey, & Reidpath, 2014). Despite the fact that indigenous health has been examined extensively (Chen, 2007; Ko, Liu, & Hsieh, 1994; Ru, 2012), there is a visible tendency of blaming Indigenous Peoples for having such health disparity problems. The 'indigenous problem' is a recurrent theme that links 'Indigenous' People to the conceptualization of 'problems' without a more in-depth analysis of the wider social, economic and policy contexts in which indigenous communities exist (L. T. Smith,

1999: 91-92). In order to contribute to a more in-depth understanding, this article intends to re-conceptualize the ways in which Indigenous Peoples become constructed as the problem themselves.

In more concrete terms, this study examines how the health disparity between Taiwan's Indigenous Peoples and the dominant population becomes a problem that various policies claim to fix. Emphasis is placed on examining the framing by various stakeholders of the health disparity of Indigenous Peoples, that is, how these stakeholders conceive and explain this issue from their perspectives, or in their 'ways of arguing' as Bacchi (2009: 27-29) puts it. The health framings of three stakeholders are examined, including the government, media and the experts on the issue of Indigenous Peoples' health gap. In particular, the role of cultural heritage is scrutinized in these health framings. Building on Carol Bacchi's problem *questioning* approach, this paper does not tackle indigenous health as an unproblematic truth, but as a socially constructed phenomenon that deserves closer scrutiny. Through analyzing the framings, it becomes clear that Indigenous Peoples are not just 'disadvantaged citizens' as they are portrayed to be. As Calma observes, the poverty and inequality that the indigenous Peoples experience can be traced back to their unequal treatment. He notes that the ongoing disadvantages and inequalities in their health status are linked to systematic discrimination (Calma, 2007). This systematic discrimination that negatively influences Indigenous Peoples' health is inextricably linked to ongoing colonial oppression. By scrutinizing the health framings, we are not only able to observe closely the structural and cultural factors that constitute the health disparity,

but also examine how academic knowledge about health disparity is constructed under the influence of those factors.

The analysis of this paper draws from two strands of research: feminist postcolonial studies and indigenous methodology. It utilizes the philosophical underpinnings from feminist and postcolonial studies to locate indigenous methodology (Harding, 2008). In this regard, indigenous methodology serves to create the social transformation that recognizes the evolving rights of Indigenous Peoples. Ultimately this paper encourages 'seeing the world of sciences with both eyes open', as noted by Harding, 'one on contemporary Western sciences and their philosophies and the other on other cultures' scientific practices and legacies' (Harding, 2006: 50-65). Accordingly, this paper contributes to the academic knowledge in two ways. First, it confronts the 'indigenous problem' in the context of health framings. Indigenous Peoples tend to be treated as irrelevant research objects in conventional mainstream epistemologies, methodologies and the philosophies of science (Kuokkanen, 2007; L. T. Smith, 1999). This paper problematizes the presupposition which treats them as irrelevant. Second, this paper contributes to the body of work on public policy making. The case study of Indigenous Peoples aims to diversify and complement the understanding of health as well as well-being in policy making of multicultural societies. In examining the representation of health, this paper analyses the intangible heritage—epistemologies and knowledge— of Indigenous Peoples in the context of health problematization. In doing so, public policy makers can be enabled to see the explanations of health disparity in contexts where Indigenous Peoples live.

How are the causes of disadvantaged indigenous health being explained? What is the problem represented to be? The article is structured as follows to answer these questions: In the following section, the context of Taiwan's Indigenous Peoples and their health status are introduced in order to provide an overview in which the examination of health framings takes place. Second, Bacchi's approach and the role of culture are presented as the theoretical pillars of this study. Third, the research design, data collection

and analysis are discussed. Fourth, the results and findings are presented, followed by a brief conclusion.

Indigenous Peoples in Taiwan

Taiwan used to be known as 'Formosa' and has been occupied by several regimes due to its geostrategically important location, including the Westerners (the Spanish 1626-1642, the Dutch 1624-1661), the imperial Chinese (1662-1894), the Japanese (1895-1945), and the Chinese Nationalists (known as Kuomintang, KMT). Taiwan's Indigenous Peoples have distinct ancestral territories and struggle to maintain distinct social, economic, and political institutions within their territories. One of the distinct features is that they are part of the Austronesian family that spread across Asia, Oceania and Africa. Their dominant sovereign status was challenged and dismantled by the settlers' occupations. For the past 400 years, Taiwan's Indigenous Peoples have experienced economic competition and military conflict with a series of settlers (Fetzer & Soper, 2011: 27). Settler governments implemented different forms of assimilative measures and subjugated Taiwan's Indigenous Peoples (Afo, 2000; Munsterhjelm, 2004; Shih, 2004). Today, Taiwan officially recognizes 16 tribes as Indigenous Peoples, consisting of two percent of the entire Taiwanese population

The martial law lift (1949-1987) was a landmark event in the period of Taiwan's rapid democratization in the mid 1980s (Tien & Shiau, 1992: 59). Along with democratization, a politics of recognition enhanced the subsequent collective indigenous rights claims, including autonomy rights, land rights and political rights (Chi & Yang, 2010: 463). The Council of Indigenous Peoples, a cabinet level government sector established in 2005, is currently in charge of the protection and promotion of Taiwan's Indigenous Peoples' rights. The Indigenous Basic Law, which was passed in 2005, marks a new era of indigenous rights recognition in Taiwan. The Basic Law affirms the principles of ILO no.169, especially concerning the rights of ownership and possession in Article 14 (Luvaniyaw, Juan, Savungaz, & ATIPP, 2013; Mona, 2009: 185-186). Indigenous Peoples' rights to medical and health services were recognized in the Amendment article 10 of the Constitution in

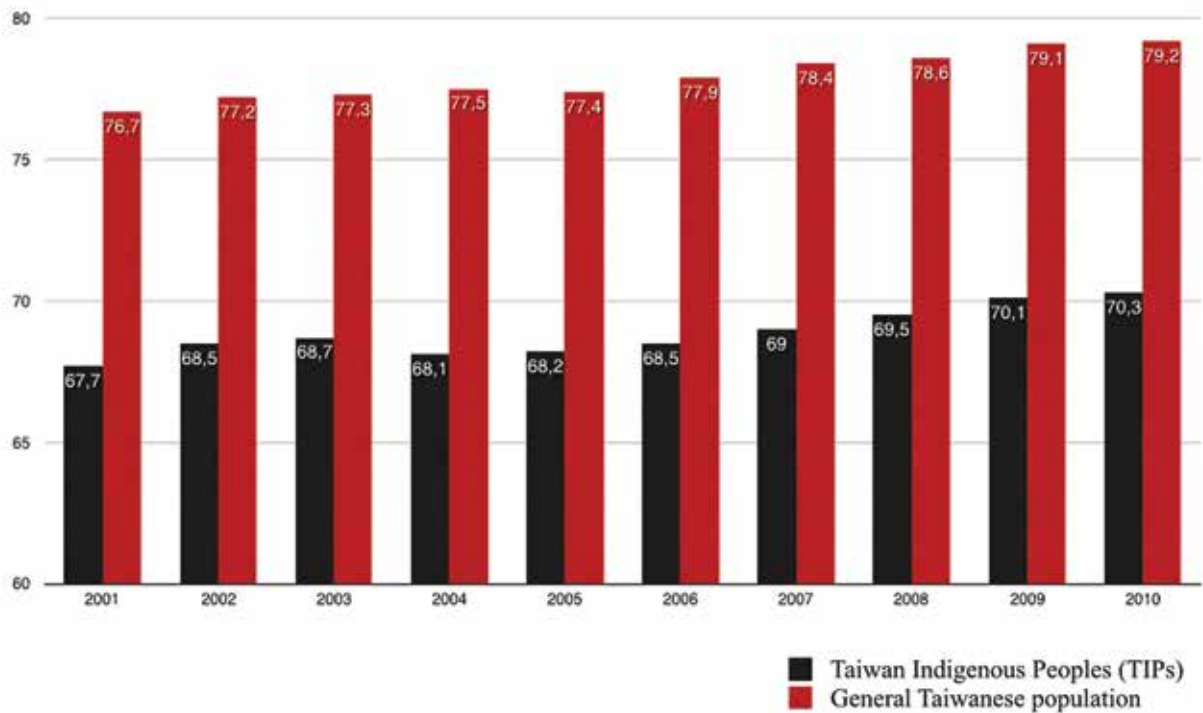


Figure 15.1. Life expectancy of TIPs and the general Taiwanese population from 2001 to 2010

1994 and article 24, 28 of the Basic Law in 2005 (Ru, 2012: 150-154). Today, many of Taiwan's Indigenous Peoples live in urban area. It is estimated more than half of the Taiwan's Indigenous Peoples live in metropolitan areas in Taipei, Kaohsiung and other 35 municipalities spread over Taiwan (Shih, 2008). There, it is challenging for them to continue in their traditional way of living because although they are entitled to the land rights on their traditional territory in principle, they are mostly denied to use their land in practice (Lin, 2002).

Indigenous Peoples in Taiwan have a lower socioeconomic status that hampers their opportunities to pursue good health compared to the Han people, who form the dominant population (Fetzer and Soper, 2011: 101-102). For example, they have higher unemployment rates, lower educational attainment, lower per capita income and lack of adequate access to health care. Nearly 60 percent of indigenous households have a minimal monthly living expenditure per person falling below the poverty line and the indigenous disposable

household income is only a half of that of all households (Council of Indigenous Peoples, 2011). These socioeconomic factors create conditions that make Taiwan's Indigenous Peoples more susceptible to diseases and an overall worse health status.

Taiwan's Indigenous Peoples die approximately a decade sooner than other Taiwanese (National Health Research Institutes, 2008; Council of Indigenous Peoples, 2011). Chronic hepatitis and cirrhosis, accidents, and hypertension kill Taiwan's Indigenous Peoples at 4, 2.9 and 2.7 times the rate of death in the non-indigenous population (Council of Indigenous Peoples, 2011: 85). Other evidence of the health crisis can be seen also in the increasing rate of malignant neoplasm, heart disease, drinking-related health problems, suicide rate and mental health disorders (National Health Research Institutes, 2008). With such health challenges, how do the government, media and the experts perceive and give shape to this disadvantaged health problem faced by the Taiwan's Indigenous Peoples? In the next section, Bacchi's WPR approach is utilized to answer this question.

WPR Approach and the Role of Culture

Carol Bacchi (2009)'s approach 'what-is-the-problem-represented-to-be' (WPR) is utilized here as an analytical tool to examine the ways in which the government, media and experts frame the question of Taiwan's Indigenous Peoples' disadvantaged health. Located in the critical policy analysis context, Bacchi argues for a 'reflexive framing' which starts from the premise that concepts are 'essentially contested' (ibid). The central notion of critical policy analysis is that there is no single absolute objective truth, but different ways of viewing or understanding. Policies, in this sense, 'represent problems in various ways through the types of solutions they offer' (Bastian, 2011: For example, there is no single absolute way to look at the notion of health. Health is an indeterminate goal and its meaning depends on time and place, and cultural norms (Bacchi, 2009: 138). Health can be defined differently under different circumstances, depending on the distinctive locations of the speakers. In fact, the concept of health has often been objectified in the form of statistics, which is necessary to the ruling of contemporary societies (Foucault, 2001; E. D. Smith, 1990: 107). Consequently, the idea here is that perceptions of indigenous health and its underlying reasons can be challenged when they are regarded as being discursively constructed in different contexts.

Health policy, just as the concept of health, is not a fixed idea either. Bacchi (2009: 128-129) identified two theoretical paradigms within health policy: a *biomedical* paradigm and a *social* paradigm. These two paradigms are very distinct from each other for two reasons. First, the genesis of health rests on a narrower premise for one, but broader for the other. In the biomedical paradigm, health is framed primarily on physical disease. Bodies are regarded as machines that can be repaired when malfunctions occur. In the social paradigm, on the contrary, health is framed as synonymous to well-being that refers to a more holistic understanding, stretching beyond the biomedical sense of health. Second, each paradigm constructs the meaning of disadvantaged health in a particular manner. The former frames health in terms of absence of disease, and the proponents of this paradigm argue for the importance of biological

risk factors to avoid ill-health. On the other hand, the advocates of the social paradigm of health put emphasis on the importance of social factors in determining health and illness. Fundamental conditions and resources for health, therefore, encompass 'peace, shelter, education, food, income, a stable ecosystem, sustainable resources, social justice and equity' (Ottawa Charter for Health Promotion, 1986 as in Bacchi, 2009: 129).

The notion of prevention is one of the key concepts that cut across the two paradigms. In asking 'what kind of a 'problem' is 'prevention' represented to be?', Bacchi (2009: 130) shows how prevention can be dealt differently among the two paradigms. She emphasizes that the core difference lies in whether individuals should be held responsible for their (poor) health due to their inactive (poor) lifestyle choices. The biomedical paradigm uses the notion of curative in its preventive programs as its orientation, resulting in their focus in immunization and screening as solutions (Bacchi, 2009: 130). In this way, from the biomedical preventive point-of-view, individuals are easily held responsible for their own illness because individuals are assumed to be able to actively change their harmful behaviors to avoid diseases.

The biomedical paradigm has been utilized as the dominant framing in the majority part of research on Taiwan's Indigenous Peoples (Ko et al., 1994). It tends to explain indigenous health inequality, as also Kuo has noted (in Ru, 2012: 150), with unequally distributed medical resources as well as the genetic and behavioral factors linked to Indigenous Peoples. The importance of this approach, which is inspired by biomedical studies, cannot however be overlooked. In particular, the significant contributions of acute treatments and the accurate observations of physical health have their irreplaceable value. Nevertheless, it could be erroneous to rely exclusively on biomedical studies only (Narayan & Harding, 2000; Nigenda, Lockett, Manca, & Mora, 2001; L. T. Smith, 1999). Complementary approaches to expand the interpretation of disadvantaged indigenous health are needed, and it is to this need the social paradigm responds to by incorporating a wider view of health. In contrast to the biomedical paradigm, the social paradigm does not treat bodies as malfunction

machinery as an explanation for Indigenous Peoples' disadvantaged health, but rather incorporates social, historical and environmental factors when explaining health and well-being. Through the social paradigm, it is evident that the breakdown of the social bond between individuals and their community would diminish their health, especially on the mental and spiritual level. For example, Tsai (2009) used Émile Durkheim's theory of anomie to flesh out the correlation between Tao People's mental disorder and the breaking down of Tao societal values. Homogenization policies from the old nation building model have profound ongoing impacts on Indigenous Peoples (Kymlicka, 2007; Miller, Ruru, Behrendt, & Lindberg, 2010). In the case of Taiwan, most policies before 1980s were made under the premise of upgrading the lives of barbaric mountain people by assimilative strategies (Cheng & Lee, 2007: 200). These policies of the 'homogeneous nation-state' model resulted in assimilating the people and dismantling their culture, crippling their cultural and social institutions, traumatizing mental well-being and marginalizing their social economic subsistence. They ultimately cause the Indigenous Peoples to have an unequal opportunity to be as healthy as the majority Taiwanese people. In this regard, the socioeconomic disadvantages could be a primary factor that places Indigenous Peoples at a greater risk of exposure to behavioral and environmental health risks (Chen, 2007: 63). Secondly, Indigenous Peoples do not have equal education opportunities compared to the rest of the population. Indigenous Peoples were allocated systemically in vocational training at the high school level while most of the non-indigenous population achieved tertiary education (Chang, Lin, & Liu, 2007: 86). Thirdly, Taiwan's Indigenous Peoples do not enjoy the same level of infrastructure compared to the majority Taiwanese people. For example, tap water is available to 67.7 percent of Taiwan's Indigenous Peoples while it is almost 100 percent for the non-indigenous People (Council of Indigenous Peoples, 2009: 2-3). The main reasons for the lower availability for tap water are insufficient funding and the fact that Taiwan's Indigenous Peoples tend to live sparsely in remote areas. The above examples demonstrate that disadvantaged health can be linked to factors other than biomedical factors. Additionally, the findings presented by Cheng and

Lee (2007) illustrated the disadvantaged position of Indigenous Peoples in examining indigenous income, economic inequality, violence in marriage, low percentage of governmental health and housing service usage. They observe that the average income of Indigenous Peoples was 40 percent of the entire population. To illustrate, 60 percent of Indigenous Peoples were in the lowest 20 percent income category. As a consequence, this pervasive problem of low salary caused tremendous mental stress and contributed to 50 percent of the violence in marriage in their studies. Another aspect that contributes to the less healthy circumstances for Indigenous Peoples is the inefficient delivery of health and housing services. Fifty percent of the indigenous respondents utilize health service—health check-ups and NHI subsidies in particular—provided by the government. Furthermore, 75 percent of indigenous respondents had never utilized governmental housing service because they were not informed that the services exist (Cheng and Lee, 2007: 250-251).

Thus far, this paper has examined Bacchi's poststructuralist WPR approach and how the notion of disadvantaged indigenous health can be understood in the biomedical and the social paradigms. In the following section, the notion of culture is discussed because it is inextricably linked to Indigenous Peoples. Additionally, the unexamined assumptions of culture may be problematic in understanding health framing.

Culture is not a fixed idea. For some, culture is a valuable defining factor of who we are and where we belong. For others, culture stands in dichotomy against universalism and universal values. The former belong to advocates of multiculturalism, where the latter adopts a more skeptical approach. For the advocates of multiculturalism, adopting an individualist 'universalist' approach in which differences among citizens are seen as irrelevant becomes exclusionary and discriminatory (Balibar, 1990; Kymlicka, 1995; Young, 1989). Culture has become a highly relevant political category for equal citizenship (Kymlicka, 1995; Parekh, 2000). On the other hand, the skeptics of multiculturalism see a tension between 'the cultural' and 'the universal'. This dichotomy can be traced to the

one between particularism and universalism, rights to cultures and human rights. Susan Moller Okin et al. (1999) argues that multiculturalism is bad for women because patriarchy often perpetrates minority groups, therefore women's universal rights are sacrificed under the pursuit of group rights. This connects to Indigenous Peoples because some categorize them into patriarchal minority groups that threaten women's rights.

In response, this paper takes the stance that culture is closely related to identity and at the same time radically hybrid and polyvocal (Benhabib, 2002). It is not the dichotomy between cultural diversity and universality equality that one should be worried about. The real danger lies in the false universalism and homogenous particularism. For the former, the notion of false universalism is inspired by feminist literature, in which feminists questioned that the values which universalism entails do not allow space for universal nor impartial. "Thanks to feminist scholarship, the veil of universalism which enshrouds 'malestream' political theory has been lifted to make visible the female non-citizen who stood outside it and to reveal the male citizen lurking beneath it." (Lister, 1997) For the latter, homogenous particularism is dangerous because these notions of difference create a space for fundamentalist leaderships to rise and gain legitimacy as 'representing' the community (Sahgal & Yuval-Davis, 1992). If the understanding of culture is homogenous, it can be dangerous no matter whether one belongs to multiculturalism or not. Yuval-Davis noted that the rise of fundamentalist leadership is "a result of the tendency of multiculturalist policies to often homogenize minorities and to attribute to all their members the same relationship to their 'culture and tradition'" (1999: 131).

Data and Methods

As mentioned above, this research analyzes the health gap problem with Carol Bacchi's approach. Echoing the concerns of constructivists, this study focuses on how the health gap problem in Taiwan is produced and constructed. Three sets of research data were utilized to answer the questions, which are collected from the government, the media and the experts. The government and the media were

analyzed so as to illustrate the dominant discourse on Indigenous health and how culture relates to health. Their accounts are contrasted by the experts' interviews, which provide an alternative view on the role of culture. The experts have extensive knowledge on Indigenous health because of their ongoing involvement of working with Indigenous Peoples.

The government's perspective was collected from the nation-wide Annual Report on Public Health (APRH) published by the Department of Health. The time frame was from year 2001 to 2012. There were 1281 pages in total from these 12 APRH articles between 2001 and 2012, Taiwan Indigenous healthcare was mentioned in 18.5 pages.

The media's perspectives were investigated through 98 reports from Taiwanese media, including both the mainstream and the independent media companies. The source of these 98 reports are twelve media companies: China Times and the Liberty Times, Focus Taiwan News Channel, Health News, K.S. News, Epoch Times, Lihpao, News Taiwan, Poja news, Public Television Service Taiwan (PTS Taiwan), Taiwan Indigenous TV and UHO news. The earliest report can be dated back to the year 2000, while the latest one is 2012. In addition to the government and the media, the experts' views were collected to examine a fuller picture of the explanations of disadvantaged Indigenous health and the represented health gap problem.

The experts' interviews were conducted during two field trips to Taiwan in the summer of 2012 and winter of 2013. In the eleven interviews, seven were conducted with recording and notes whereas the other four interviews were documented with detailed notes. All the interviews were conducted in Mandarin Chinese. Three of the informants have official positions in the central government. Eight of the informants are researchers who have professional training in their respective fields. Two of them are local doctors. Most of them have been involved with indigenous health improvement programs, ranging from grass roots level to national level. The principle of 'flexible, objective, empathic, persuasive, a good listener' had been taken into the interview process (Flick, 2009: 195). Qualitative Content Analysis (QCA) is utilized

as the main analyzing method for the following four reasons. First, QCA shares and combines characteristics of both qualitative and quantitative research (Schreier, 2012: 35). Second, QCA is highly descriptive that allows space for the discursive explanations naturally flowing from various data sources (Flick, 2009: 328; Schreier, 2012-3). It is precisely because of its subjective interpretation and systematic classification process of coding (Hsieh & Shannon, 2005: 1278) that allows the space of describing what is there in the materials. Third, it is flexible enough so it can be applied to a variety of textual data. Fourth, QCA enables the researcher to discover patterns in the data that point to theoretical understandings of social life (Babbie, 2007: 384). This feature is central to unravel the health framing because the analysis requires segment and code the three sets of data into the coding frame.

In the government analysis, each of the twelve ARPH articles will be a unit of analysis. The unit of coding was not identical to the unit of analysis, but smaller. That is to say, the unit of analysis contained several units of coding. Formal criterion was employed because the inherent structure of the data was clear. The segmentation was utilized by 'skipping the statements that overlap at the level of the generalization'; Codes were marked 'on the intended level of abstraction' to ensure only the segments that were highly relevant to the research question remained (Flick, 2009: 323-327).

In the media analysis, Qualitative Content Analysis (QCA) and Atlas.ti, a Computer-Assisted Qualitative Data Analysis (CAQDAS) software that facilitated the process of coding, are utilized as methods to analyze the 98 media reports. Each piece of news was utilized as an unit of analysis. In most cases, the unit of analysis contained several units of coding. Thematic criterion was used to the process of unit of coding. The themes that are central to the thesis were not present in the material, therefore an alternative conceptualized theme was introduced to ensure the themes were applicable to the coding frame (Schreier, 2012: 136-138).

In the interview analysis of the experts, individual pieces of data with the key timing retrieval system

was identified due to the large amount of data. Their discourses were divided into themes and a thematic criterion were established in accordance to the themes. The thematic criterion was employed on the experts' interviews. There are eleven units of analysis and each unit of analysis contains several units of coding.

The possible limitation of media data is that there has been limited Taiwanese news report on Indigenous Peoples as a whole. It is even more limited when it comes to indigenous well-being and health. Consequently, the possible limitation of the data collection is that the media representation might be concentrated in the online Taiwanese media materials. Nevertheless it is a resource for the analysis to examine the biased reasoning in the news reproduction. It is meaningful to show what had been systematically ignored from the Taiwanese data, by leaving the category empty. The main purpose of this study is to make the best use of QCA's systematic nature (Schreier, 2012: 5-6). During the expert interviewing process, the challenge was less on identifying experts or finding appropriate informants, but more on difficulties on 'excluding unproductive topics' (Flick, 2009: 167). Such as experts attempt 'to involve the interviewer in ongoing conflicts in the field and talk about internal matters' instead of talking about the topic of the interview; or the experts 'changes the roles of expert and private person' but not directly relevant to the capacities; or the "rhetoric interview" occurred that the experts gives lectures on their knowledge instead of responding to the questions posted by the interviewer (ibid).

Results and Findings

Thus far, the paper has contextualized the case of Taiwan's Indigenous Peoples so to inquire how the the health disparity between them and the dominant population becomes a 'problem'. To do so, Carol Bacchi's WPR approach has been incorporated to analyze how the 'problem' of Taiwan's Indigenous Peoples' disadvantaged health is produced. After presenting the data collection and analysis in regards to the three stakeholders, the results and findings are elaborated in this section

The analysis of the governmental and media framing confirms the observation of previous research that

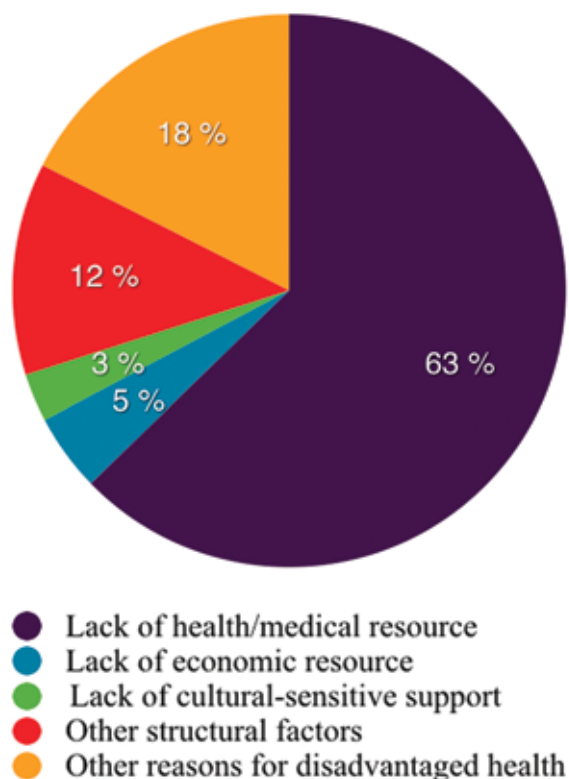


Figure 15.2. The Codes distribution of the Annual Report of Public Health 2001-2012

the biomedical paradigm is employed in explaining indigenous health problems as also Kuo has noted (in Ru, 2012). The interview analysis highlights cultural, political and genetic factors as well as cultural heritage. To elaborate, two competing approaches of treating cultural heritage in Taiwan's Indigenous People's health framing have been identified. The first approach is endorsed by the government and the media. Because of its widespread tendency, let us call it the dominant approach. In this approach, the governmental and media framing tend to rely on the biomedical paradigm in making sense of indigenous health. Biological risk factors were utilized as central tool to understand the meaning of health. The second approach is utilized as the central perspective in the expert interview. Let us call it the alternative approach. The experts highlight this alternative approach by bringing in cultural, political and genetic factors. In particular, they reminded that

cultural heritage can be part of the determinants of health on a radical level that reflects the complexity and sensitivity of Indigenous health. They argue to look beyond the behavioral risk factors so to identify 'the cause of the cause'.

This section is consequently divided into two parts. The first part examines the dominant approach, that is, the explanations of disadvantaged Indigenous health from the government and the media. In particular, this paper highlights how cultural heritage plays a role in the dominant discourses. The second part utilizes experts' view as a contrast to the dominant view. The alternative approach is unraveled and explained drawing examples from Taiwan's Indigenous Peoples.

The Dominant View from the Government and the Media

The health framing of disadvantaged indigenous health from the government has been examined through analyzing the Annual Reports of Public Health (ARPH). According to the reports, the indigenous policies have been consistent in the past twelve years (2001-2012). The common themes of the interventions for disadvantaged indigenous health underlined in the ARPH are clear: improving the quality of medical facilities, improving health delivery and subsidizing hospitalization fees. However, it is also noted that the indigenous health policies have not changed much throughout these twelve years on the national level.

Results show (Fig. 5.2) that the government sees the explanation for the worse health of Taiwan's Indigenous Peoples in a structural manner. Therefore, the government aims to solve the disadvantaged health problem rest on structural level as well. In particular, 82 percent of the government's explanations of disadvantaged indigenous health concentrated on the structural factors. Within these structural factors, 63 percent are highlighted as contributing to the reason of indigenous disadvantaged health as 'insufficient health and medical resources'. Locating the problem on the structural level leads the government to prioritize national and local medical facilities and the availability of health/medical support on the

local level. In building a complete medical delivery system, the health gap problem can be solved (Ministry of Health, 2002: 32).

In other words, the findings from ARPH confirm that the health gap has been dealt under the assumption that it is an 'unavoidable consequence' of the incomplete medical delivery system. It is incomplete because that Indigenous Peoples live in the rural geographic locations. However, we can also speculate on the fact that the important factor of cultural heritage is overlooked in the government's health framing. For example, language, a central component of cultural heritage, is left unmentioned in the ARPH reports. Language barrier is identified in ARPH when defining immigrants' health, but not in the case of the Indigenous Peoples.

On the one hand the government sees structural explanations to the disadvantaged indigenous health problem, on the other hand they also sees individual explanations in order to solve the problem. Two examples from the ARPH illustrate the ways the indigenous health problem is seen as individual's problem. The first method to improve individual indigenous health, under the government's health framing, was to launch health promotion campaigns. A series of campaigns were launched to engage college students in the national health promotion plan for Indigenous Peoples since 2008. The ARPH defined clearly the indigenous health problem into specific causes, namely domestic violence, sexual harassment and the prevention of alcohol, tobacco and beetle nuts.

"[The Department of Health] subsidized 15 health service camp projects (...) in order to facilitate college students making contribution to indigenous health in terms of domestic violence, sexual harassment, and the prevention of alcohol, tobacco and beetle nuts."

(Department of Health, 2008: 81)

In doing so, the *known world* was thus created (Ferree, 2009: 89). The known world refers to the concepts being given meaning. Such concepts were embedded in networks of other more or less widely shared and practically relevant meanings. By using these concepts, the government also created the

'indigenous problems' that entail domestic violence, sexual harassment, and the prevention of alcohol, tobacco and beetle nuts.

The second method for curing the problem of indigenous health was to initiate behavior correction programs. Indigenous health promotion scheme on the national level includes a variety of head start programs. These programs were launched to engage indigenous children to learn more about the "correct and healthy" lifestyle. In total, 548 indigenous children from primary schools have been recruited since the launch of the 'Little Angel of Indigenous Health' empowerment scheme in 2005.

"... 60 'Little Angels of Health' were invited to pay visit to National Health Commend Center (NHCC), Bureau of National Health Insurance, National Bureau of Controlled Drugs and Center for Verified Aerial Ambulance. By doing so, health concepts were taught ... encouraged to carry out healthy life style..."

(ibid., 2008: 81)

The results of the analysis of the media on the other hand showed that the Taiwanese media typically frame the 'problem' of disadvantaged indigenous health as caused by behavioral risks and structural factors. These two explanations dominated 87 per cent of all the explanations. In particular, 47 percent of the 'problem' of disadvantaged indigenous health was linked to behavioral risks, whereas 40 percent related to structural factors. Genetic, cultural and political factors are far less mentioned in the media representations than by the government. They consist respective of five percent, three percent and one percent.

Regarding the behavioral risk factors, the most commonly mentioned topics were the poor diet of Indigenous Peoples, and their alcohol and beetle nut consumption. Concerning the structural risk factors, the most commonly mentioned issues were the lack of job security, lack of supportive working environment and insufficient medical, health and economic resources. Additionally, the analysis of media reports indicates that indigenous culture is supposed to be responsible to some extent of their own current disadvantaged health situation.

Thus far, the findings from the government and media show a very coherent story concerning the causes behind the poor health of Indigenous Peoples in Taiwan. Structural factors and imperfect medical delivery system were the central explanation given to the health gap by both the government and media reports. In addition, the behavioral risk factors linked to the life styles of the indigenous population were very prominent in the media representations. The experts' perspectives are discussed as follows as a way to add nuance to the inadequately discussed aspects of cultural heritage and its relation to health.

The Alternative View from the Experts

The health framings among the experts are closely linked to their specific positions and their entanglement in networks of power/knowledge. Experts cannot extricate themselves from their constituencies and positions in the institutions, disciplines and agencies. Influenced by Foucauldian theories about expertise and power/knowledge, the researcher draw patterns to distinguish four types of experts in this study: Indigenous scholars (IS), Indigenous local doctors (ILD), Non-indigenous scholars (NIS) and Indigenous civil servants (ICS). The interviews with these informants, which are coded in accordance with their experts' positions, will be discussed in the following sections.

The Indigenous scholars were more likely to draw from indigenous cultural heritage when framing the problem of the Indigenous Peoples' disadvantaged health. They rarely attributed the health problem to the scarcity of medical resources, but rather emphasized the subjectivity of Indigenous Peoples and reiterated the ongoing impacts of past (and in some cases, also in the present) colonization. At the same time, they were vigilant toward the existing power imbalances in reporting and policy-making on indigenous health and they emphasized the subjectivity of Indigenous Peoples. For some, the suppression of indigenous subjectivity and the ongoing colonization were the very basis of health inequality (IS1). Cultural heritage was viewed as something valuable and integral to Indigenous identity. According to them, indigenous subjectivity cannot exist without the presence of cultural heritage.

Agreeing with the opinion of the indigenous expert mentioned above, another indigenous informant (IS2) depicted the health policies which are made with a colonial mindset as constantly haunting Indigenous Peoples. He explained that the governmental health promotion approach cannot expect too much success, because it is embedded in an incorrect premise that Indigenous Peoples are morally incapable and intelligently inadequate to have correct conceptions about a healthy life (IS2). According to this interviewee, the disadvantaged indigenous health results from the top-down imposed policies embedded in Han-chauvinism, which leave Taiwan's Indigenous Peoples behind in the worse economic, educational and social conditions. IS2 argued the Han-chauvinism manifesting in the policies places Indigenous Peoples in exploited conditions which basically also explains the disadvantaged indigenous health.

The second type of experts interviewed were medical practitioners with indigenous backgrounds. Medical training places the indigenous local doctors (ILD) in the position of perceiving Indigenous Peoples as patients who fail to perform normally in certain health indicators which are in line with medical examination criteria. Cultural heritage, in their case, plays a less prominent role in the explanations offered. ILD1 explained that as a health practitioner who has practiced as a doctor in his own community for decades, he concluded that the most defining feature to tell whether a patient is an Indigenous Person or not, is by how many items they passed in the examination. In the standardized medical examination, items tested commonly include serological test for HIV antibody, chest X-ray for tuberculosis, stool examination for parasites, serological test for syphilis and measles as well as rubella. ILD1 pointed out that the health performance of Taiwan's Indigenous Peoples have always been worse on the medical examination papers based on laboratory examinations compared to the non-indigenous population.

The third type of experts interviewed were non-indigenous scholars (NIS). They perceived indigenous disadvantaged health not from the standpoint of 'indigenous subjectivity' nor on the level of 'discrimination against Indigenous Peoples', but rather more from the viewpoints

of their own discipline: displaying a structural, institutional and anthropological point-of-view as a whole. They talked less about whether the government cares about Indigenous Peoples, but instead, relied on their professional knowledge in re-framing and re-interpreting the existing health problem. For example, a researcher with both an anthropological and medical training background observed that the medical school's training was to instill the 'inherently' disadvantaged indigenous health to medical students (NIS1).

The fourth type of experts interviewed were indigenous civil servants (ICS) who work in the public sectors relating to indigenous health. One respondent had experience in the Department of Health so he concisely identified three main themes of indigenous health policies in Taiwan.

"First, building capacity in human resource so we can have more doctors. Second, increasing the medical accessibility, which means building facilities, such as health centers and diagnostic sonographic service. Third, improving individual's health management knowledge by establishing tribal/community health promotion centre. In doing so, we wish to cut the medical spending."

(ICS1, 2.41)

This paper has identified the above mentioned four types of experts which align with Foucault's understanding of expertise. That is to say, an expert is not treated here as a 'bearer of universal values' but rather struggling with threefold specificities. As Foucault puts it, 'In other words, the intellectual has a threefold specificity: that of his class position (whether as petty-bourgeois in the service of capitalism or 'organic' intellectual of the proletariat); that of his conditions of life and work, linked to his condition as an intellectual (his field of research, his place in a laboratory, the political and economic demands to which he submits or against which he rebels, in the university, the hospital, etc.); lastly, the specificity of the politics of truth in our societies.' (Foucault, 2001: 127-128). The interviewed experts' specific positions and their entanglement with

knowledge/power allow us to unravel and explore further the 'indigenous problem' as asserted by the government and the media.

In the following sections, three examples are selected to illustrate an in-depth account of how cultural heritage plays a role in the health framings by the experts. Here, the researcher adheres to the understanding of cultural heritage developed by UNESCO: "the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artifacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage." (Convention for the Safeguarding of the Intangible Cultural Heritage, article 2). To begin with, the determinant of 'lack of cultural sensitivity' is discussed. Notably, the framings of government's reports APRH emphasized the importance of this issue, apart from the structural factors. The second example shows how the absence of Indigenous Peoples' traditional culture plays a role in the alternative understandings of indigenous health. Since it focuses on the absence of culture in the explanations, for the sake of brevity, let us call it 'absence of culture'. These problem representations examine how the deprivation of Indigenous cultural heritage has impacted on their health. The determinants include Indigenous Peoples losing their language, cultures and identities; their involuntary displacement and losing their traditional land and lifestyle. Lastly, the example of cultural continuity is analyzed.

The Problem of Lacking Cultural Sensitivity

A lack of cultural sensitivity is pointed out by the experts to be one of the major problems resulting in disadvantaged indigenous health in Taiwan. Cultural sensitivity is recognized as the core element for an effective health promotion. The linguistic aspect of cultural sensitivity was observed by IS1:

"Cultural sensitivity is indispensable to indigenous health promotion. For example, elders can't understand what the government is talking about, or what kind of disease they have."

(IS1, 21.45)

Indeed, cultural sensitivity is crucial in the process of health service delivery for Indigenous Peoples. On the other hand, another non-indigenous respondent argued that in certain forms of health delivery, such as long-term care, cultural sensitivity has an even more profound meaning. His argument was that if the long-term care has been designed without cultural sensitivity, it causes double exploitation on Indigenous Peoples (NIS2). It is double exploitation because a culturally insensitive policy design may require Taiwan's Indigenous Peoples to pay for the long-term care insurance while there in the last instance may not be sufficient services for them to use.

Echoing this interviewee's opinion of importance of reducing Indigenous Peoples' health disadvantages, an indigenous expert (ICS2) gave a concise picture about how to close the gap between the Indigenous Peoples and the general population in terms of life expectancy, mortality rate and injury prevention. Cultural empowerment was proposed by him as one of the five policy targets:

“Through cultural competent health care, we aim to ensure Taiwan indigenous populations receive effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language.”
(ICS2)

These accounts of the problems embedded in the lack of cultural sensitivity by the interviewed experts enrich and bring forth an alternative standpoint to the health framings by government and media, which addressed the issue of cultural sensitivity inadequately. Additionally, an indigenous scholar (IS2) proposed one possible reason why the government does not address cultural sensitivity. He concluded that the government does not have nor does not understand cultural sensitivity (IS2), based on his observations in his involvement with many health promotion projects initiated by the state. According to him, the reason for this is that the central government has a pre-conceived opinion about Indigenous Peoples. As a result, the government's health campaigns in tribal locations do not necessarily relate to their real problems (see the example of such campaigns in section 5.1). While

referring the central government as ‘people above’, IS2 brings forth a concrete example of the prejudice in practice:

“People above says that no more beetle nuts chewing for Wulai. That's because the people above gives us a structure that ‘all Indigenous Peoples are chewing beetle nuts. But the fact is, Atayal people do not chew beetle nuts. The habit of chewing beetle nuts belongs to Hualien- Taitong area. So the people above are clueless and feel like all Indigenous People culture involves chewing beetle nuts anyways.”
(IS2, 12.34)

The Problem of Absence of Culture

The notion of absence of culture links back to the historical understanding of Indigenous Peoples' suffering, the impact of doctrine of discovery and past conquest. This dimension of understanding the problem is totally omitted in all governmental reports and it makes up only three percent of explanations in the media coverage. In this regard, experts fill

in the missing pieces as they gave explanations of disadvantaged indigenous health by also taking into account the cultural aspects. For example, a non-indigenous scholar (NIS1) used the concept of social disorder when discussing the impacts of loss of indigenous languages, cultures and identities. The worsening sense of social disorder among Indigenous Peoples was suggested by him to account for the increasing alcoholism among them. He also observed that Indigenous Peoples were desperately in need of spiritual comfort (NIS1). Another interviewee of indigenous background (IS2) on his part emphasized the cultural deprivation caused by loss of traditional land, which was closely associated with the indigenous way of life, and has had a negative impact on indigenous health:

“To keep Indigenous Peoples' bodies healthy, we were in good shape because we used to do sowing, working and hunting. Now we are not healthy, because the mainstream people came in the mountains to take away our woods by force since the Japanese colonization. It was called ‘colony’, now it should be called ‘recolonization’. Now there is

no way to cut down a tree, because it's part of the National Park; urban people want water, our lands become water conservation area; urban people want air, our lands become the property of Forestry Ministry; they tell us that animals are important, so we are forbid to hunt. (...) Indigenous Peoples cannot exercise, nor hunt. So we are not healthy, we cannot move anymore. (...) We are living under the exploited condition, so of course we are not healthy.”

(IS2, 20.59)

Besides the cultural factors mentioned above, additional cultural factors were mentioned among the experts to explain the indigenous disadvantaged health. These issues emphasized the lack of recognition of indigenous subjectivity and indigenous rights. As Kymlicka and Norman (1994: 372) have observed, ‘the full and free development of their culture and the best interests of their people’ was not ensured for the Indigenous Peoples of Taiwan. For instance, a respondent of indigenous origin (IS2), while agreeing the indigenous subjectivity was deprived because they could not govern themselves in certain issues that are important to themselves, claimed that as a consequences, their self-determination was not properly accommodated in Taiwan:

“Now the government deprive indigenous rights, it says, ‘don’t worry, I will give you money’ (for the tribal ceremony). Isn’t it giving the runaround to Indigenous Peoples, at the same time lie to others that ‘this is how Indigenous Peoples are, they are no better than singing, dancing and drinking’? Why distribute so much budget in here (cultural performance)? Why give others a bad image of us Indigenous Peoples?”

(IS2, 18.10)

An non-indigenous scholar (NIS2) on his part explained that Indigenous Peoples define health on a level that is different from the Han people. He recalled a case that a shaman from the Thao tribe took care of the elders, as an example to underline the importance of the spiritual layer of indigenous health. To explain, this shaman did not regard the governmental initiatives of feeding elders or exercise first priority. What he considered to be the core issue was to revive the link between the elders and the

ancestral spirits, because in his opinion, the ancestors naturally create the power to take care of the elders. From this perspective, this shaman started from his prioritized angle of seeing the problem to recuperate the lost link: the elders needed to have their way of life back like the ancestors. He believed that as long as the collective lifestyle was revived, culture would pass on and the care-taking would happen by itself (NIS2).

The Problem of Discontinuity of Culture

A discontinuity of culture is proposed by the interviewed experts to be one of the explanatory factors of Taiwan’s indigenous Peoples’ disadvantaged health. Cultural continuity is defined here as ‘the degree of social and cultural cohesion within a community’. According to the research done by Chandler and Lalonde (1998), the rate of suicide has negative correlations to the degree of bond to ‘land title, self-government (...), control of education, security and cultural facilities, as well as control of the policies and practice of health and social programs.’ (Reading and Wien, 2009: 18).

Language is an important component of cultural continuity for the Indigenous Peoples. In Taiwan, the process through which indigenous languages were uprooted began during the Japanese occupation period (1895-1945). The Japanese were the first to govern the whole island and were exceptionally successful in promoting the Japanese language as the national language in order to “foster communication, develop culture and assimilate Taiwanese people, just as Western countries impose their own languages on their new territories” (Chen, 1996). Japanese as the national language was mainly promoted through national education. By 1944, more than 90 percent of indigenous pupils were included in elementary level education. From the beginning of 1929 to 1942, the percentage of Japanese speaking indigenous population increased dramatically. For example, among Atayals, it increased from 4.6% to 55.2%; among Paiwan, it increased from 3.6% to 48% (Afo, n.d.).

After World War II, the Chinese Nationalists implemented Mandarin Chinese as the national language thoroughly. From 1945 to 1984, a series of

policies were promulgated that led to an elimination of indigenous traditional names, and imposed Chinese values and language through national education, forbidding non-Chinese language usage in daily life and in church services. In brief, the Chinese Nationalist rule was repressive also in this respect. The national language policy with the aim to assimilate Indigenous Peoples was successful. For example, at least six indigenous languages are categorized as critically endangered by UNESCO (Afo, n.d.).

Such a loss of languages as an instance of discontinuity of culture has severe consequences, especially with regard to resulting in poor health. The same phenomenon was also observed by Hallett and his colleagues, who pointed out that ‘the generic association between cultural collapse and the rise of public health problem is so uniform and so exception less as to be beyond serious doubt.’ (as cited in Romaine, 2015). Research has shown that when the community is successful in promoting their linguistic and cultural heritage, they also have a better chance of gaining a sense of control of their own lives, and their well-being will thereby be better secured (Romaine, 2015).

In sum, the experts’ interviews enriched the understanding of the health framings concerning the Indigenous Peoples in Taiwan considerably. The above mentioned examples demonstrated how cultural heritage plays an essential role for understanding Taiwan’s Indigenous Peoples’ disadvantaged health from a viewpoint that better takes into account cultural heritage. In the following section, Bacchi’s approach is utilized to summarize the seemingly contradicting character of cultural heritage in the various health framings discussed so far.

Discussion

What is the role of cultural heritage in health framings described by the analysis? On the one hand, it is the most inadequately addressed issue in government and media. The framings by government and the media representations of the indigenous health ‘problem’ suggest that Indigenous Peoples’ cultural heritage does not play any role in explaining why Indigenous Peoples are disadvantaged in health.

At best, they see cultural heritage as a factor that impedes their physical health. On the other hand, the interviews from the experts bring forth a contrasting standpoint of how cultural heritage does indeed play an instrumental role in explaining the disadvantaged health of Taiwan’s indigenous Peoples. Three examples were given to support this argument, including issues of lacking cultural sensitivity, absence of culture and cultural discontinuity.

A synthesis can be drawn between these two seemingly conflicting stances of cultural heritage’s role in health framings by utilizing Bacchi (2009)’s approach, in particular drawing from the biomedical paradigm and the social paradigm. These two paradigms are closely linked to two different sets of interpretations between Indigenous Peoples’ cultural heritage and their health. The first set focuses on the importance of the biomedical paradigm in improving Indigenous Peoples’ public health standards. The second set on the other hand focuses on the urgency to re-conceptualize what “disadvantaged health” means to Indigenous Peoples. The proponents of the latter stance argue that Indigenous Peoples’ well-being can be influenced by the presence (or non-presence) of whether there is cultural recognition. In what follows, I will elaborate on these standpoints in more detail. The proponents of the biomedical paradigm advocate for a skeptical attitude towards revitalizing Taiwan Indigenous culture. They suspect that certain cultural practices of the Indigenous Peoples concerning, for example, poor sanitation and hygiene, therefore may cause diseases or illness. Therefore, they seem to be more reserved in advocating cultural revitalization for the Indigenous Peoples. The advocates of this stance seem to believe that the more traditional cultural practices are, the more likely they are to make Indigenous Peoples susceptible to diseases. The most extreme form of this line of argument is that the genes of Indigenous Peoples, as affected by their culture, predispose Indigenous Peoples to vulnerable health conditions, such as gout (Bai, 2005), mental disorders (Tsai, 2011) and alcoholism (Chen, 2007). These particular problem definitions were not detailed in the analysis, instead, these statements were categorized under behavioral risk factors or genetic factors. The proponents of the social paradigm on the other hand conceptualize the relationship between culture and health in a different light. They advocate for a

revitalization of indigenous culture and languages. They regard the revitalization and strengthening of indigenous cultures, languages and tribal institutions as essential for closing the gap of health disparity between the indigenous and non-indigenous population. They advocated that Indigenous Peoples are collectively placed in a vulnerable position with regard to health because of the absence of protection and recognition of their cultural heritage.

These contradicting attitudes toward culture suggest a need for a more rigorous understanding of indigenous culture. In fact, the values that support Indigenous Peoples' cultural preservation and recognition are readily available in various international instruments. In the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the importance of promoting and protecting Indigenous culture can be found in articles 8, 11, 14, 15 and 31.

Conclusion

This paper has analyzed how disadvantaged indigenous health becomes a 'problem' via a triangulated exploration from problem representations by the government, media and experts. Cultural heritage is the primary focus in exploring health framing in the case study of Taiwan's Indigenous Peoples. The empirical data shows that the Taiwanese government and media typically frame disadvantaged indigenous health as an unfortunate consequence of unequal distribution of medical resources, an imperfect medical delivery system and individual or collective harmful behaviors of the Indigenous Peoples themselves. In their opinion, cultural heritage does not occupy any significant position in explaining their disadvantaged health. However, according to experts' perspectives, lack of cultural sensitivity, absence of culture and lack of cultural continuity were referred to explain the status of disadvantaged indigenous health. These explanations also demonstrate that cultural heritage does play a significant role in contributing to a more inclusive notion of health.

The significant role of cultural heritage may seem contradictory when we cross-reference its meaning in the biomedical paradigm and social paradigm. This paper has given examples of how the biomedical paradigm reduces the notion of culture into behavioral and genetic risk factors. On the other hand, the social paradigm allows us to challenge the concept of culture which is narrowly defined by the biomedical paradigm. The social paradigm can contribute to a fuller understanding of culture because it enriches the concept of culture with a more holistic viewpoint drawing from structural and societal levels with reference to colonization. This study has also contributed to a larger field of research on indigenous health for it has shown how one — whether it be the government, media or expert— perceives indigenous health is socially constructed and is therefore often biased and based on prejudice. Second, this study has demonstrated how it is crucial to be aware of the complexity of social 'problems'. We should consider the making of 'problems' a puzzling problem itself. It is therefore urgently needed to open up pre-conceptions that delimit the scope of policies and solutions to the 'problems'. Third, this study also has showed how experts who work closely with this issue have alternative viewpoints that relate to the influence of culture and (post)colonial oppression. If we draw from experience that better reflect Indigenous Peoples' real life situation, we may understand the issues of Indigenous health better.

16. Politics and Practices of Indigenous Heritage in Taiwan

Perspectives on Cultural Transmission in Indigenous Communities

Chia-yu Hu

Contemporary Heritage-Scape in Taiwan

In the globalized era, heritage issues have become increasingly important in public and academic debates. The heritage phenomenon is interconnected in contemporary society using the “past” as a valuable resource. Given that “heritage” is derived from the past, as well as linking the past to the present, it usually serves as a fixed anchor that generates collective memory and constructs identity in a rapidly changing world (Bloch, 1977; Appadurai, 1981; Lowenthal, 1985; 1998; Lambek, 1996). Appadurai states that five fluid and constantly shifting dimensions, which he calls “-scapes,” contribute to the global exchange of ideas and information: *ethnoscape*, *technoscape*, *finanscape*, *mediascapes*, and *ideoscapes* (Appadurai, 1981). However, these scapes are closely intertwined and shift in relation to one another. Moreover, these scapes deal with national and international creations, as well as the dissemination of information and images. A few anthropologists use these concepts to propose that “heritage-scape” needs to be examined in the contemporary world because it is also capable of producing powerful and influential social and economic transformations (Giovine, 2009).

Many studies have examined the significance of heritage in the modern day. Heritage shapes a part of the collective memory and is inseparable from the emergence of politics of modernist identity. Thus, heritage presents a modern sense of the past that

promotes the politics of belonging (Rowlands, 2002; Rowlands & Tilley, 2006). Heritage also provokes memories and facilitates different social actions under spatial-temporal inconstancies and structural inequalities. Bender (1998) explains that the meaning or value of heritage is dynamic and flexible because people engage with, re-work, appropriate, and contest such meaning or value. Thus, heritage is integral to the manner by which identities are created and disputed. Moreover, heritage works as a constructed and contested site of memory, as well as a valuable cultural and economic resource that facilitates future explorations. Therefore, heritage inseparably refers to the politics of memory and to the forces of economic development.

The current Taiwanese heritage-scape, particularly that related to indigenous heritage, is closely associated with the Cultural Heritage Preservation Act that was amended in 2005; this act has been publicly promulgated and took effect in 2006.¹ Following the “The Convention for the Safeguarding of Intangible Cultural Heritage” drafted by UNESCO in 2003, this latest amended heritage law in Taiwan aims to develop a highly encompassing approach to deal with

1. The first version of the Taiwanese “Cultural Heritage Preservation Act,” was promulgated in 1982 to protect and preserve the cultural and natural heritage of the country. Before this law, the “Monuments, Historical, and Natural Relics Preservation Act” was applied from 1922/1930 to 1945 during the Japanese colonial period. From 1945 to 1981, the “Antique Preservation Act” was operated in the Kuomintang-ruled Taiwan after the Second World War. These earlier laws emphasized the protection of tangible heritage items, such as antiques, monuments, or historical buildings.

Table 16.1. Number of Currently Registered and Promulgated Cultural Heritage in Taiwan

Currently Practiced Classification All Heritage Items (5707)		Total Registered Heritage Items (5,707 items)		Registered Indigenous Heritage Items (140 items)	
		All Heritage Items (5707)	Heritage Items of National Importance (422)	All Indigenous Items (140)	Indigenous Items of National Importance (14)
<i>TCH</i> (indigenous items are approximately 1.6%)	1. <i>Monuments and Historical Buildings</i>	2070	95	3	1
	2. <i>Settlements</i>	13	1	1	0
	3. <i>Archaeological Sites</i>	43	7	3	0
	4. <i>Cultural Landscapes</i>	53	0	5	0
	5. <i>Antiques</i>	1493	274	47	5
<i>ICH</i> (indigenous items are approximately 16%)	6. <i>Traditional Arts</i>	282	27	39	3
	7. <i>Folklore and Related Materials</i>	165	18	42	5

(Sources from Cultural Assets Database of Bureau of Cultural Heritage; compiled by author in Feb 2016)

cultural heritage and change the narrow limitations in the past that merely emphasized the preservation of tangible cultural heritage. Thus, following the global approach, the new law in Taiwan has focused considerable attention on intangible and living heritage and preservation processes. The current law officially classifies heritage items in Taiwan into different tangible and intangible categories, such as: “monuments & historical buildings”, “settlements”, “archaeological sites”, “cultural landscapes”, “natural landscapes”, “antiquities”, “traditional arts” as well as “folklore and related cultural artifacts”.²

The major governmental institute to administer cultural heritage is the Bureau of Cultural Heritage (BCH) under the Ministry of Culture in Taiwan. It has the authority to register, preserve, and promote

cultural heritage.³ According to the cultural assets databank established by the Bureau of Cultural Heritage (BCH), a total of about 5707 heritage items related to seven categories have been officially registered and promulgated as of February 2016 (see Table 16.1). Among which, around 140 items are recognized as indigenous heritage items.

Indigenous Cultural Heritage and Dialectical Practices

The contemporary Taiwanese indigenous heritage phenomenon is involved with dialectical practices and entangled agencies. Contestations between different groups are sometimes counterworked. Selected indigenous ancestral traditions are promoted, manipulated, or appropriated as indigenous heritage

2. A newly revised “Cultural Heritage Preservation Act” has just been promulgated by the Ministry of Culture in July 2016. Ten tangible categories as well as five intangible categories (traditional performing art, traditional craft, oral traditions, folklore, traditional knowledge and practices) will be officially applied in the ICH classification system in the future.

3. The other competent authority for the category of ‘natural landscapes’ set forth in the amended law is the Bureau of Forestry (BF), which is under the Council of Agriculture (COA), Executive Yuan. The reason for having a separate authority is that natural landscapes are also classified as a category on the list of natural heritage (together with precious animals, precious plants, and precious mineral rocks).

items for both political correctness in expressing cultural diversities and economic developments in cultural tourism by governmental or professional institutes. Local perceptions of the ancestral heritage, cultural traditions, and interests of indigenous communities are often given limited consideration. Due to different approaches of divergent agencies, indigenous heritage affairs have frequently led to confrontations, mistrust, and lack of collaboration between indigenous communities and other interest groups.

Relatively speaking, indigenous people are economically and politically vulnerable in the process of historical changes in Taiwan. However, they are also the source base for expressing cultural diversity and cultural richness in Taiwan. After the Martial Law was lifted in 1989, many local communities, including indigenous communities, in Taiwan eagerly participated in the revitalization of cultural traditions and the representation of distinctive “pasts” to re-establish their identities or powers. Many indigenous people have launched cultural/ritual movements since the late 1990s after they experienced the effects of long-term assimilation policies and political restrictions. Thus, traditional practices are elaborately held or re-enacted by indigenous groups. These practices are the expressions of their cultural beliefs and knowledge, as well as the mechanism that shapes collective memory and unifies community members. Moreover, these practices represent the indigenous groups’ self-value and self-esteem.

In general, the concept of “heritage” could have polyvalent meanings for indigenous communities. First, heritage is a sacred ancestral tradition derived from long-term memories and origins; thus, this tradition is firmly linked to ancestral spirits. Moreover, ancestral spirits are believed to be related to the well-being of individuals and cultural groups. Second, heritage comprises distinctive cultural symbols that represent a group’s persistence toward collectivity and authenticity. Hence, heritage also provides an explicit focus to consolidate a sense of cultural transmission in a community. Third, heritage is a valuable resource that is transferred from ancestors and shared by related descendants. Thus, heritage can be dynamically used

as a cultural, political, or economic capital based on the social context.

Only a few indigenous heritage items in Taiwan were officially recognized and registered before the amended Cultural Heritage Preservation Act took effect in 2006. From 1982 to 2005, only the Rukai Kuchapungane old settlement was registered as one item in the category of “monument and historical building”.⁴ The other related items were prehistoric sites, which cannot be directly related to contemporary indigenous communities. In the last 10 years, an increasing number of indigenous items have been officially registered on the tangible and intangible heritage lists. Approximately 140 indigenous items in total are listed now, among which 14 items are classified as heritage of national importance (see Table 16.1). It shows that the percentage of indigenous items on the heritage list is approximately 3%. In comparison to Han Chinese heritage, the percentage number of indigenous heritage is much smaller. In addition, the percentage between tangible and intangible items of indigenous heritage shows a great difference. More accurately speaking, the percentage of indigenous tangible items is approximately 1.6%, whereas that of the indigenous intangible items is approximately 18%.

Other than the official heritage list, the Bureau of Cultural Heritage has also presented a list of potential World Heritage Sites and a list of potential World Intangible Cultural Heritage (ICH) items. Two indigenous sites, namely, the Paiwan and Rukai settlements of slate constructions as well as the Orchid Island and Tao/Yam settlements of semi-underground buildings, are included on the list of 18 potential world heritage sites in Taiwan. Four indigenous items, namely, Atayal oral expression on origin myth, Bunun *Pasibutbut* traditional singing, Amis *Illisin* ceremony, and SaySiyat *PaSta’ay* ceremony, are included on the list of 10 potential

4. The Rukai Kuchapungane old settlement was registered and proclaimed as a monument of national importance in 1991. According to historical records, the Kuchapungane old settlement had domesticated by the Rukai people more than 400 years since 1650, but it had been devastated due to mass migration of the village 40 years ago in the 1970s. This settlement has just been assigned in the list of 2016 World Monuments Watch by the World Monuments Fund (WMF). It is identified as cultural heritage site at risk from the forces of the impact of social, political, and economic change (World Monuments Fund, 2016). The issue of enhancing governmental preservation agencies to work with indigenous community to ensure the future of this site has become very popular in Taiwan lately.

world ICH items in Taiwan. The official agencies placed considerable emphasis on intangible items, such as rituals, music, and craft-making exercised in indigenous communities. These intangible items are often complicatedly involved with social transmission or cultural revival of indigenous communities.

However, multiple social authorities and agencies are dynamically entangled in the process of producing indigenous heritage items. Different from the external agencies, local agencies generating from indigenous communities, which play important roles in the actual transmission of cultural knowledge, have their special considerations and expectations based on local sociohistorical contexts. Thus, understanding the divergent forces of and expectations on producing indigenous cultural heritage is critical. Three different cases, namely, the sacred SaySiyat *paSta'ay* ceremony, the revitalized Kavalan weaving craft, as well as a creative wedding ceremony for the Paiwan ancestral post proclaimed as a national treasure, are assessed in this study to understand the complicated interactions, expectations and conflicts among divergent agencies in implementing indigenous cultural heritage projects.

Sacred Ritual as Intangible Heritage: The SaySiyat *PaSta'ay* Case

The case of including the SaySiyat *PaSta'ay* ceremony as an intangible heritage on the national list shows the subtlety and complexity involved in the heritagization process. The SaySiyat *PaSta'ay* ceremony is one of the five indigenous rituals registered and declared by the government as an important folklore-related heritage.⁵ The *PaSta'ay* ceremony is one of the most well-known indigenous rituals in Taiwan in terms of scale and duration, multifarious processes, secret taboos, and impressive material symbols. Legend explains that this ritual is mainly dedicated to the spirits of *ta'ay*, which was a

neighboring group of short people living adjacent to the SaySiyat in the past. Thus, this ceremony involves worshipping the deity of “others” with a complex tension. The *PaSta'ay* ceremony is currently held once every two years, while a more elaborate ritual is held every ten years. This ceremony is held in November or December at two ritual sites (Xiangtianhu site in Miaoli and Daai site in Xinzhu) respectively. Despite the changing of times, its basic ritual principle, structure, taboos, symbols, and meaning have been substantially maintained and successfully transmitted. Furthermore, the *PaSta'ay* represents the SaySiyat people's complex feelings and anxiety toward “others” based on the focus given to contradictions and reconciliations. In any case, by practicing the *PaSta'ay* ceremony, it defines the boundary of the SaySiyat as well as constructs the unique social memory and collective identity of the SaySiyat. Therefore, all the the SaySiyat people are proudly regarding this ritual as their most sacred and precious *kapengan* (literally “cultural tradition” or “cultural heritage”) that has been practiced based on ancestral rules without changes all the time (Hu, 2014).

Given the uniqueness and magnificence of the *PaSta'ay*, this ritual has become one of the focused heritage items in the Taiwanese government heritage projects. This ceremony was first registered as a folk heritage item by the Miaoli county in 2009 and by the Xinzhu county in 2010, where the southern and northern SaySiyat groups live, respectively (Hu, 2011). Thereafter, the *PaSta'ay* ceremony passed the BCH assessment and was proclaimed as a folk heritage with national importance in 2013. Furthermore, BCH has listed the *PaSta'ay* ceremony as one of the 12 candidate items of Taiwan heritage for application as a World Intangible Heritage.

The aforementioned process reveals a few complex motives of the official practices in designating and registering the SaySiyat *PaSta'ay* ceremony as a cultural heritage. The unspoken expectation of the local government is to promote the *PaSta'ay* heritage for cultural tourism and local economic development. Moreover, the central government is considerably focused on the spectacular view of indigenous cultural performance and international visibility.

5. A total of 45 indigenous rituals have been officially registered by county governments as folklore-related heritage in the local level. Out of the 165 folklore-related heritage items officially registered, the percentage of indigenous rituals is relatively high in this heritage category, see Table 16.1.



Figure 16.1. The SaySiyat *PaSta'ay* ritual dancing and singing in 2008

But, for the people of SaySiyat, the *PaSta'ay* ceremony is the most sacred ancestral tradition or heritage. It not only influences cultural transmission of the SaySiyat, but also decides the well-being of each individual and the survival of the whole ethnic group. For these reasons, most locals do not agree that the development of local economy should be an issue in this heritage project. They strongly believe that relating the *PaSta'ay* to cultural tourism would annoy the sacred spirits of *ta'ay* and can negatively affect the transmission of ritual traditions.

From the case of *PaSta'ay*, we can see that internal concerns and interests frequently contradict with outside expectations regarding the heritagization of cultural traditions. Nowadays, indigenous cultures are usually regarded as distinctive symbols that express cultural diversity and richness. Outsiders often enjoy indigenous ceremonies as exotic and attractive cultural performances. But, within indigenous groups,

practicing traditional ceremony in the contemporary world is often operated as the key mechanism for social/cultural transmission. Thus, conflicts frequently result during the interactions of different viewpoints. Nevertheless, external respect can also increase the intrinsic sense of honor and inspire pride in traditional values for the locals. The process of designating the *PaSta'ay* ceremony as a national heritage had resulted in the holding of several public tribal meetings. Indigenous opinions and inclination on this matter were collected and negotiated. In the end, most SaySiyats concurred with the heritage designation and registration because of their strong sense of cultural pride on this sacred ritual tradition.

However, after the proclamation on the *paSta'ay* ceremony as national intangible heritage, other internal disputes occurred in the SaySiyat communities when the governmental representatives came to discuss the process of conferring a national heritage



Figure 16.2. A SaySiyat ceremony organized to receive the national heritage certificate on Oct. 24 2015

certificate in the 2014 *paSta'ay* ritual period. Some SaySiyat people disagreed with the concept of government certification. Others were disappointed with the classification of *PaSta'ay* as folklore of the country. Moreover, many people are afraid of the secular administrative factors that may interfere with sacred rituals during the ritual period. By worrying about possible damage to internal social balance, the certificate granting process was suspended for a year. As a result of long-term negotiations based on local social relations, a grand ceremony was finally organized on 24th October 2015 (not in a ritual period) to receive the national heritage certificate from the minister of cultural affairs with the consent of local communities.

In brief, the *PaSta'ay* is constantly and seriously protected by the SaySiyats based on their own interpretation of *kaspengan* (ancestral rules). Therefore, the heritagization of sacred living heritage is a continuing process that deals with internal and external conflicts or competitions even after the official registration and proclamation. Moreover, the cultural spirit of *PaSta'ay* ritual on reconciling

conflicts between different groups with diversified opinions and positions could provide new insights into the aforementioned heritage dilemma. The local wisdom and indigenous acting model in a considerably slow pace can avoid damaging the sacred beliefs and self-launched motives regarding the preservation and transmission of living heritage.

Revitalized Craft Tradition for Ethnic Identity: The Kavalan Weaving Case

In the post-colonial era, newly revitalized ancestral skills or traditions may play critical roles in the construction of the ethnic identity among indigenous communities. But, the meaning or importance of these revitalized cultural traditions may not be valued by the official heritage agencies. The case of the Kavalan weaving craft in Taiwan is a good example. As an indigenous group living in the eastern coastal plains that had been forced to relocate to different places by Han Chinese settlers, the Kavalan had lost many cultural memories and traditions in the difficult historical process. The Kavalan weaving craft is not

listed as a national heritage item, because the contemporary Kavalan weavers are not considered as masters in terms of techniques or artistic performances among indigenous weavers in Taiwan.⁶

However, the Kavalan weaving (especially banana fiber weaving) played extremely important roles in reconstructing the Kavalan identity. Due to the strong impacts of cultural-political movements, the government finally recognized the Kavalan as an official indigenous group in 2001. The Kavalan used to be classified into the Amis indigenous group for more than 50 years. In the process, people of the Kavalan made great efforts to demonstrate their uniqueness and objectify their distinctive cultural images through speaking Kavalan languages, practicing ancestral spirit mediation ceremony, and weaving banana fiber cloths (Hu 2015b). Among them, traditional weaving craft and woven costumes play critical roles to exteriorly objectify the distinctive Kavalan images. For this sake, the Kavalans are eager to revitalize traditional weaving skills and weaving patterns.

Numerous historical writings during the Qing Dynasty recorded that banana fiber weaving was a very special indigenous craft conducted among the Kavalans in Taiwan. They dried banana leaf sheaths and made woven threads that form the leaf sheaths. The banana fiber woven cloth used to be extremely thin, light, and cool, which was ideal in making summer clothes. Given the obvious distinguishable features of the Kavalan banana fiber weaving, this skill has been selected as one of the critical cultural symbols that represent the Kavalans. However, this weaving craft has not been practiced for over 50 years due to the intense influence of mainstream culture. Most the Kavalan women have lost their skills and familiarity with the process. Nevertheless, in order to support the independence of the Kavalan, a few elderly women endeavored to revive the banana weaving skills 20 years ago. In 2003, the Lalaban Banana Weaving Studio was set up under the support of the Council of Kavalan People at Hua-



Figure 16.3. A Kavalan weaver is making banana fiber weaving

lien County for enhancing weaving skills in the Kavalan communities. Quite a few Kavalan women have gradually learned weaving skills and can now produce various woven products with traditional symbols (Lalaban, 2015).

Nowadays, Kavalan weavers are enthusiastically devoted to reproducing traditional woven costumes and recreating cultural images for the Kavalans. In order to express their differences from the Amis during the independence claiming period, a few active Kavalan cultural revitalizers and weavers created a black-and-white version of ritual costumes based on few old black-and-white photos of Kavalan people they could find in the archives. However, the weavers were not satisfied with the black-and-white costume because all the other indigenous groups have much colorful costumes. Hence, a few Kavalan weavers began to search for old material samples preserved in museums. Fortunately, few woven costumes with distinctive colorful woven patterns were found recently at the Royal Ontario Museum and the National Taiwan Museum. After seeing the beautiful and colorful woven items made by their ancestors, the Kavalan weavers endeavored to reproduce colorful woven patterns in their ritual costumes. Their objective is to modify the current black-and-white costumes into colorful ones by applying traditional woven patterns

6. In the Taiwanese heritage classification system, 8 indigenous craft items are registered as national heritage items among the 111 registered items. They include four Atayal male woodcarvers, one Atayal female weavers, two Sediq female weavers, and one Bunun female weaver.



Figure 16.4. Kavalan dancers wearing reproduced colorful woven clothes in 2014

and decorations. Though some Kavalans who had worn the previous designed black-and-white costumes for 20 years are wary of the cultural authenticity of the colorful costumes, the continuing modifications have already permeated into the current Kavalan ritual-scape (Jie, 2015).

Based on external standards, the Kavalan weaving is a re-constructed craft after its long hiatus which may not be recognized as an authentic and important cultural heritage. But, in terms of internal practices, this craft is highly important for objectifying distinctive Kavalan culture and constructing collective identity. In the contemporary official heritage system, external standards on assessments have exerted considerably decisive influence than the internal meanings and values defined by local communities. After many years' hard work made by the Kavalan communities, their weaving craft has finally been recognized and registered as one

indigenous item in the local heritage list by the Hualien county government in 2015. In the case of Kavalan weaving craft, the weight of internal voices and values were paid much less attention than the opinions of artistic professionals and governmental officers. It shows that the external standards which favor the artistic performances of individual craft makers should not be the decisive factors to review indigenous communal heritage and cultural revitalization projects.

From a Tangible to Intangible Heritage: The Paiwan Ancestral Post Case

Moreover, the rigid classification boundary that delineates tangible from intangible heritage in official practices may not be helpful or might be detrimental to the transmission of indigenous cultures. An interesting case is that related to the processing of a four-sided ancestral post preserved at the Museum of



Figure 16.5. The Paiwan four-sided ancestral post at the NTUMA registered as a national treasure in 2015

Anthropology of the National Taiwan University (NTUMA) as a national treasure classified in the “Antiques” category. The registration of tangible heritage in the official practices used to heavily favor non-indigenous materials. It was not until 2012 that the indigenous artifacts had passed experts’ review and were declared national treasures.⁷

Museum artifacts, which have already been institutionalized, are often registered as official heritage following experts’ review without collaborating with its source community. In 2014 when the NTUMA started to process indigenous artifacts as registered heritage, a new collaboration model with the concerned indigenous community was created. NTUMA initiated to gather the opinions and expectations in the source community toward NTU’s application of the community’s ancestral

artifacts as national treasures. Several tribal meetings were called to discuss the meanings, values, or memories the community held towards the artifacts. The related families and key persons of the source communities eventually reached agreements to participate in the NTU’s heritage project after discussions and negotiations. In May 2015, two NTUMA-preserved indigenous artifacts passed the committee examination and were registered as “national treasures” by the BCH in Taiwan.

The four-sided Paiwan ancestral post was one of the two indigenous artifacts processed by NTUMA. The post was collected about 80 years ago from the well-known *Zingrur* chief family of the *Kaviyangan* Village (the current administrative location is in Pingtung County’s Taiwu Township). This artifact was accessioned into NTUMA in 1931 during the Japanese colonial period via purchase from a private collector. An elder over 90 years old in the *Zingrur* family, who used to live in the old *Zingrur* house,

7. These two sets of indigenous artifacts are preserved in the Museum of Ethnology at Academia Sinica.



Figure 16.6. A traditional Paiwan wedding held on Sept. 12, 2015 for the four-sided ancestral post

remembered that the post with female figures carved on four sides was one of the ancestral posts placed in the house.⁸ The post is believed to represent a female ancestor named *Muakai* or addressed as “*Muakaikai*” in a highly respectful manner. Several special features were shown on the carved figures, such as her six fingers in each hand and the circles or eyes on her knees (Chen, 1961, Hu, 2015a).

The *Zingrur* family and the Kaviyangan Village members have varied feelings regarding the heritagization of their ancestral post. They were considerably proud to present their ancestral spirit and woodcarving achievements as national heritage. They also agreed that the post could be preserved in

the museum because they were worried that the wooden carving was substantially decaying. However, they feel dejected that the post has to be separated from the family and village. Hence, the *Zingrur* family and Kaviyangan Village members concluded in the last tribal meeting (before the registration committee meeting arranged by BCH in March) that the ancestral post should be treated as if it were a precious royal daughter (a princess) who married out of the village. Thus, they proposed that a traditional Paiwan wedding ceremony should be held by NTU as a symbolic gesture to officially present *Muakai* as an indigenous bride married to the NTUMA, as well as to celebrate its new status as a national treasure in Taiwan.

8. According to Prof. Suketaro Chijiwa's records, the four-sided post with female carvings was a side post in the house. Three ancestral posts with one-sided male carvings were the main pillars standing in the center of the old *Zingrur* house (Chijiwa 1960).

Finally, a highly unique traditional wedding ceremony, which should be classified as intangible heritage, was hosted at the NTU campus. This

wedding ceremony dedicated to the national treasure followed that of the Paiwan tradition, with ceramic pots, glass-beaded necklaces and bracelets, eagle feathers, metal pans, pigs, and indigenous wine and ritual food (i.e., *avai* and *cinavu*) being presented as gifts from the groom to the bride. On 12th September 2015, more than 80 Paiwan people travelled over 8 hours from their mountainous village to attend the “wedding” in Taipei. The first daughter of the present *Zingrur* family was the representative for the symbolic bride of *Muakai*. The President of NTU represented the university to receive the symbolic bride. A wooden swing, which is the symbol of Paiwan royal wedding, was set up at the center of the ritual site. The ritual included a series of traditional Paiwan wedding processes such as (1) *Makalingetjeli tua tiyuma* --praising the royal wedding with the swing, (2) *Pasenai* --singing ritual songs for the royal bride, (3) *Paukuz* --offering the bride prices, (4) *Zemiyan* --traditional wedding dance, (5) *Qemayam* --process of inventory and assessment of the bride prices, (6) *Pataral* --head-wreath offering ritual, (7) *Tjumlen* --ritually offering wine with double-cups, (8) *Penaljang* --ritual of proclaiming to ancestors, and (9) *Papukizing* --ritual feat that symbolizes becoming one family. The final wedding banquet was concluded with a strong bond between the museum and the indigenous community by everyone sitting and eating together.

After the wedding, the Kaviyangan village council requested a village carver to reproduce a full-sized replica of the four-sided post and place it in the living room of the current *Zingrur* chiefly house to welcome back the ancestral spirit of *Muakai*. The indigenous communities’ immense creativity and vitality to transmit and invigorate their cultural traditions could be observed in the unique wedding for the museum-preserved Paiwan ancestral post. The classificatory boundary between tangible and intangible heritage is meaningless for the living community. Once the heritage is considered alive, it is accepted as both tangible and intangible heritage. The power of heritage could be transmitted across space and time. The symbolic indigenous marriage generated from the preserved material heritage in the museum marks a significant milestone in rethinking different possibilities to reconnect museum artifacts with their

source communities. Moreover, the aforementioned marriage demonstrates the dynamic essence of culture, as well as the value of mobility, in implementing heritage projects. Therefore, attention should be provided to the living memory and agencies that could be generated from museum artifacts once they re-integrate with their source communities.

Conclusion

The current celebration of cultural heritage has extended globally. Two contrasting approaches are used to evaluate the growing trend of cultural heritagization. One approach regards heritagization as a process that fragmentizes culture, as well as directs an “inauthentic” culture that is imagined with re-invented “traditional” symbolic features. The other approach considers cultural heritagization as a type of cultural rebirth by creating new relatedness; thus, the reproduced past cultural features an “authentic” path to generate identity (Keesing, 1989, Sahlins, 1999). In the last 20 years, the revitalization of cultural traditions among the indigenous groups is inseparable from the politics of recognition in Taiwan. However, desires to acquire cultural pride, to gain political power and to develop local economy are all inter-related. The modernization, commodification, and heritagization processes are also entwined.

Contemporary heritage practices in Taiwan are paradoxically engaged and entangled with different agents (i.e., government workers, scholars, and members of indigenous communities) based on diversified perspectives. The current heritage projects reflect different interests of government institutions and local communities. From the external point of view, indigenous heritage items are often recognized and used as objectified symbols to illustrate the cultural diversities and richness of Taiwan by the official institutes. The major consideration of government agencies is to develop a successful heritage industry as a political and economic accomplishment. Nevertheless, the prior concerns of indigenous community-led heritage actions are mainly focused on transmission of ancestral traditions, construction of collective identity and empowerment of indigenous groups.

The cases of the SaySiyat *Pasata'ay* ceremony, the revitalized Kavalan weaving craft, and the Paiwan ancestral post's wedding call attention to current indigenous heritage practices in three aspects. First, the dynamic meanings of the past as interpreted in the present frequently cause conflicts and competitions on heritage resources internally or externally. Communications, negotiations, or reconciliations are indispensable, while the best strategies are to follow the indigenous social relations and pace of movements. Second, the concept of heritage should emphasize indigenous interpretations and internal meanings, since the revitalized and reproduced cultural traditions could play a decisive role on cultural transmission. Thus, encouraging indigenous communities to develop their own content is beneficial. Third, the current official classification system should be considerably flexible and inclusive rather than rigid and exclusive. Breaking the tangible and intangible boundaries of cultural heritage categories are critical to cultural transmission in living communities. In conclusion, many indigenous communities face cultural, political and economic inequality or marginality under the governance of a modern nation-state. Ancestral traditions could be manipulated as mechanisms to reconstruct cultural identity or as resources to gain power in the highly globalized world for the indigenous communities. Thus, this study argues that promoting indigenous heritage is important but subtle. Prior considerations in developing heritage projects should focus on enhancement of cultural transmission, assurance of indigenous rights, as well as empowerment of indigenous communities.

17. Gákti Ja Goahhti. Heritage Work and Identity at Várdobáiki Museum

Liisa-Ravna Finbog

The legacy of harsh assimilation politics in Norway – *fornorskingen* – have resulted in a loss of language, cultural heritage and corresponding identities for many within the Sami population. Helped along, in particular by the practice of late 19th and 20th century ethnographic and cultural-history museums, the culture of Norway has often been presented as singular without any or few mentions of the Sami culture. Only in the last few decades have any attempts been made to rectify this image. In this article I show how the Sami communities have appropriated the tools of assimilation – i.e. museums – and use them to counteract its effects. In particular I focus on the work of indigenous museums in one geographical area – the counties of Nordland and Troms – and the culture within – the Marke-Sami population. Using the Marke-Sami community as my starting point I show how the use of local and traditional knowledge alongside heritage work in museums help form a sense of local ownership to the Marke-Sami culture and an entitlement to participate in the creation of modern Marke-Sámi identities amongst the local Marke-Sámi population.

In 1997, when His Majesty King Harald V of Norway addressed the electives of the Sami Parliament, he expressed regret for the wrongs that had been done to the Sami people as a result of the Norwegian government's former official assimilation politics. He spoke, of course, of *fornorskingen*: the official policy adapted in 1851 to deal with the Sami peoples culture that was (and still is) vastly different from that of the Norwegian culture.

The existence of a different culture within the borders of Norway was in the nineteenth and early twentieth

century regarded as problematic. The reason being contemporary politics: In 1814, after centuries under Danish rule, Norway had established its constitution, and in its wake political groups were of the belief that sovereignty would follow. With this belief came the need for a common Norwegian identity that would gather and unite the Norwegian people as one (Eriksen, 2009:126). Anyone and anything that differed from the idea of such an identity – which the Sami arguably did – proved disruptive and so, up until its repeal in the years after WWII, the aim of *fornorskingen* was to change the Sami peoples' culture and language to match that of Norwegians' (Minde, 2005:11).

The consequences of such a policy were many and varied (See Minde, 2005). Perhaps the most grave however was the abolishing of Sami cultural and ritual practices as well as the prohibition of the Sami languages, which ultimately resulted in the loss of Sami identity for a large part of the Sami population (Eidheim, 1961:38; Eidheim, 1971:50-62; Eypósson, 2008:11-20; Finbog, 2013:42-3). The census of 1930 and 1950 may serve as an example: In 1930 Sámi speaking groups accounted for as much as 44 per cent of the general population in the municipality of Kvænangen in Troms county. 20 years later, in 1950, none remained (Bjørklund, 1985:12).

Though it was repealed in the mid-twentieth century, some claim that the politics of assimilation was informally in effect up until the 1980s (Minde, 2005:6-7). Others argue that its effect to this day is felt within the Sami community (Josefsen, 2006). Factual or not, any serious attempts to remedy the effects of *fornorsking* happened largely during and after the aforementioned decade.

Several such attempts were initiated by the Sami communities themselves, and in particular through the establishment of indigenous and local museums. Below I will examine some of these attempts. Rooted in the concept of *appropriate museology*, which can be defined as professional museum practices that have been adjusted to better fit local cultural contexts (Kreps, 2008:23), the article thus looks at how local Marke-Sámi communities engage with local museums and use them to their own end.

There are of course several ways of achieving this, but I have found it helpful to explore how Várdobáiki make use of *heritage work* in its daily practice. The concept of heritage work, as I understand it, can be broadly defined as any work pertaining to the expression and fortification of indigenous cultural identity and heritage. This includes, but is not limited to, indigenous language revival, exhibits, festivals and films (Clifford, 2004:8). What I understand as heritage work has had many and varied forms worldwide, but none the less it has had a great impact on how indigenous peoples work to reclaim language and cultural heritage (Erikson, 1999: 568–9; Saetersdal, 2000: 170). Várdobáiki is no exception. In my own work at Várdobáiki I have come across several cases of heritage work, but for the purposes of this analysis I have narrowed it down to three different activities: Oral-historical research, community-based archaeology and art and/or object production. Focusing on specific examples within all three activities, I will look at how Várdobáiki engage with the local indigenous population in order to construct Sami identities appropriate to the area. But first a small detour as I try to answer the question of why use indigenous museums when constructing and strengthening indigenous identities?

Museums and Identity

As one of many, museologist Eilean Hooper-Greenhill (2000) has noted that museum collections have the power of representation: The power to name and to represent the social world and the past. It follows that the institutions housing such collections – museums – thus have the power to create, to make visible, and over time legitimize official narratives of past happenings, no matter their content. Any

storylines found competing with the official narrations have up until recently in large part been silenced or, at best, marginalized (Baglo, 2001:55-6; Cobb 2005:363-4). Historically then, museums have generally presented what appears to be unmitigated views of bygone times.

The ability to shape how an audience understands the past and therefore their own place in the social world can be problematic. A case in point being the cultural- and ethnographic museums founded in the 19th and early 20th century: In an era where nationalistic sentiments ran rampant, museums, with their power to name and represent, became crucial in promoting nationalistic beliefs and most often it was done in favour of the dominant group within multicultural countries (Eriksen, 2009). Those unable or unwilling to fit in with such an image were simply removed from the equation (Brøgger, 1909:165; Hallström, 1929:56). In Norway the existence of the native Sami cultures was, in this regard, problematic.

To alleviate the problem the Sami were not to be seen as a part of the national narrative, nor were they to be seen as marginalized within the national narratives exhibited by the museums (Hesjedal, 2001). In the case of the latter the presence of Sami cultures and identities in Norway were explained instead as the result of late settlers from an eastern reindeerherding culture (see Hallström, 1929:56). Consequently the Sami was generally portrayed as the remnant of a foreign and exotic culture centering on reindeerherding. Over time this image has been perpetuated to such an extent that many modern museums still exhibit Sami culture strictly as a reindeerherding culture that is resistant to and unmarked by change (Baglo, 2011:55-56). Though it must be said that depending on context, such an image from time to time has symbolized very different things (Mathisen, 2014; Finbog, 2013:49,59).

It is, as stated above, only recently that attempts have been made to rectify the outdated view of the Sami people, their cultures and their identities. Several indigenous museums, established in the 1980s, are now attempting to engage with, and change, how the Sami and their cultures are perceived. To begin with, these museums displayed the same visual

imagery that the cultural museums in Norway did for centuries– i.e. the Sami reindeerherding culture (Olsen, 2008:18; Webb, 2001; Levy, 2006). But though the imagery was the same, the meaning behind it was an entirely different matter.

Archaeologist Sharon Webb argues that the new indigenous museums continued to display the Sami culture as primarily a reindeerherding culture in order to make use of a well-known and recognizable imagery. To intentionally manipulate, project, and homogenize a culture according to a known public image and identity based on Western stereotypes is, when done by an indigenous group, an act of *strategic essentialism* (Hodgson, 2002:1040, 1046). When employing such a strategy the aim is generally to seek recognition and gain rights as one people. In this case, Webb claims, the aim was to create one common, and therefore unifying, Sami identity (Webb, 2001:163, 2006:174). But this strategy is never without cost.

Today only a small number of the Sami people are involved with reindeerherding. Most work within other industries and as such may feel alienated by how the indigenous museums display Sami culture as a reindeerherding culture. The Sami communities within the sphere of influence of the Várdobáiki Museum is no stranger to such sentiments. Várdobaiki is, as previously stated, located to the north of the county of Nordland, but the museum's scope also includes the south of Troms, the county neighbouring Nordland (Skåden, 2009:3). This area has for centuries been the home of the Marke-Sami people, and though they have a history of reindeerherding,¹ if asked today, most would claim no relation to the industry. As such some admit to feeling alienated when in museums that display the Sami culture as a reindeerherding culture (Finbog, 2013:64).

The predilection towards alienation articulated that there was a need for local indigenous museums that

would focus on the Marke-Sami cultural heritage. As a result, in the 1980s and 1990s, the articulation was met by the establishment of several local indigenous museums; first of which was the Gállogiedde Open air museum in Evenes, Nordland, soon followed by Vilgesvarre in Skånland, Troms, Gamtofta in Sørreisa, Troms and Kvandahl-Museet in Ballangen, Nordland (Finbog, 2013). Though only Gállogiedde is managed by Várdobáiki, the latter three are affiliated. As such all four will be used as grounds for research when examining how Várdobáiki construct Sami identities that are appropriate to the Marke-Sami area. To begin with, the focus shall be on oral-historical research.

The Telling of Tales

Oral history is a collection of information gathered through oral transmission, and can be centered on everyday life or important historical events as they are or have been experienced by individuals, families or local communities (Allen & Montell, 1981:47-53). Such a form of information gathering is of course of scientific value, but there is also significant value on the part of the storyteller. The latter has been illustrated by the research of museologist Anne Eriksen. In her work with veterans of WWII, she found that storytelling was used to convey a collective memory of the war effort rather than individual endeavours. As a result, the veterans collectively determined how an historical event should be perceived. Following from that they also coloured their perception of self and likewise how others would discern their identity (Eriksen, 1995:161). By use of stories an individual or a community may, in other words, achieve personal or communal autonomy with regards to the understanding of history, culture, ethnicity and cultural identity. As examples worldwide have shown, museums in particular have proven to be an excellent setting for such endeavours (see Clifford, 1997:188; Bujis 2010:18). Thus, it is perhaps understandable that when first established the Marke-Sami museums choose to begin – in collaboration with the local community – with oral historical research.

Of the projects categorized as oral historical research the event known as *Skromtkveld*, or *Scare Night* has had the greatest longevity and is periodically still being arranged. Backlit by the historical buildings

1. Long has this group of Samis been explained as descendants of reindeerherders on the Swedish side of the border that settled along the coast after the borders between Norway and Sweden were set (Lysaker 1978:231; Vörren & Manker 1981:82 Storm 1988:16-17). Recent research however indicate that the Marke-Samis descend from a mixed group consisting of above mentioned reindeerherders, local Sea Samis and a more local coastal group of reindeerherders (Andersen 2002: 5,172-82, 422-4; Andersen 2004:140).



Figure 17.1: Mitalusmeannu, a variant of Skrømtkveld arranged in 2006 during a local music festival. Photo: Ellen Berit Dalbakk

and natural landmarks of Gállogiedde, storytelling is made a guest of honour on various occasions. On skrømtkveld the children and young from the Marke-Sami community will gather at Gállogiedde to share stories between themselves and listen to the tales of the older generations. Often the stories revolve around traditional myths and narrations from and about the Marke-Sami region and culture, many of which tell of different supernatural beings of Sami origin – one of these being the *Ulda*.² In old Sami tradition the Ulda is a mysterious and fearsome creature. Often it is an agent of goodwill, but they have been known, in contrast, to be a harbinger of doom depending on the situation. It is told that the Sami learned the art of *joik* (Sami traditional music) and powers of the *noaide*³

from the Ulda. At the same time many of the stories tell of how Ulda kidnap and exchange Sami children for their own. To protect against these changelings the stories would have you believe that silver is a protective agent not tolerated by the Ulda, and so within Sami communities newly born are always gifted with silver (Turi, 2010:158-159).

As described above, when telling stories of the Ulda, the elder generations firstly give the young children and teens árbediehtu or traditional knowledge – the social practice of giving silver to newly borns being a case in point. In other words Skrømtkveld ensure the survival of an *intangible* cultural heritage. But that's not all. A recent report on the cultural heritage in the north of Norway has concluded that storytelling can, and is in fact often used to make connections between specific ethnic groups and their traditional areas of settlements (Myrvoll et al. 2012). Such a process is not unknown within indigenous commu-

2. According to professor of finnish-ugric languages Karl Bernhard Wiklund, *uldak* or *ulttak* is a word that has been borrowed from the Scandinavian languages and is the equivalent of the Nordic hulder 'spirit people' (1916:71).

3. Sami shaman.



Figure 17.2: The big stone at Gállogiedde. Photo: Ellen Berit Dalbakk.

nities elsewhere (see Heikkilä, 2014; Lefale, 2010), for instance in Australia where storytelling is used to transmit geographical knowledge and recognition of traditional settlement areas amongst aboriginal communities (See Meggit, 1962:285). I would argue that the stories told at *Skrømtkveld* serve a similar purpose.

At Gállogiedde there is a particular stone that locals refer to as *Storsteinen*, or the big stone. It is generally believed that the stone has a connection with the Ulda and should therefore, to prevent any harm from coming to the people of the community, be treated with the utmost care. This is a long-held tradition in the community and the stories told at *Skrømtkveld* have been passed on as tradition to the younger generations. Telling stories of the Ulda thus forges a continuing link between the intangible cultural heritage and the community. This, in turn, moors the young to the areas of Marke-Sami traditional settlements.

Those participating in *Skrømtkveld* support this claim: Some feel that there is an empowerment to be had by the storytelling citing that it gives them a sense of ownership with regards to the Marke-Sami cultural heritage as well as the corresponding geographical area (Finbog, 2013:73). I would argue then, that *Skrømtkveld* legitimizes the use and creates local ownership of the Marke-Sami area as well as the relating cultural heritage. In turn, this bolsters cultural identities that are specific to the Marke-Sami community. My argument will, I believe, be supported when discussing the effect of community-based archaeology on the construction of Marke-Sami cultural identities.



Figure 17.3: Reconstructed tuft hut at Gamtofta. Photo: Liisa-Rávná Finbog.

Community Participation

In the 1970s and 1980s the entire world felt it when previously subjugated and suppressed peoples rose up and demanded equal rights (Carrol, 2000/1982). Alongside the cry for social equality, indigenous peoples insisted on the right to participate when discussing and interpreting their material culture and the writing of their history, which up until that point, in large part, had been done by western archeologists, anthropologists and historians (Attalay, 2012). Community-based archaeology was rapidly drafted in the service of participation in the hopes of achieving both empowerment and autonomy for indigenous groups all over the world (see for example Erikson, 2003:528-9).

Up until the 1980s the Sami culture had, as previously stated, been largely ignored or marginalized in visual representations of Norway. More often than not Sami history was practically non-existent prior to the 1980s.⁴ Likewise the material remains of the Sami cultures were of little interest. Consequently, when the Norwegian government in the 1960s mapped the cultural heritage sites in Norway, they largely ignored the traditional Sami areas. As a result there is today a lack of knowledge and documentation of the Sami cultural heritage sites in Norway. This has proved challenging for modern-day archeologists

4. There are however, some notable exceptions (see Simonsen, 1959).



Figure 17.4: Decayed tuft hut covered in vegetation. It was discovered during the registration of cultural heritage sites in the Marke-Sámi area. Photo: Arne Håkon Thomassen.

working in the areas of traditional Sami settlements (Barlindhaug & Pettersen, 2011:18).

Unless tuft huts have had conservation done, they suffer a rapid disintegration. In the Marke-Sami area most of the community had by the 1950s left the tuft huts for more ordinary housing. As such little to no upkeep has been done on these structures in the years following. Today most are for that reason decayed (Finbog, 2013:80). An additional factor that may hinder discovery of such structures is the traditional locations of the tuft huts. Generally found in the marshlands or on the forest floors, the structural remains are today overgrown by vegetation and therefore almost invisible to the naked eye (Barlindhaug, 2012:114). In other words, unless there is prior knowledge of such sites, archaeologists generally have problems locating the structures of the tuft huts. In such cases community participation makes all the difference. In particular because the involvement of the local communities allows for the use of what is known as *local and indigenous knowledge*, a concept that UNESCO has defined as:

[C]umulative and complex bodies of knowledge, know-how, practices and representations that are maintained and developed by peoples with extended histories of interactions with the natural environment. These cognitive systems are part of a complex that also includes language, attachment to place, spirituality and worldview (quoted by Barlindhaug, 2013:11)

Local and indigenous knowledge has proven to survive uninterrupted for as much as four generations (Barlindhaug, 2012:114). Despite the discontinued use of tuft huts it is consequently, at least in theory, likely that some within Sami communities may still retain a local and traditional knowledge with regards to the construction and up keep of tuft huts. These individuals, hereafter defined as *tradition bearers*, will in addition most likely be aware of where the local tuft huts of old, or at least their structures, can be found (see for example Finbog, 2013:80). The collaboration with local tradition bearers thus allows for several opportunities: Firstly archeologists may unearth previously unknown (by the discipline if not the community) cultural heritage sites. Secondly museums that employ tradition bearers may reconstruct traditional dwellings (and other structures) for educational and dissemination purposes.

In the Marke-Sami area the Várdobáiki museum has had great success when using tradition bearers – both with regard to the registration and reconstructing of cultural heritage sites (Andersen et al. 2011:13). As a result the museum ensures the survival of tangible heritage sites relevant for the local Marke-Sami community. Additionally the museum has also preserved – in writing – local and traditional knowledge that is specific to the Marke-Sami area. This secures the continuity of both the local intangible and tangible heritage. The benefits of doing so are of course important to the museological and archaeological community but, as was the case with oral-historical research, community participation has far reaching consequences for the local community as well.

When asked, local tradition bearers in the employ of Várdobáiki state that the museum's use of their local and indigenous knowledge instills in them a pride in having such knowledge. In addition they claim that the museum, by making use of local and indigenous knowledge, gives it a respectability which makes it desirable in the younger generations. This is also the case amongst Indigenous Peoples elsewhere when making use of community-based archaeology (Attalay, 2012:244 – 6). Such an effect is especially important in relation to the Marke-Sami area because tradition bearers often experienced the degradation of their local and indigenous knowledge during the

years of assimilation. With time the local community began to view local and indigenous knowledge as something shameful, and many began to ignore its existence⁵ (Finbog, 2013:83). By doing so they stopped sharing it with the younger generations, resulting in the almost extinction of Marke-Sami local and indigenous knowledge (Finbog, 2013:63).

Today however there is a new trend as more and more young people in the local Marke-Sami community are asking the tradition bearers to share their knowledge. This trend is both encouraged and facilitated by Várdobáiki Museum. On several occasions Várdobáiki has arranged for those interested in learning to observe and participate when the museum together with tradition bearers register and reconstruct cultural heritage sites. The reactions to such events have a common denominator in that participants experience a positive relationship being developed with their cultural heritage. In particular, participants claim to feel pride in and acceptance of their Marke-Sami culture and furthermore of their identity as Marke-Sami (Finbog, 2013:86). Some even claim that their participation allows them to take ownership of their Marke-Sami cultural heritage – both that which is tangible, such as cultural heritage sites, and also, through gaining local and traditional knowledge, that which is intangible. I propose then that the practice of community-based archeology, as with oral-historical research, at Várdobaiki museum, creates and strengthens local cultural identities by promoting and sharing the local tangible and intangible cultural heritage in and with the Marke-Sami community. I believe similar things can be said about the next and last act of heritage work to be discussed in this article.

The Making of Cultural Identities

The last and final act of heritage work to be discussed is the concept of *heritage object*. When coining this concept, historian James Clifford put forward a definition that was based on the following three criteria: The object in question must have a particular cultural value within a community.

Additionally it must be manufactured in accordance with tradition and always made by a member of the culture wherein the object has its origins. When all the criteria are fulfilled an object should imbue its maker with a positive relation to his or her culture, ethnicity and identity (Clifford, 2004:16). The process of a heritage object as explained above may be exemplified by looking to the border areas of Arizona, Utah and New Mexico in America. For generations the *diné*-people⁶ living here have weaved blankets that according to tradition have been made on upstanding looms specific to the *diné*. The blankets have significant cultural value: The patterns are old and usually limited to familial heritage, and the iconography used in the weave often document important events in the historical past of the *diné*-people. As such the craft of these blankets are within the community reserved for those of *diné* descent (M'Closky, 2004). Though the local and traditional knowledge of weaving such blankets in the past was learned from tradition bearers within the community, it is today achieved outside the local community through institutional learning and employed tradition bearers (Rodee 1983: 91). Admittedly many *diné* today choose to attain the knowledge for financial gain – the sales of blankets often offers their only source of income - but once acquired it proves to have a positive impact on the weavers' cultural identity (M'Closky, 2004:91)

Returning now to the Sami communities, there are many objects that may pass as a heritage object. Amongst these, as I have discussed elsewhere, is the *gákti* – the traditional habit of the Sami people (Finbog, 2013:72). During the years of assimilation those who wore the *gákti* were often a target for ridicule and degradation. As a result the use of *gákti* had by the twentieth century greatly diminished, and in some places disappeared altogether. With the revitalization of Sami culture in the 1970s and 1980s, the traditional *gákti* once more garnered interest within Sami communities. Sadly, in the Marke-Sami area, the prolonged lack of use had by this point caused the loss of traditional craft designs. In addition, the lack of local and indigenous knowledge pertaining to the making of the *gákti* meant that there were no tradition bearers left. Following this discovery

5. Several studies have shown that it is not unusual for ethnic groups that experience subjugation or repression to believe in the oppressors reasoning for said oppression (Comaroff & Comaroff, 1992:53; Mennel, 1994:182).

6. They are also referred to as *navajo* or *navaho*, but *diné* is preferred.



Figure 17.5: The Making of Gávvtid - traditional Marke-Sámi clothing. Photo: Elleb Berit Nymo Dalbakk.

there was a long and painstakingly process of reproduction based on old pictures and outfits that had been preserved in museum collections (Finbog, 2013:71).

Originally those working on the construction of the gákti were few, but in the course of their work they made the new crafting designs available, thus allowing it to spread within the local Marke-Sami community. In addition they would share their new local and indigenous knowledge by giving lessons to those in the community that wished for it and by doing so increasing the number of new tradition bearers (Finbog, 2013:69-70). Though initially done by individuals, the sharing of new local and indigenous knowledge has since been institutionalized at Várdobáiki. In collaboration with the local schools the museum each year offers courses to Sami pupils on the making of the traditional Marke-Sami gákti. The museum, through its youth outreach program, also arranges for the younger Marke-Sami generation in the area to make, free of charge, their own traditional gákti (Andersen et al. 2005:9). As a result the making of the traditional Marke-Sami gákti is steadily increasing – at least amongst the younger generations.

So far two of the criteria of a heritage object have been fulfilled: The makers are of a Marke-Sami origin, and the making of the *gákti* is befitting a traditional manner. As for the third criterion, I would argue that it is likewise fulfilled:

Those participating in the courses offered by Várdobáiki tell of their sense of ownership. One claim that making

the gákti is akin to: “making something that in reality belongs to you so you are actually reclaiming the right to be yourself!” (Finbog, 2013:72). I interpret this to mean that the making of a gákti allows for the maker to take pride in their cultural heritage and furthermore to achieve an ownership of the Marke-Sami culture. To make a gákti is in other words to experience positive emotions related to the Marke-Sami culture and in turn to the correlating Marke-Sami identities. Other participants make a note of the fact that noticeably it is the young that have reclaimed the Marke-Sami gákti. For them the gákti has become a visible symbol of their pride in and ownership of the Marke-Sami cultural heritage (Finbog, 2013:71-72). This then, assures me that the third criterion of Clifford’s heritage object has been fulfilled. The Marke-Sami gákti has over time achieved a significant cultural value for those of Marke-Sami descent. It is also worth noting that the same is happening in many locations within Sápmi.

As was the case with both oral-historical research and community-based archaeology Várdobáiki’s use of heritage objects allows the local community to take part in and share new *local and indigenous knowledge*. It also gives the community an opportunity to once more take ownership of their cultural heritage – be it the intangible local and indigenous knowledge or the more tangible gákti.

In Closing

The instances of heritage work that I have discussed here – oral-historical research, community-based archaeology and art or object production – have one common thread: They facilitate the sharing of *local and indigenous knowledge* and thus strengthen the connection between the local cultural heritage and the local community. Heritage work strengthens the local people’s ownership of their own tangible and intangible cultural heritage. This in turn boosts a sense of autonomy. As a result, local cultural identities specific to the Marke-Sami area are today created, negotiated and strengthened in a joint-effort between the local community and Várdobáiki Museum.

18. Organización Socio-política de los Mayas de Belice¹

Anita F. Tzec Recinos

Abstract

This chapter explores the socio-political organisation employed in South Belize to protect collective land and natural resources. It provides an overview of these organisational processes among indigenous entities from local levels, within communities, to regional and international levels in order to illustrate how this inter-relational collaboration triggered the trans-nationalisation of communities' land struggles. It relies on the ideas of Tilley (2002), who argues that in order to advance their demands, indigenous movements need to build dense networks, trespassing the borders of several states, to get support from international indigenous organisations and non-indigenous supporters.

The Maya Peoples of Toledo includes indigenous communities of Q'eqchi' and Mopan identity which, in spite of the local differences, are strongly aligned in the land struggle. These communities identify themselves politically as one people, the Toledo Maya Peoples, to submit joint demands and in doing so, are reaffirming their identity as Indigenous Peoples and the inheritors of the culture and territory of their ancestors, the ancient Maya. The socio-political organisation of Toledo Maya communities is forged upon traditional ways of governing with traditional institutions that

facilitate the exercise of their autonomy in particular for the management of land and natural resources. Their efforts are focused on their recognition as Indigenous Peoples, their rights to be respected, as well as their communal land tenure recognised.

This customary land system and the notion of common resources clashes with the rigid political and legal system of the state, which does not recognise the indigenous perspective on land and rights but instead finds ways to dispossess them and disturb indigenous governance by introducing non-indigenous political structures. Apart from their internal traditional socio-political structure, these indigenous communities have forged second and third organisational levels. Second-levels organisations are composed of indigenous leaders' organisations aiming to represent their communities in the political and legal arenas. Third-level organisations are 'umbrella entities' created by the regional or national alliances among other several indigenous organisations. These new entities play the role of fundraisers at international level, as well as provide technical support in the process of territorial defence. They are mediators between indigenous communities and the state on the issue of respecting human rights. At the same time, they raise communal demands at regional and international levels, thus leading to the trans-nationalization of Maya land rights struggles.

1. En este trabajo presentaré solo las principales organizaciones indígenas de Belice. Hay muchas más de las que se presentan aquí que son pequeñas, aunque no menos importantes, pero en vista de que para mi tesis se enfocó sobre el movimiento maya para la defensa territorial, entonces he decidido presentar solo las que son relevantes directamente.

Introducción

Para entender el Movimiento Maya de Toledo y el cómo las comunidades indígenas del sur de Belice, durante más de tres décadas, han hecho el gran esfuerzo para que ellas sean reconocidas como pueblos indígenas de ese país y que sus sistemas de tierras comunales también sean reconocidos y sus derechos sobre estos respetados, hay que comprender la organización socio-política de estas comunidades en los distintos niveles en que existen. También hay que reconocer las acciones y estrategias de defensa utilizadas durante su largo proceso de lucha. Sobre todo, hay que subrayar que la organización socio-política de estas comunidades está forjada en formas propias de gobernanza indígena con una institucionalidad tradicional que les facilita el ejercer su autonomía al interior de su territorio, especialmente para el manejo de sus tierras y recursos de uso común. Asimismo, hay que destacar que esa organización no es estática, sino más bien es flexible y que ha ido respondiendo estratégicamente y adaptándose entre otras cosas, al contexto socio-político más amplio del Estado en el cual se encuentran. También han ido respondiendo a los retos del sistema político y legal inflexible que se niega a reconocer las perspectivas indígenas en torno a sus sistemas de tenencia consuetudinaria de la tierra y en acomodar la protección de sus derechos a sus recursos de uso común, buscando constantemente formas de desposeerlas de estos, causando una alteración en sus formas de gobernanza con la introducción de estructuras de representación política no indígena.

De la misma manera, hay que tener presente que estas comunidades, además de tener sus estructuras de organización socio-política interna, también han generado importantes formas de organización y establecido instituciones indígenas de segundo y tercer grado² que han llegado a ser sus representantes

políticos y legales. Estas nuevas instancias se han convertido en recaudadores de fondos de donantes internacionales y facilitado apoyo técnico para sus procesos de defensa territorial y son las mediadoras entre las comunidades y el gobierno nacional para la negociación de un espacio en el cual se respeten sus derechos territoriales. Además, estas nuevas formas de organización política funcionan como eslabón crucial para articular las demandas comunitarias y elevarlas a un nivel regional (en el distrito de Toledo) y nacional, a través de acciones que catapultan un esfuerzo de unidad y dan paso a vincular el Movimiento Maya de Toledo con los movimientos indígenas de Centro América y a nivel global, dando pie a la transnacionalización de la lucha territorial maya. Esta conexión puede visibilizarse en el hecho que muchas de las organizaciones de segundo grado son miembros de la mesa nacional indígena de Belice (BENIC por sus siglas en inglés), que luego las representa en Centro América ante el Consejo Indígena de Centro América (CICA) y a nivel latinoamericano en el Fondo Indígena para América Latina y el Caribe (FILC). Estas dos instancias regionales han facilitado en distintas ocasiones ya por muchos años, capacitaciones, recursos financieros, técnicos y apoyo político al movimiento indígena de Belice.

Por otra parte, hay que recordar que el Pueblo Maya en el sur de Belice está compuesto por las comunidades indígenas q'eqchi's y mopanes y que estas aunque tienen tensiones entre sí, las cuales se basan en la divergencia de sus intereses y los distintos estilos de liderazgos, causando cierto grado de división en el movimiento maya, nunca han tenido luchas de defensa territorial separadas, sino que se cohesionan fuertemente y articulan sus demandas como un solo pueblo que se identifica políticamente como el Pueblo Maya de Toledo. Estos pueblos han señalado al Estado beliceño como el enemigo común - ya que este constantemente está promoviendo actividades que amenazan contra las tierras mayas - y han buscado varias vías para reafirmar su existencia como indígenas ante dicho Estado, enfatizando ser

2. En este trabajo, se entiende que las organizaciones de segundo grado son aquellas creadas y establecidas por los líderes indígenas, para atender los asuntos que afectan al Pueblo Maya como colectivo. Por lo general son ONGs que se han convertido en las representantes político-legales de las comunidades. Las de tercer grado son las organizaciones "sombrias" creadas por medio de

una alianza entre varias ya sea a nivel regional (en el sur) o nacional.

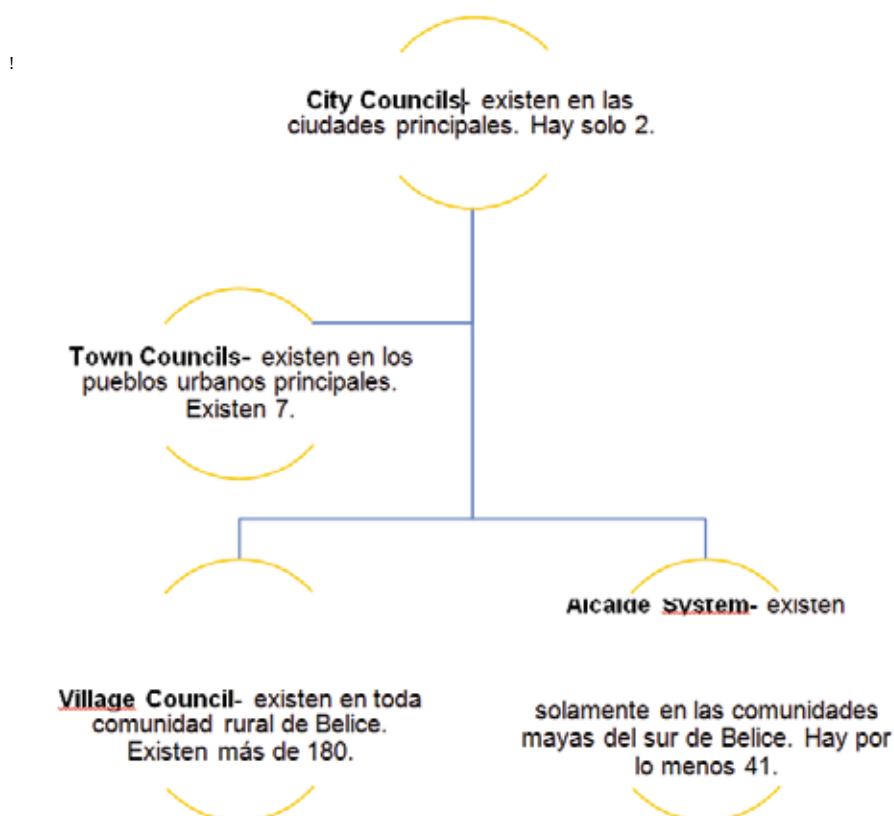


Figura 18.1. Estructura de Gobierno Local en Belice desde el nivel macro al micro. Fuente: Elaboración propia.

herederos de una identidad, cultura y territorio de sus ancestros - los antiguos mayas.

En ese sentido, en este artículo, el cual forma parte del capítulo 5 de mi tesis doctoral obtenida en la Facultad Latino Americana de Ciencias Sociales (FLACSO- Guatemala), exploro las distintas formas de organización socio -política de los mayas del sur de Belice utilizados para proteger las tierras y recursos de tenencia colectiva, incluyendo el nivel local al interior de las comunidades, hasta la red de nuevas formas de organizaciones de segundo y tercer grado a nivel regional y la articulación con instancias indígenas nacionales e internacionales, para demostrar cómo la interrelación entre estos distintos niveles ha facilitado la transnacionalización de la lucha territorial de estas comunidades desde lo planteado por Tilley (2002) quien identifica que los movimientos indígenas forman densas redes, atravesando las fronteras de varios Estados, logrando recibir importante apoyo legal, técnico y financiero y de otra índole, del

espacio internacional indígena y sus partidarios no indígenas, para avanzar en sus demandas.

Mapa de Organización Socio-Política y Liderazgos Indígenas en Belice

Con base en lo expuesto arriba, en esta sección quiero dejar claramente presentada la organización socio -política de los mayas de Toledo, esbozando de la manera más precisa posible el mapa sobre cómo ellas están organizadas en los distintos niveles, comunitario, regional y nacional. Sin embargo, también creo que para entender esa organización socio - política, sus liderazgos y cómo las comunidades indígenas ejercen la gobernanza sobre sus tierras comunales y defienden las mismas, primeramente hay que echar un vistazo al sistema político más amplio de Belice en el cual estas se encuentran inmersas, para así llegar a concebir cómo ellas han ido adaptándose y lidiando contra ese sistema, el cual

no respeta sus formas tradicionales de organización socio-política interna y mucho menos los derechos a sus tierras y recursos comunales.

Primeramente, hay que saber que el sistema político de Belice consiste de dos niveles de gobierno; el State Government o Central Government (gobierno Estatal/Central) y un sistema de Local Government (gobierno local). El gobierno Estatal tiene al primer ministro como jefe de Estado y su estructura integra al cuerpo legislativo (LegislativeBody), el cuerpo ejecutivo (ExecutiveBody) y el cuerpo judicial (The Judiciary). Por su parte, el sistema de gobierno local consiste de tres niveles administrativos. En el nivel micro está el Village Council (Consejo Aldeano) el cual se encuentra en cada una de las más de 180 comunidades rurales del país, incluyendo las indígenas. Seguidamente a nivel meso está el Town Council (Consejo Municipal) el cual se encuentra en los 7 towns o municipios que son centros urbanos y por último a nivel macro está el City Council (Consejo de la Ciudad) de los cuales solamente existen dos, porque en Belice solo hay dos ciudades; la ciudad de Belice y la capital Belmopan.

Un punto importante a resaltar es el hecho que también a nivel micro en las comunidades mayas, específicamente en Toledo, el Village Council existe paralelamente al Alcalde System (Sistema de Alcaldes). El Sistema de Alcaldes es el único sistema socio-político de gobernanza indígena que existe en Belice y que se encarga del control y administración de las tierras comunales mayas. También es la única institución que tiene a su cargo la aplicación del derecho consuetudinario maya (Maya Customary Law). Este sistema ha sido reconocido por el gobierno beliceño como parte del sistema nacional de gobierno local y es administrado a través de los tribunales inferiores de conformidad con el Capítulo 94 - Sección VII de las Leyes de Belice. Sin embargo, solo se observa la función de los alcaldes como magistrados comunitarios, reconociendo exclusivamente su rol judicial. O sea, al Sistema de Alcaldes no se le reconoce oficialmente su valor como instancia de gobernanza indígena y mucho menos su responsabilidad en el control y la administración de las tierras mayas. A diferencia de los Village Councils, Town Councils y City Councils que están reglamentados por el Village Council's

Act, Town Council's Act y el City Council's Act, el Alcalde System aún no cuenta con un reglamento específico o Alcaldes Act que lo reglamente por ley y más importante que reconozca en totalidad el espíritu y propósito integral del mismo como parte fundamental del derecho consuetudinario maya.

En agosto del 2009, el Ministerio del Trabajo, Gobierno Local y Desarrollo Rural anunció una política nacional sobre gobernanza local financiado por el Programa de Desarrollo de las Naciones Unidas (PNUD). Entre otras cosas, esta política implicaba la promulgación de una ley de demarcación de los límites/fronteras comunitarias y una nueva ley sobre los Alcaldes (The Alcaldes Act). Desgraciadamente, este primer borrador del Alcaldes Act se desarrolló sin la consulta previa o aporte de los líderes, comunidades y organizaciones indígenas. No obstante, a pesar de no ser consultados, y en aras de fortalecer y aportar a la formalización de la legalidad del Sistema de Alcaldes, las organizaciones indígenas de Toledo hicieron un gran esfuerzo por contribuir al Alcaldes Act y se reunieron y desarrollaron su propio borrador, el cual serviría como marco legal principal para regir dicho sistema, y para que este sea reconocido legal y oficialmente en la estructura Estatal gubernamental como el sistema socio-político tradicional de gobernanza indígena en Toledo. Así hubo varios avances en esta materia en el sentido que en el primero borrador el gobierno beliceño reconoció a los mayas como Pueblos Indígenas de Belice y confirmó la autoridad legal del derecho consuetudinario maya. Sin embargo, las organizaciones y líderes indígenas aún tienen preocupaciones porque el gobierno no ha sido receptivo en aceptar sus propuestas en su totalidad, sobre todo en lo que respecta al rol de los alcaldes en regular el acceso, control y gestión de las tierras y recursos comunales. Por ende, su propuesta ha quedado en el vacío, sin ser aprobado y mucho menos adoptado por el GOB. El mayor temor de los líderes indígenas se basa en el hecho que en el borrador de la propuesta de ley elaborada por el gobierno, el alcance sobre la autoridad consuetudinaria de los alcaldes fue limitada y no contenía absolutamente ninguna referencia al título consuetudinario maya, derechos mayas sobre las tierras, o el rol y responsabilidad de los alcaldes con respecto al uso de la tierra. De



Figura 18.2: Juramentación de Alcaldes. Enero 2013. Fuente: Archivos SATIIM, 2013.

este modo, en el contexto de la negativa general del gobierno beliceño y la falta de voluntad política para reconocer los derechos consuetudinarios mayas sobre la tierra, la nueva legislación amenazó con restringir la jurisdicción y el alcance de las instituciones tradicionales de gobernanza maya y además impide el ejercicio de los derechos mayas consuetudinarios, los derechos de propiedad colectiva sobre sus tierras, entre otros. Por consiguiente, el reconocimiento del sistema de gobernanza tradicional indígena como base de la organización socio-política de las comunidades mayas y la tenencia colectiva de las tierras mayas siguen estando inseguras en Belice, especialmente porque hasta el momento el Alcaldes Act sigue en el aire sin seguimiento o discusión y mucho menos aprobación.

Por otra parte, al suplantar el Village Council en las comunidades mayas, el gobierno central ha tratado de erradicar el Sistema de Alcaldes e influir para que el primero sea el encargado de controlar las tierras y

recursos de usos común, mientras que se ha tratado de relegar a los alcaldes a solo ser encargados de mantener el orden social en las comunidades. O sea, el gobierno beliceño ha tratado de confinar el sistema jurídico indígena a funciones administrativas subalternizadas frente al derecho estatal. De esta manera, lo que se ha intentado hacer es restarle poder y deslegitimar al Sistema de Alcaldes y substituirlo con el Village Council, el cual se desarrolló como una estructura gubernamental no-indígena para intentar modernizar, pero también controlar y mediatizar, la administración de las comunidades rurales a nivel nacional y dar un giro hacia la descentralización política y autonomía en el proceso de toma de decisiones. Esto ha funcionado en la mayoría de las comunidades rurales no-indígenas en el país pero en las comunidades mayas ha llegado a complejizar la gobernanza de las tierras y recursos comunales porque ha surgido una división de autoridad que ha causado conflictos al interior de las comunidades, pues los roles y responsabilidades de

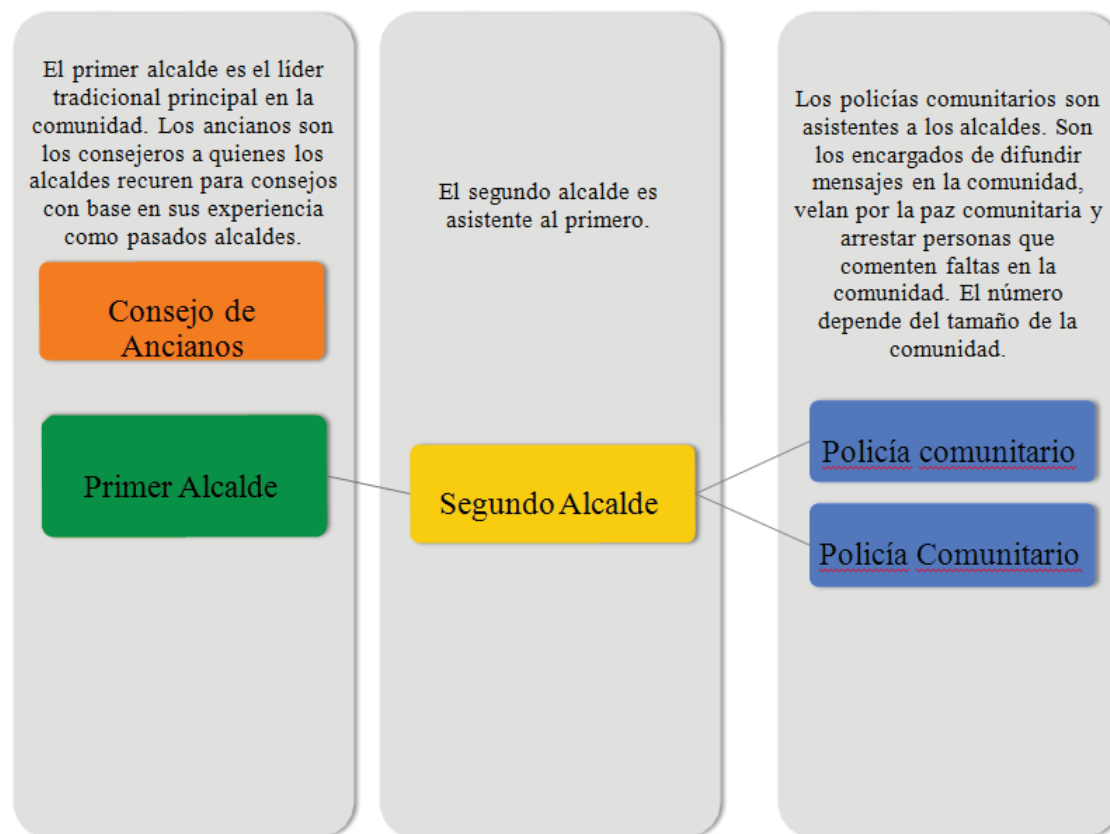


Figura 18.3. Estructura del Sistema de Alcaldes en las comunidades mayas de Toledo. Fuente: Elaboración propia

ambos sistemas llegan a ser confusos y a traslaparse, generando disputas por los espacios de autoridad, toma de decisiones y control político al interior de las mismas, todo debido a que no se tomaron en cuenta los liderazgos indígenas paralelos que ya existían previamente. Estos liderazgos han sido ignorados por parte del gobierno central de Belice, quien además ha tratado de deslegitimarlos, aunque hasta hoy no ha tenido éxito.

Hoy día las comunidades mayas siguen reconociendo a los alcaldes como sus máximos líderes y por ende estos son los encargados de arbitrar los asuntos internos a sus comunidades y de hacer cumplir el derecho consuetudinario maya, el cual los legitima como máxima autoridad para ejercer control sobre las decisiones comunitarias referente a sus tierras y recursos comunales. Aunque ha querido, el Estado no ha tenido la capacidad de erradicar el Sistema de Alcaldes en las comunidades mayas de Toledo,

porque estas están bastante fortalecidas y aferradas a dicho sistema, este forma parte integral de sus formas de vida y de cómo ellos se gobiernan. Por su parte, el presidente del Village Council, con el resto de su equipo, son los que representan al gobierno central en la comunidad y por tal razón son los encargados de hacerle conocer las necesidades de las comunidades y así coordinar toda iniciativa o inversión Estatal en la comunidad. Por eso, por lo general estos son aliados políticos al partido del gobierno central (o al partido opositor), lo cual ha dado pie a cierto grado de interferencia política en las comunidades, aunque tampoco ha podido desplazar a los alcaldes.

Otra de las diferencias muy marcadas entre el Alcalde System y los Village Councils, Town Councils y City Councils es que los representantes de estos últimos tres son electos popularmente por votos con base en la política partidaria. Debido a que en Belice

solo hay dos partidos políticos dominantes³ – El People’s United Party (PUP) y el United Democratic Party (UDP), se escogen siete representantes de cada partido y luego con base en votos populares se llevan a cabo las elecciones. Por lo general gana el grupo de siete personas del gobierno que esté de turno, aunque ha habido ocasiones donde ha ganado el grupo del partido político opuesto, lo cual hace muy complicada la administración del pueblo. De los siete miembros electos para el Village Council, Town Council y City Council, el que consigue el mayor número de votos generalmente se designa como Chairperson (presidente) del grupo, mientras que entre los otros representantes se escoge un secretario, asistente al secretario, tesorero, asistente al tesorero y dos concejales. Las elecciones para estas tres estructuras se llevan a cabo cada tres años.

Por su parte en el Sistema de Alcaldes, los alcaldes comunitarios son considerados líderes tradicionales, quienes cargan con una gran responsabilidad moral aparte de política y social ya que son considerados parte fundamental del sistema de derecho consuetudinario maya el cual tiene como base y opera según las costumbres y tradiciones mayas. Por ende, por lo general estos son elegidos por la comunidad a través del consenso. Sin embargo, con la introducción de elecciones para elegir al presidente comunitario del sistema de Village Council, en algunas comunidades la selección del alcalde también se ha convertido en un proceso electoral, con menos dependencia sobre la práctica tradicional que el alcalde saliente recomiende a un candidato (sikb’il) a ser acordado por consenso por la comunidad. Este sistema consiste en que cada comunidad tiene un alcalde principal conocido como el First Alcalde (Primer Alcalde) y un Second Alcalde o segundo alcalde que funge como asistente al primero y como suplente cuando el primero no

está presente en la comunidad. De alguna manera, este esquema es similar al de las alcaldías auxiliares de Guatemala. Además, existen entre tres a cinco policías comunitarios o Village Police, dependiendo del tamaño poblacional de la comunidad.

Las comunidades pequeñas con 50 o menos habitantes pueden llegar a tener solo dos policías comunitarios, mientras que las grandes de entre 800 a 1000 habitantes o más, pueden llegar a tener hasta cinco. Cuando va a haber una reunión comunitaria, el Primer Alcalde en consulta con el Segundo Alcalde fijan la fecha. El Segundo Alcalde se encarga de instruir a los policías comunitarios para que estos sean los que vayan de casa en casa avisándole a cada familia y convocándolos para la reunión. El día de la reunión, esta se lleva a cabo en el Cabildo (corte comunitaria) y el alcalde suena el caracol tres veces para llamar a los comunitarios y dar inicio a la reunión.

Los alcaldes son electos cada dos años, generalmente entre el primero y segundo de noviembre, días que coinciden con la celebración del día de los difuntos o el llamado de los ancestros. Después de ser escogidos y ratificados en sus comunidades, el Toledo Alcaldes Association (TAA) en conjunto con la oficina regional del Ministerio de Desarrollo Rural y Gobierno Local, fijan una fecha para que los nuevos alcaldes sean juramentados. El día de la juramentación, todos los nuevos First y Second Alcaldes de todas las comunidades mayas viajan hacia Punta Gorda, el pueblo urbano en Toledo, donde llega un juez de las cortes inferiores de Belice, representantes del Ministerio de Desarrollo Rural y Gobierno Local y los instauro como los nuevos líderes y magistrados comunitarios. Ese día los salientes líderes entregan el batón de mando a los nuevos. Durante esta celebración se hace una fusión de prácticas oficiales gubernamentales con prácticas tradicionales ceremoniales mayas.

El First Alcalde (Alcalde Primero) y Second Alcalde (Alcalde Segundo) juegan un papel crucial en la regulación del acceso a y la forma de uso de la tierra y los recursos comunales. En ese sentido, una nota importante es saber que, aunque por lo general los alcaldes son quienes ejercen el mayor control al interior de las comunidades, en este contexto confuso

3. En los últimos 10 años han surgido nuevos pequeños partidos políticos minoritarios, aunque ningún de ellos ha llegado a romper el bi-partidismo que existe en el país. Estos son el National Alliance for Belizean Rights (NABR), National Reform Party (NRP), People’s National Party (PNP), Vision Inspired by the People (VIP) y el We the People Reform Movement (WTP). Otros partidos minoritarios que existieron entre las décadas del 50 y 70 pero que ya se extinguieron o se fusionaron para formar los actuales partidos son: el Democratic and Agricultural Labour Party (DALP), también conocido como el Christian Democratic Party (CDP), Honduran Independence Party (HIP), National Party (NP), People’s Action Committee (PAC), People’s Democratic Party (PDP), United Black Association for Development (UBAD; conocido como UBAD Educational Foundation, UEF).

de división de liderazgos y pugna por los espacios de toma de decisiones, las dinámicas internas de la comunidad, así como las personalidades individuales son muy importantes porque estas han llegado a determinar si es el alcalde o el presidente quien ejerce el mayor control en cada una de las comunidades. Sin embargo, es indudable que la flexibilidad y adaptabilidad de los sistemas de gobernanza indígena han facilitado que las comunidades mayas de Toledo puedan asimilar estos cambios institucionales y con base en eso han podido desarrollar lógicas internas fundamentales, como la defensa del territorio, para asegurar la coexistencia entre ambos sistemas. Por consiguiente, tomando en cuenta todo lo reseñado arriba vemos que la organización socio-política de los indígenas de Toledo inicia desde la base comunitaria con el sistema tradicional de gobernanza, el Alcalde System, pero que ellos siguen enfrentando el reto de que este sea reconocido en su totalidad por el sistema político y legal nacional en el cual se encuentran.

Del Toledo Indian Movement al Nacimiento del Toledo Maya Cultural Council

A finales de la década del 70, algunos líderes comunitarios empezaron a discutir la génesis de un Movimiento Maya en el sur de Belice, el cual en su momento se llamó el Toledo Maya Movement o el Toledo Indian Movement. Esta organización estaba compuesta principalmente por líderes comunitarios y alcaldes mopanes y q'eqchi's, quienes estaban preocupados y buscaban una respuesta a la destrucción sistemática de la cultura maya por las acciones asimilacionistas del gobierno beliceño. Además, las tierras mayas empezaban a ser parceladas y asignadas a los allegados políticos del gobierno, sin consultar previamente con los alcaldes o comunidades e inconsultamente se estaban emitiendo grandes concesiones forestales. Asimismo, se estaba erosionando gradualmente el sistema de alcaldes porque el gobierno estaba otorgándole mayor responsabilidad y poder al sistema de Village Council en cada comunidad y el proceso de la asimilación y aculturación forzada se intensificaba (TMCC & TAA, 1997). Debido a esto, los alcaldes comunitarios sentían que la cultura maya estaba sufriendo una pérdida de elementos importantes como la vestimenta colorida y larga

de las mujeres, sobre todo en las jóvenes mopanes, quienes empezaban a optar por usar pantalones. También, las danzas tradicionales y ceremonias ligadas a la espiritualidad maya y el uso de la tierra estaban dejando de practicarse debido a la entrada de las religiones evangélicas a las comunidades. Además, el idioma no se le estaba enseñando a los niños, sobre todo en familias que empezaban a migrar de las zonas rurales hacia el pueblo urbano de Punta Gorda y otras partes del país, en búsqueda de un trabajo asalariado y a tener mejor acceso a la educación para sus hijos; sumado a que el sistema de educación era completamente en inglés, sin ninguna mirada hacia la educación intercultural bilingüe. Es decir, hay cambios culturales que obedecen a la modernización económica, la globalización religiosa, pero los cambios “forzados” podríamos decir que se dan más en el plano educativo, en el sentido de que el Estado solamente imparte la educación en inglés y con contenidos que no toman en cuenta la cultura y principios de vida de los indígenas.

Debido a todo lo anterior y sumado a que a nivel nacional los criollos y mestizos caracterizaban la cultura de los “indios” como atrasados y primitivos⁴, en un principio el Toledo Indian Movement se generó como un movimiento de revitalización étnico cultural. Sin embargo, en vista de que con el pasar de los años los conflictos sobre la inseguridad de la tenencia de la tierra de los mayas escaló en Toledo, este movimiento evolucionó y se propuso tener como objetivo principal el asegurar que los mayas siguieran viviendo en lo que ellos consideran su territorio ancestral. Fue así que a como expone Wilk (1997), que en la medida en que los mayas del Distrito de Toledo fueron expuestos a misioneros, funcionarios de gobierno y la mano de obra asalariada, reaccionaron tratando de proteger sus derechos sobre la tierra, haciendo hincapié en su identidad cultural distintiva.

4. Durante la colonia, los ingleses utilizaron la política de fragmentación étnica de “dividir para gobernar” (divide and rule), a través de la cual dividieron a los distintos grupos étnicos, permitiéndole a la colonia un mejor control sobre la población. Ver: Wilk, R. 1997. Esta política de “dividir para gobernar” se implementó por los colonos en toda América Latina. Para referencias de cómo funcionó en Perú, ver Mallon, F. (2003). Bolland (1997:270), señala que “durante el siglo XIX, la mayoría de los mayas fueron aislados de los criollos y Garifunas”, lo cual causó una segregación y jerarquización étnica en Belice. Los perjuicios de esta división aún son observables en Belice, ya que los mayas son uno de los pueblos que sufren mayor discriminación en el país.

Según lo que me contó el anciano Pio Coc en mis largas horas de entrevistas con él, los primeros fundadores del movimiento planteaban el rescate, la revitalización y el fortalecimiento de elementos culturales como el idioma, la vestimenta, la artesanía, la oralidad, la espiritualidad, entre otros, que se habían debilitado y se estaban perdiendo aceleradamente, así como mejorar el acceso a la educación para los jóvenes mayas, porque estos tenían poca posibilidad de seguir sus estudios a nivel secundario.

Entre los principales fundadores del movimiento se encontraban Primitivo Coc, Florentino Tzalam, Diego Bol, Cayetano Ico y Leonardo Acal, Francisca Assi, Pulcheria Teul, Teodora Castellanos, Micaela Wewe. Una segunda generación ya incluyó a Lucio Sho, Pablo Oh, Pedro Che, Julio Sánchez, Valentino Cal y Don Pio Coc. Con esta nueva organización ellos esperaban también poder romper el aislamiento y la jerarquización étnica que había impuesto la colonia entre los diferentes grupos étnicos y que el joven Estado beliceño seguía manteniendo. En ese sentido, el movimiento indígena en esa época tuvo un enfoque culturalista, tomando como referente el movimiento de “ethnic revival” o “minorities movement” de los grupos afroamericanos y los Amerindians de los Estados Unidos y Canadá. Es así que, al principio, este movimiento no demandó enérgicamente el reconocimiento de los derechos a las tierras, territorios y recursos, aunque sí estaban preocupados por los incipientes conflictos. Más bien lo que ellos reclamaban era el reconocimiento y valorización de la cultura e identidad maya; vinculado con la búsqueda de mayores oportunidades de servicios sociales y económicos, principalmente la educación para los jóvenes mayas, quienes en esa época solo podían soñar con recibir una educación más allá de la escuela primaria; sueño que muy escasas veces se cumplía.

Interesantemente, el nacimiento del Toledo Indian Movement se dio durante la época en la cual los indígenas en el vecino país de Guatemala eran considerados elementos subversivos debido a la alta tensión social que se experimentaba en dicho país; y en vista de la cercanía geográfica y la relación entre los indígenas de Guatemala con los del sur de Belice, especialmente los q'eqchi's quienes ya

eran considerados por el gobierno beliceño como inmigrantes usurpadores de tierras, el Toledo Indian Movement empezó a generar un ambiente de hostilidad y miedo de parte del gobierno beliceño hacia los mayas de Toledo.

El gobierno estigmatizó dicho movimiento como subversivo y empezó a considerar a los indígenas de Toledo como aliados a Guatemala. Según lo que me comentó Don Pío, esto causó que los líderes del movimiento tomaran la decisión de cambiar el nombre porque no les parecía estratégicamente beneficioso entrar en conflicto con el gobierno por una situación de esta naturaleza cuando ellos tenían claro que lo que querían era fortalecer su organización para poderse posicionar y negociar sus derechos culturales con el gobierno. Según él y otros de los fundadores a quienes también entrevisté sobre este asunto, el gobierno decía que aceptar que había un “indian movement” en Toledo, era dar paso e invitación a los “indians” de Guatemala para que estos cruzaran la frontera al sur de Belice y se unieran fuerzas para tomar posesión del sur de Belice.

Hay que recordar que el sur de Belice es parte de la región reclamada por Guatemala, entonces el aceptar o permitir que los indígenas de esa región de Belice tuviesen fuertes alianzas con los de Guatemala puso en tela de juicio la soberanía de Belice sobre la región sur y generó un temor político por parte del gobierno quien estaba preparado para tomar acciones severas y suprimir dichas alianzas. Fue así que al Toledo Indian Movement que nació el 15 de abril de 1978 en el distrito de Toledo, se le cambia el nombre en 1982 a Toledo Maya Cultural Council (TMCC) y este se enfoca primordialmente en fortalecer la identidad y cultura de las comunidades q'eqchi's y mopanes del sur de Belice, así como a ser un ente representativo para la cooperación entre estos dos pueblos y promover la unidad y entendimiento mutuo, y para buscar en conjunto, soluciones a los problemas económicos, sociales y educacionales que ambos enfrentaban. Cambiar el nombre a Cultural Council hizo que el gobierno beliceño bajara la guardia y considerara que la organización de los mayas que se estaba gestando en el sur no era adversa o contraproducente para el Estado porque su enfoque cultural no parecía tener grandes repercusiones

sobre los intereses económicos del gobierno. Lo que no sabían es que el cambio de nombre fue una estrategia de adaptabilidad y sobrevivencia de parte de las comunidades y sus líderes, quienes con el paso del tiempo se verían obligados a ascender sus demandas a derechos territoriales sin abandonar el fortalecimiento de su identidad.

En su momento de mayor apogeo a mediados de la década del 80, el Toledo Maya Cultural Council se convirtió en miembro del World Council of Indigenous Peoples (Consejo Mundial de los Pueblos Indígenas, CMPI) durante la cuarta asamblea general de esta organización, con el objetivo de proveer una perspectiva más amplia sobre los mayas de Belice y su cultura, así como recibir apoyo internacional para poner en la plataforma global, a través de esta organización mundial, asuntos sobre los derechos humanos de los mayas de Belice. Los objetivos del CMPI compaginaban completamente con las del TMCC ya que el CMPI buscaba promover los derechos y preservar las culturas de los pueblos indígenas de las Américas, el Pacífico Sur y Escandinavia. Adicionado a esto, el TMCC se convirtió en miembro de la Coordinadora Regional de Pueblos Indios (CORPI), dando a conocer por primera vez la situación de los mayas de Belice ante un ente regional. Su interrelación con estas organizaciones en el espacio internacional elevó la importancia del TMCC y le dio mayor fuerza y justamente es en este momento que yo considero que inicia lo que en palabras de Tilley (2002) sería la transnacionalización del Movimiento Maya de Toledo, ya que se cruzaron fronteras y se desarrollaron relaciones con redes regionales y globales en búsqueda de apoyo.

A principios de la década del 90, el TMCC se convirtió en una fuerte organización política, encargada de salvaguardar y promover los intereses económicos, sociales, culturales y educativos⁵

5. Según los registros del TMCC & TAA (1997), debido a la incidencia de esta organización, a principios de la década del 90 por lo menos unos 300 estudiantes mayas tuvieron acceso a educación secundaria en el Toledo Sister Caritas Lawrence (CSC) y el Toledo Community College (TCC), los cuales eran los únicos colegios secundarios en el sur de Belice durante esa época. El TMCC también desafió al gobierno beliceño a que mejorara y creara escuelas primarias en las comunidades mayas donde no habían y que pusiera a disposición becas para los jóvenes mayas para que estos tengan acceso a educación más allá de la primaria. El TMCC también luchó por un lugar para los maestros mayas en las

de los mayas del sur, así como fortalecer la comunicación y el espíritu de solidaridad entre todas las comunidades (TMCC & TAA, 1997). El TMCC fue la primera y principal organización que se dedicó y dio inicio a la defensa de las tierras mayas bajo el liderazgo del ahora difunto Julián Cho⁶, porque en 1992, cuando el gobierno inicia a emitir grandes concesiones forestales de largo plazo en Toledo a empresas extranjeras, el TMCC fue la organización que dio a los mayas del sur de Belice un nuevo mecanismo de defensa política a nivel nacional e internacional. En ese sentido, el giro más importante desde su origen es que el TMCC estableció las bases para el largo proceso de defensa territorial de los pueblos indígenas del sur de Belice. En todo ese proceso los mayas utilizaron su identidad, ocupación histórica, cultura, tradiciones y costumbres, sobre todo aquellos arraigados en su relación especial con la tierra, como base de sus reclamos económicos, políticos y sociales.

Lamentablemente, después de la muerte de Julián Cho, el TMCC entró en crisis de liderazgo, problemática que ha sido una constante en el movimiento y que ha causado severas crisis y altibajos en varios momentos hasta hoy. Aunque después del fallecimiento de Julián se nombraron otros líderes, entre ellos algunos jóvenes con postgrados, estos nunca pudieron seguir con el trabajo que él había iniciado y fue así que el TMCC caducó en el 2003. Hoy solo queda el nombre o como lo que yo llamo una organización fantasma. Sin embargo, esto no significó que los mayas de Toledo se hayan quedado

escuelas primarias. El ahora difunto Padre William Mesmer SJ, quien fue el Director General de las escuelas primarias católicas en Toledo, estaba abierto a la sugerencia del TMCC en la década del 80, de permitir que los maestros mayas 6. Julián Cho fue un maya mopan de la comunidad de San José, quien se había graduado con un postgrado de una universidad de los Estados Unidos y al regresar se incorpora al TMCC y en 1995 fue electo como el nuevo presidente para liderar la organización. Él ha sido caracterizado por los líderes ancianos como un joven con una inusual capacidad para eficazmente moverse y actuar dentro de los círculos de la política nacional e internacional, así como en los movimientos de base comunitaria. Esta fusión fue lo que llegó a ser un factor decisivo en la integración de un proceso sólido de defensa territorial en el sur de Belice. Lamentablemente, Julián Cho fallece en diciembre de 1998 bajo unas circunstancias que siguen siendo un misterio para muchos, aunque las comunidades y sus líderes tienen sospechas de que él fue asesinado debido a su fuerte oposición a la privatización de las tierras mayas y las grandes concesiones forestales había generado un movimiento dinámico que estaba llamando demasiada atención de la comunidad internacional. Siguiendo el legado de Julián, hoy día su cuñada Cristina Coc y su esposo Pablo Mis, se han vuelto líderes q'eqchi's destacados y voceros principales del movimiento por las tierras mayas en Toledo.

en la intemperie organizacional. Más bien, esto dio paso a que las organizaciones que se habían gestado después del TMCC también fueran evolucionando de sus propósitos culturales y educacionales, hasta llegar a abanderar la lucha territorial llevándola a los éxitos logrados en tiempos actuales. En ese sentido, aunque el TMCC hoy está desmantelado y básicamente desaparecido, su legado rinde honor a que esta fue la organización que estableció la base del largo proceso de defensa de las tierras mayas comunales en el sur de Belice.

Los q'eqchi's Forman su Propia Organización

Lamentablemente, en la historia de los indígenas siempre ha habido un elemento de división, el cual fue introducido por los europeos quienes probaron todo tipo de tácticas para dividir las poblaciones y conquistarlas más fácilmente. Los mopanes y q'eqchi's de Toledo no son ninguna excepción a esta influencia. Estos dos pueblos vivieron en armonía entre sí hasta la llegada de los europeos. Sus formas de vidas, su cultura, su espiritualidad y las tradiciones y costumbres de ambos pueblos son muy similares porque ambos son mayas. Según el TMCC &TAA (1997), con la llegada de la cristianización por los europeos, se introdujo el concepto de superioridad étnica entre estos dos grupos. Los q'eqchi's resistieron el cristianismo más que los mopanes, quienes fueron convertidos mucho antes y a quienes se les hizo creer que los q'eqchi's eran salvajes, paganos e inferiores. Este sentimiento de superioridad es un elemento que aún es perceptible entre ambos grupos en Belice, aunque durante la lucha por sus derechos a las tierras comunales mayas, ellos han reconocido que son hermanos y deben solidarizarse estratégicamente así tengan intereses divergentes, para poder vencer al enemigo común, el Estado y las compañías extranjeras. Dicha solidaridad y cohesión estratégica está amarrada por el sentimiento de apego que tienen ambos pueblos a su legado de origen común, al reconocerse como descendientes de los antiguos mayas. Esto no quiere decir que hayan desaparecido todos los conflictos inter-tribales y entre líderes de ambos pueblos. Sería muy romántico pensar eso, pero estos pueblos, aunque tienen aspiraciones generales comunes, sus líderes siempre pelean por tener sus propios espacios

de protagonismo, poder y acción política.

Cuando se formalizó el TMCC en 1982, se estableció un Comité Ejecutivo (Executive Committee) compuesto de 12 miembros de los cuales seis eran mopanes y seis q'eqchi's elegidos cada dos años. Sin embargo, ese sentimiento de superioridad en los mopanes llegó a causar una severa fricción al interior del TMCC, dando paso a que los miembros q'eqchi's optaran por formar su propia organización. Las tensiones y conflictos que empezaron entre estos dos grupos, se basaban en que los q'eqchi's consideraban que los mopanes no les estaban dando su justa cuota de participación y poder político en la organización y aunque el Comité Ejecutivo estaba compuesto equitativamente por miembros de ambos pueblos, la dirección estaba en manos de los mopanes. Debido a estos conflictos los q'eqchi's decidieron formar el Kekchi Council of Belize - (KCB) (Consejo Kekchi de Belice), el cual fue fundado en 1992 como un ente legalmente constituido para velar específicamente por los intereses de las comunidades q'eqchi's de Toledo.

Según Thomas Choco, uno de los ancianos fundadores del KCB a quien tuve la gran oportunidad de entrevistar en profundidad, en un principio cuando se fundó el TMCC solo había un q'eqchi' (Cayetano Ico) en el Comité Ejecutivo. Esto causó que las comunidades q'eqchi's cuestionaran que si el TMCC era un Maya Cultural Council de todo Toledo, entonces debería haber representantes q'eqchi's en el Comité porque estos también eran mayas. Fue así que se decidió tener una representación y liderazgo equitativo en el Comité Ejecutivo.

Sin embargo, este arreglo no funcionó porque la población q'eqchi' es casi el doble al de los mopanes, por ende, este arreglo alteró las relaciones de poder entre los grupos y las tensiones por liderar la organización se agravaron. Los conflictos eran tal que los mopanes boicoteaban o posponían las reuniones del Comité sin que los q'eqchi's lo supieran y por ende los conflictos incrementaron. La intensificación de este tipo de conflictos y el aumento de la división entre el liderazgo del TMCC fue la principal causa para la formación del KCB.

Adicionado al testimonio de Don Choco; Gregory Ch'oc uno de los líderes contemporáneos que estuvo al frente del KCB por casi 10 años, pues en 1998 fue electo como el nuevo presidente de la organización, también atestigua que la historia del KCB está marcada por la división que hubo al interior del liderazgo del TMCC.

Una importante nota es que los fundadores originales del KCB empezaron a pensar en la importancia de coordinar acciones con otros hermanos mayas de Belice y romper con el aislamiento geográfico que les caracterizaba, así como con la jerarquización étnica que daba pie al pensamiento de que los mayas del oeste y norte ya no son mayas porque han sido asimilados, perdiendo mucho de su forma tradicional de vida, idioma y cultura. Los líderes del KCB reconocieron que los yucatecos del oeste y norte tenían mayor acceso a la educación y oportunidades que aún no habían llegado a Toledo y reconocían que esto podía servirles de apoyo en el sur. Por tal razón, los líderes de KCB y algunos del TMCC de ese momento, contactaron a Celso Poot y Angel Tzec fundadores del Maya Institute of Belize- U'kuxtal Masewal para que ellos y sus colegas maya yucatecos Pedro Quetzal, Alfonso Tzul, entre otros, quienes eran maya yucatecos graduados de la universidad, pudieran servirles de consejeros, técnicos y apoyo en el establecimiento y fortalecimiento del KCB y sus propósitos. Esto dio pie al inicio de una articulación entre organizaciones indígenas del sur con las del oeste del país. Muchos de estos yucatecos en ese momento trabajaban con proyectos del gobierno beliceño financiados por el International Fund for Agricultural Development (IFAD), United Nations Development Program (UNDP), Development Finance Corporation of Belize (DFC), Caribbean Agricultural Research and Development Institute (CARDI), entre otros, y tenían la oportunidad de cooptar fondos y enviarlos al sur para empujar los proyectos de los mayas de Toledo, apoyando específicamente al TMCC y KCB.

A pesar de lo anterior, es importante resaltar que esta colaboración entre los q'eqchi's, mopanes y yucatecos se dio solamente durante la década del 80 y principios de la década del 90. Cuando empezaron a entrar una nueva generación de líderes q'eqchi's

que ya eran jóvenes escolarizados y con mayores oportunidades de educación y exposición al espacio internacional, se rompió dicho vínculo, estos tomaron posesión de su autonomía política y quisieron valerse por sí mismos. Sumado a esto, debo mencionar que los nuevos líderes q'eqchi's (desde finales de la década del 90, 2000 y hasta el momento) del sur, tienen la concepción de que ellos son los “verdaderos mayas de Belice”, ya que ellos están solo levemente asimilados y sus comunidades siguen siendo rurales y rústicas, viviendo bajo el sistema tradicional de tierras comunales. Yo considero que este sentimiento es una reproducción de la forma en como el Estado beliceño ha vendido la concepción esencialista de ser maya y definido que maya solo es “*aquel indio que vive en su choza en el bosque de forma muy rudimentaria*”. Esto, a mi parecer, ha causado que en Belice se invisibilicen y borren del mapa las comunidades mayas de los distritos del Cayo en el oeste y de Orange Walk y Corozal en el norte, que de hecho ya son comunidades con un alto porcentaje de mestizos, pero donde no dejan de haber mayas que mantienen su cultura y más importantemente, su identidad como maya yucatecos o itzaes. Esta situación claramente expone parte de los conflictos interétnicos que existen en Belice donde la identidad maya es esencializada por algunos grupos para deslegitimar a otros. De hecho, hoy día la mayoría de los líderes mayas del sur aún tienen pugnas con los del oeste y norte cuando estos participan en espacios nacionales, regionales o internacionales. Los del sur consideran que los otros no deben estar en esos espacios porque no representan a los “mayas del sur”, dando pie a la errada concepción de que en Belice los mayas solo existen en el sur. Desde mi perspectiva, el hecho que los yucatecos estén más asimilados y su identidad y cultura hayan sido debilitados, no les resta el derecho a tener sus propias organizaciones y abogar por los derechos indígenas en Belice o en el espacio internacional. En principio, ellos apoyan los reclamos de los del sur porque consideran que el reconocimiento de los derechos indígenas debe ser para todo pueblo maya en el país y no solo para algunos selectos. En este contexto, la esencialización de la identidad étnica llega a ser un arma peligrosa en contra de los indígenas asimilados y aquellos urbanos puesto que les resta derechos, oportunidades y se enfrentan al constante

cuestionamiento sobre su identidad, la legitimidad de su organización y representación política.

El KCB se estableció como una organización no religiosa, sin fines de lucro o afiliación política. Esta buscó mejorar las condiciones de vida de los q'eqchi's a través de la capacitación y formación de liderazgos, involucramiento en proyectos de desarrollo económico y la documentación del conocimiento indígena, con el apoyo de organizaciones gubernamentales y no-gubernamentales. Su misión se enfocó sobre el fortalecimiento y promoción del idioma y cultura q'eqchi', así como el promover la armonía interétnica en Belice (KCB, 2006). Según Gregory Ch'oc (2012), quien fue uno de los presidentes de mayor tiempo en la institución, los intereses primarios del KCB incluyeron la protección y preservación del patrimonio y conocimientos indígenas, antiguos y contemporáneos, incluyendo las costumbres y tradiciones, el territorio, los monumentos y las antigüedades. Además, el KCB intentó asegurarse de que los proyectos de desarrollo promovidos por el Estado fueran prácticos y reflejaran las necesidades y prioridades de las comunidades mayas.

Por otra parte, al igual que el TMCC, el KCB buscó obtener mayor acceso a la capacitación y educación para los jóvenes q'eqchi's, porque entre los mayas ellos tenían menos educación escolarizada o formal. Los mopanes habían avanzado un poquito más que los q'eqchi's en este aspecto, y es que las comunidades mopanes son las más cercanas a Punta Gorda donde se ubican las escuelas secundarias y a que los líderes del TMCC habían abogado primordialmente por becas para jóvenes mopanes. Además, el gobierno beliceño siempre ha considerado que las comunidades mopanes son las comunidades mayas más antiguas del sur y propias de Belice. Los q'eqchi's siempre han sido más discriminados y relegados a la escala social más baja, porque estos, incluso hasta hoy, son considerados inmigrantes guatemaltecos y ocupantes ilegales, lo cual complejiza su situación, porque el Estado se desentiende de atender la situación de pobreza y exclusión social que enfrentan dichas comunidades. La prueba de esto es la escasa infraestructura física, magros servicios públicos como el agua, luz, educación, servicios de salud que se dejan casi

desatendidos en la región sur del país; además de la ausencia total de programas y políticas específicas a su desarrollo integral.

Entre 1997 al 2006 fue cuando KCB tuvo su mayor apogeo y además de buscar oportunidades de educación y capacitación para los jóvenes q'eqchi's y el fortalecimiento de la identidad q'eqchi' en Toledo, fue una de las primeras organizaciones que empezó a proponer la búsqueda de nuevas acciones y estrategias de apropiación territorial, a través de la conservación y manejo de recursos naturales por las comunidades indígenas (q'eqchi's y garífuna) del sur de Belice, porque las propuestas del TMCC contra las grandes concesiones forestales emitidas por el gobierno habían quedado latentes y por ende el KCB fue una de las organizaciones que por primera vez propone en 1997, el concepto de co-manejo de un territorio maya entre el gobierno beliceño y las comunidades indígenas, debido que en el área conocida como Sarstoon Temash se había establecido una área protegida en tierras mayas y garífunas, sin consultarle a las comunidades y mucho menos recibir su consentimiento. Fue este hecho específico el que dio paso a que KCB se convirtiera en una de las organizaciones miembros de la plataforma política para la defensa territorial en el sur, pero abanderado bajo la conservación ambiental y el co-manejo de un área protegida. Para apoyar este trabajo el KCB recibió apoyo directamente del Inuit Circumpolar Conference (ICC). El KCB logró este contacto y apoyo del ICC puesto que estos ya estaban trabajando en Toledo, con una organización llamada Belize Indigenous Training Institute (BITI)⁷, sobre la capacitación técnica y fomento de actividades económicas que contribuyan a los ingresos de las familias mayas. Además, algunos de los mismos líderes indígenas en la junta directiva de BITI, eran

7. El Belize Indigenous Training Institute (BITI) fue una ONG fundada conjuntamente entre esquimales de Canadá, Groenlandia, Alaska y Rusia y los pueblos mayas y garífunas de Belice en 1998. Su objetivo fue el proporcionar la formación en áreas que llevarán a la generación de ingresos y el empleo al nivel de las comunidades, así como proporcionar el desarrollo de capacidades y trabajo en el área de conocimiento tradicional y patrimonio cultural. Se esperaba que el eventual resultado de BITI, una vez que se mejoran las habilidades en las comunidades, era que los Inuit y los pueblos indígenas de Belice desarrollaran en conjunto iniciativas más grandes y de largo plazo. En ese entonces, BITI recibía apoyo financiero de DANIDA (Dinamarca), CIDA (Canadá), la OIT, UNESCO, el gobierno de Groenlandia y la ICC (BITI Times, 1999). Sin embargo, al igual que muchas organizaciones indígenas en Toledo, BITI ha caducado y actualmente existe solamente en nombre.

fundadores y líderes del KCB; por ejemplo, en 1999, Gregory Ch'oc fue tesorero de BITI y entre 1999 y 2001 también fue el presidente del KCB. En ese sentido, el traslape de liderazgos de una organización a otra facilitó el contacto y apoyo de ICC a ambas instituciones.

Sin embargo, al igual que el TMCC después de un arduo trabajo de casi 10 años y de sustanciales logros, el KCB atravesó momentos críticos de conflictos internos entre los liderazgos, lo cual tuvo como resultado un debilitamiento general de la organización y el KCB de hoy realmente es un mero remanente de lo que fue años atrás.

Las Mujeres Mayas Reclaman su Lugar en la Organización Indígena en Toledo

En Belice, las mujeres sufren la misma discriminación endémica y sistemática, como la mayoría de las mujeres en muchos países alrededor del mundo. Aunque en este país se han hecho esfuerzos concretos ⁸para abordar este fenómeno social y cultural en las últimas dos décadas, aún falta recorrer considerable terreno actitudinal y de otra índole, antes que la sociedad beliceña alcance acercarse a la igualdad de género. A pesar de que existen diversas leyes que buscan mejorar las vidas de las mujeres, la fuerza del movimiento de las mujeres y aumentar el número de mujeres que logren obtener educación superior, según Moore (2007:216) "... en su mayor parte, la incertidumbre económica, la violencia doméstica y falta de autoestima caracterizan la vida de muchas mujeres beliceñas...". Un punto crucial a destacar aquí, que se relaciona con la participación de las mujeres en los niveles más altos de toma de decisiones, es que en Belice la baja participación política de las mujeres es altamente notable. En los años posteriores a la independencia, no más de dos mujeres han estado, en un momento dado, en la Cámara de Representantes de la Asamblea Nacional

que es la rama legislativa del gobierno. Además, el número de mujeres Ministras miembros del Gabinete de Ministros ha sido poco representativo de la población femenina, la cual es alrededor del 50% de la población total nacional. De hecho, durante los 33 años de historia política de Belice post independencia, solamente siete⁹ mujeres han llegado a ser Ministras en el gobierno. Ninguno de los dos partidos políticos predominantes ha hecho un esfuerzo real por promover la participación de las mujeres en la vida política del país y mucho menos el de las mujeres indígenas. Cuando ha habido una mujer en el Gabinete de gobierno, esa mujer generalmente ha sido asignada la cartera del Ministerio de Desarrollo Humano, el cual es el ministerio con el mayor número de departamentos y el presupuesto más pequeño, acentuando la discriminación que sufren las mujeres aun en estos altos puestos gubernamentales. Este confinamiento al rígido rol que han tenido las mujeres en el gobierno, cambió por un breve período cuando una mujer fue asignada la cartera de Ministra de Defensa por un corto período y luego en 2012 cuando una mujer fue asignada al Ministerio de Bosques, Pesca y Desarrollo Sostenible y otra al Ministerio de Minas y Petróleo. Adicionado a todo esto, debo resaltar que ninguna mujer maya ha llegado a estos altos puestos de gobierno. Esta expresión particular de la baja participación política de las mujeres en Belice, es síntoma de una sociedad desigual e injusta. En ese sentido, está claro que la estructura gubernamental de Belice, al igual que en la mayoría de países del mundo, se base en el sistema patriarcal, colocando a las mujeres, y en mayor medida a las indígenas, en una situación de desventaja económica, social, política y cultural frente al poder que ejercen los hombres.

Debido a esta situación de desventaja general de las mujeres en Belice, pensé que sería útil e interesante observar la situación específica de las mujeres mayas en el sur del país y señalar si hay o no hay una participación femenina indígena en el proceso histórico de lucha por la tierra; cómo se da

8. Se instaló una Comisión Nacional para la Mujer, pero lamentablemente esta se encuentra en la ciudad de Belice, lejos del alcance de las mujeres indígenas del sur del país. Además, se produjo el Acta (ley) sobre la Violencia Doméstica y se desarrolló una Política Nacional sobre Género. También se ratificó el CEDAW a nivel internacional. El problema es que en general las mujeres beliceñas no conocen sobre la existencia de dichas leyes para la protección de sus derechos y mucho menos conocen el contenido. Realmente hace falta una campaña de incidencia y educación que activamente difunda esta información a todas las mujeres en todos los rincones de Belice.

9. Las mujeres que han sido Ministras en el gobierno liderado por el Partido Unido del Pueblo (PUP) son: Gwendolyn Lizarraga (fue la primera mujer Ministra en Belice), Jane Usher, Sylvia Flores y Dolores Balderamos García. Para el Partido Unido Democrático (UDP) ha habido tres, estas son Faith Babb, Joy Grant y Lisel Alamilla. Ninguna es indígena.

esa participación y desde cuándo. En ese sentido, este trabajo no podía dejar de dar a conocer el importante papel que han jugado las mujeres mayas en el proceso de reivindicación cultural, económica y defensa territorial, sobre todo porque la lucha por la tierra básicamente es la defensa de la vida del pueblo entero. Por lo general, en Belice se tiene la concepción de que las mujeres indígenas no tienen voz ni voto en las decisiones comunitarias y sus procesos, porque casi siempre estos son liderados por hombres y desde el inicio del movimiento maya, la cara del movimiento ante el Estado y el resto de la sociedad beliceña siempre ha sido representada por hombres. No obstante, lo que mucha gente desconoce es que las mujeres mayas de Toledo silenciosamente han atravesado un sin número de obstáculos (como demuestra la experiencia de TMWC) para poder romper las barreras que les niegan sus derechos y les impiden participar en las decisiones comunitarias y si bien no han alcanzado el nivel ideal que termine con las desigualdades que sufren, donde se respete por igual el ser mujer o el ser hombre, valorando las diferencias, ellas han empezado a realizar pequeños cambios instando la inclusión.

En muchos escritos sobre la complementariedad y dualidad según la cosmovisión indígena, como por ejemplo en los escritos de Hernández Sanic y Hurtado Paz y Paz (2012) se dice que en las comunidades indígenas las relaciones entre hombres y mujeres son armoniosas y que siempre se busca un equilibrio entre las relaciones de géneros con base en los principios de respeto, reciprocidad y apoyo mutuo y que la complementariedad es la expresión dialéctica de la relacionalidad fundamental que lleva a una integración armoniosa de los dos aspectos complementarios como unión dinámica recíproca de vida. Asimismo, muchas veces se utiliza la idealización sobre el balance cósmico que existe entre la madre Luna y el padre Sol, para describir las relaciones de género en las sociedades indígenas. A mi parecer, que, aunque estos son elementos muy importantes en la cosmogonía indígena, tenemos que ser capaces de poder autocriticar nuestras sociedades y aceptar que muchos de estos valores sobre la dualidad se han erosionado y hoy utilizar esos discursos, sin considerar las realidades que viven las mujeres indígenas al interior de sus comunidades, contribuyen a seguir invisibilizando

las condiciones de desigualdad y discriminación en las que ellas están inmersas. Por su parte, Calan Tay (2012:34) reconoce que en las comunidades mayas algunas normas familiares se han perdido por la interferencia externa. Este autor resalta que uno de los valores fundamentales que se han perdido, que contribuía al respeto por igual de las mujeres, es que antes la mujer valía por igual que el varón en las funciones comunitarias. Él también resalta que, dentro del contexto del desarrollo familiar en las comunidades mayas, entre los valores que se han perdido encontramos la relación de trabajo, lo que contribuye a que la mujer tenga menor participación y remuneración en su comunidad. Sin embargo, la desigualdad entre hombres y mujeres no puede atribuirse enteramente a la interferencia externa en las comunidades.

Para el caso específico de Belice, algunos de los hombres indígenas a quienes tuve la oportunidad de entrevistar, alegan que las decisiones sobre la cuestión de la tierra se toman en los espacios privados de la familia, donde según ellos se discuten los asuntos que afectan o conciernen a la comunidad, la familia, los hijos, etc. y luego el hombre o jefe de familia se vuelve el vocero de esa unidad familiar en las reuniones comunitarias, donde generalmente se ve mayoritariamente la presencia de hombres, excepto en el caso de las mujeres viudas quienes representan a sus familias. Según ellos, las decisiones que son presentadas en el círculo de consenso comunitario más amplio, no son decisiones individuales de los hombres, más bien son el resultado de una discusión intrafamiliar donde hay un balance y complementariedad en la toma de decisiones, que se reconoce que las mujeres tienen sus propios puntos de vista y dimensionan distintamente a los hombres los asuntos que afectan sus familias y comunidad. Sin embargo, como veremos en esta sección, este tipo de discursos que utilizan los hombres son contradictorios, pues la experiencia de las mujeres de TMWC demuestra que estas vivieron en un contexto de violencia intrafamiliar e intracomunitaria y tuvieron que luchar arduamente para poder salir de sus casas, no solo a vender artesanía, sino a participar en otras esferas como lo fueron los programas de alfabetización, capacitación en cuestiones económicas, entre otros.

La otra cara de la moneda es que también hay hombres mayas que abiertamente establecen que la “cuestión sobre la tierra” es asunto de los hombres y que es parte de su cultura como pueblo maya el que las mujeres acepten las decisiones de los hombres. Por ejemplo, el señor Caal, un destacado líder en Conejo me dijo que generalmente las mujeres no participan en reuniones donde se discuten asuntos sobre las tierras y que estas deben aceptar las decisiones de sus esposos. De hecho, pude ver esto por mí misma puesto que durante mi estadía en la comunidad q’eqchi’ de Conejo, estuve en numerosas reuniones comunitarias donde se estaban discutiendo las amenazas que se enfrentaban en Conejo debido a la entrada de la petrolera US Capital Energy; y siempre fue extraño que yo fuera la única mujer presente en dichas reuniones. En ese momento yo participaba como una de las investigadoras y técnicas de SATIIM, apoyando a la comunidad con el desarrollo de su agenda de acción política y definición de su estrategia legal contra la petrolera. Adicionado a esto, cuando me tocó realizar mis sesiones de grupos focales con las mujeres, para discutir la temática de la tierra, tuve que pedir permiso a los líderes comunitarios, quienes aceptaron, pero bajo la condición que un líder y el guarda bosques de SATIIM, estuvieran presente para monitorear la reunión. Me fue imposible tener una sola sesión completamente a solas con las mujeres.

Sin embargo, en con las nuevas generaciones hay posibilidades de que estas empiecen a cambiar y dar su propia perspectiva sobre los asuntos de la tierra. De hecho, en mis numerosas discusiones con los jóvenes, hombres y mujeres, ambos señalaban que les parecía necesario que se le dé mayor espacio de participación a los jóvenes en estas cuestiones sobre la tierra, porque al final del día, de esta población saldrán los nuevos líderes. Varias de las jóvenes expresaron su interés en algún día convertirse en lideresas en sus comunidades.

Lo que fue asombroso durante mi trabajo de campo fue llegar a conocer que realmente las mujeres mayas, específicamente las mopanes, se habían estado organizando más de una década antes que los hombres de la sociedad maya sureña hayan decidido gestar un proceso de lucha y formaran el TMCC. A principios de la década del 60 muchas mujeres

mopanes se unieron al Belize Rural Women’s Organization (BRWO), el cual fue una organización promovida por Mrs. Cynthia Ellis, una garífuna que trabajaba con un proyecto nacional llamado “Cottage Industries” que buscaba el desarrollo económico de las mujeres del área rural en todo Belice. Mrs. Ellis fue la primera mujer que llegó a Toledo, visitando comunidad por comunidad y aconsejando a las mujeres indígenas que ellas podían jugar un rol protagónico en mejorar las condiciones socio – económicas de sus familias si producían y vendían las artesanías indígenas de alta calidad como canastas, bordados, kuxtales¹⁰, collares y aretes de arcilla, entre otros, a los mercados nacionales e internacionales. Fue así que la Sra. Michaela Wewe, una mujer maya mopan de la comunidad de San Antonio, tomó la oportunidad y empezó a participar en las capacitaciones que proveía el BRWO, y al mismo tiempo convenciendo a cuanta mujer maya le fuera posible para que participaran en el proyecto. Con base en la labor de ella, unas 20 mujeres más empezaron la constante lucha de cambio social al interior de sus comunidades, donde las mujeres son relegadas a trabajos domésticos y no les era permitido salir de sus hogares sin el permiso de sus esposos. Tomar esta oportunidad significó una ardua batalla intrafamiliar e intracomunitaria, porque una cosa es que la mujer produzca las artesanías en casa y luego las vendan en el mercado en Punta Gorda, y otra era dar un giro y subir un nivel más donde participaran en capacitaciones y cursos para terminar con el analfabetismo, los cuales eran llevados a cabo por dos o más días en la ciudad capital de Belmopan, en la ciudad de Belice, o en algún otro pueblo del país muy lejos de sus hogares. El salir del espacio del hogar, el capacitarse, el ir a vender a las ciudades grandes, todo esto fue una lucha tremenda para mujeres como Michaela Wewe, Francisca Así, Romaulda Chun, Theodora Castellanos, quienes poco a poco, a pesar de los pleitos y golpes que sufrían por parte de sus esposos y calumnias de otros hombres en la comunidad, fueron convenciendo a otras mujeres para que se unieran. Según estas ahora ancianas, con quienes tuve la oportunidad de pasar múltiples tardes conversando sobre sus experiencias,

10. Kuxtal se le llama a los bolsos tradicionales que tejen las mujeres mayas en el sur de Belice.

les tomó casi 12 años antes de que sus esposos y resto de hombres en sus comunidades aceptaran, aunque sea a medias, que ellas anduvieran fuera de la casa, lejos de los hijos, pues fue hasta entonces que se dieron cuenta que ellas estaban realizando un aporte económico importante para la mejora de las condiciones económicas y sociales de sus familias. Fue hasta entonces que mujeres de las comunidades como Big Falls, San Pedro Colombia, San Antonio, Santa Elena, San José, Santa Cruz, entre otras, se unieron y empezaron a producir masivamente artesanía maya para el comercio en los mercados nacionales e internacionales. Este proceso no solo aportó a fortalecer la identidad y cultura maya de Toledo, sino que también contribuyó al empoderamiento de las mujeres y a la mejoría económica de sus familias. Importante señalar es que la mayoría de ellas eran mujeres mopanes y muy pocas q'eqchi's se unieron al proceso.

Este movimiento de desarrollo económico encabezado por las mujeres mayas fue lo que dio origen a la organización conocida como Fajina's Women's Group, la cual hoy tiene su sede en Punta Gorda, donde las mujeres mopanes y q'eqchi's de más de 30 comunidades producen todo tipo de artesanía maya y entregan a Fajina's para que sus productos sean vendidos a los turistas locales e internacionales. Por ende, Fajina's funciona como un centro de acopio para la venta de artesanías mayas, hechas con materiales tradicionales a través de los procesos de producción tradicional. Un 10% del precio de venta es designado a la organización para contribuir al mantenimiento de la misma, mientras que las mujeres propietarias de las artesanías reciben el 90%. En ese sentido, Fajina es una organización de desarrollo económico de las mujeres indígenas del sur de Belice y es la única organización comunitaria de esta naturaleza, fundada y administrada por mujeres mayas en dicha región. Fajina's, como toda organización indígena de Toledo, ha tenido sus alti – bajos, pero sigue funcionando hasta hoy. Esta organización ha recibido apoyo de organismos internacionales como la Unión Europea (EU), así como de programas nacionales de desarrollo rural y económico, para el fortalecimiento de su infraestructura y fomentar la capacidad administrativa de las mujeres. Una de



Figura 18.4: Asamblea general del TMWC, 2011. Fuente: propia

las áreas de mayor debilidad, la cual aún les falta por mejorar, es la estandarización de la calidad de los productos artesanales y la penetración a un mercado internacional seguro.

Con la gestación del TMCC y el KCB, las cuales eran instancias lideradas por hombres, uno de los elementos que salió a relucir es que había una urgente necesidad de responder a las cuestiones de género, especialmente a nivel comunitario. Sobre todo, las mujeres mayas, muchas de las mismas involucradas originalmente en el BRWO y ya para este tiempo organizadas en pequeños grupos comunitarios de mujeres, consideraron que era de suma importancia que las mujeres se organizaran en una plataforma que atendiera sus necesidades específicas y les permitiera contribuir a las discusiones que se estaban llevando a cabo en el TMCC y KCB. Fue así que en 1997 Pulcheria Teul, una mujer mestiza casada con un q'eqchi', fue apoyada por Juanita Chee, Michaela Wewe, Theodora Castellanos y Francisca Así, todas indígenas, a impulsar la formación del Toledo Maya Women's Council (Concejo de Mujeres Mayas de Toledo), aprovechando que ese mismo año ella fue electa a formar parte de la Junta Directiva del Belize National Indigenous Council (BENIC, Mesa Nacional Indígena de Belice). El liderazgo de Pulcheria fue cuestionado por muchos debido a que ella no es indígena. Este hecho llegó a ser la manzana de la discordia entre muchas mujeres quienes no consideraron que ella debió ser su líder. A pesar de esto, ella estuvo al frente de la organización como directora desde su inicio hasta el 2011.

La membresía del TMWC está compuesta por los distintos grupos comunitarios de mujeres, lo cual hace que esta sea una de las organizaciones con

mayor representación de las bases. Las representantes de los grupos se reúnen cada dos años y eligen en asamblea general a un comité de siete mujeres que conforman la Junta Directiva y que dan dirección a la organización¹¹. En ese sentido, el TMWC funciona como una organización de apoyo para todos los grupos comunitarios de mujeres. En vista de que parte del cambio social necesario para el empoderamiento de las mujeres mayas y la activación de su participación e incidencia en los procesos de toma de decisiones que afectan a sus comunidades es terminar con el alto analfabetismo que las agobia. El TMWC ha concentrado sus esfuerzos sobre la capacitación y alfabetización de las mujeres y las jóvenes mayas.

Desde su fundación en 1997 hasta 2011, TMWC se dedicó a la búsqueda de apoyo a través de proyectos y fondos nacionales, regionales e internacionales para la promoción de la alfabetización de mujeres mayas de todas las comunidades indígenas de Toledo. También se promulgaron capacitaciones en temas específicos a los derechos de la mujer indígena, la violencia contra la mujer, la educación sexual y reproductiva, la participación política, así como la formación de nuevos cuadros de lideresas, involucrando específicamente a las jóvenes mayas. Además, se promovieron proyectos de producción de manualidades, costura y producción artesanal porque muchas de las mujeres que son miembros del TMWC, también son parte de Fajina's y ya tenían la experiencia de involucrarse en actividades económicas. En ese sentido, TMWC se encargó de toda la formación, capacitación y empoderamiento, mientras que Fajina's se encargó del mercadeo de productos mayas. En ese sentido, las mujeres fusionaron su iniciativa de manera que tenían un mecanismo de capacitación y otro de mercadeo y generación de ingresos para aportar a la economía familiar.

El trabajo de TMWC se vio fortalecido por su alianza con el Southern Alliance for Grassroots Empowerment (SAGE) y con el millonario proyecto

de desarrollo comunitario financiado por La Unión Europea conocido como Community-initiated Agricultural and Rural Development Project (CARD). A través de estos vínculos, así como por su énfasis sobre las preocupaciones del sustento económico de las mujeres mayas, el TMWC llegó a tener un espacio para poder incidir en las cuestiones sobre los derechos a la tierra y control de recursos en el sur de Belice que se discutían en TMCC y KCB.

Un hecho importante a resaltar es que, durante la década del 90, cuando el TMCC estaba en su mayor apogeo, muchas de las mujeres del TMWC, entre ellas Michaela Wewe, Theodora Castellanos, Francisca Así y Pulcheria Teul, llegaron a estar en el Comité Ejecutivo del TMCC e incidir en los procesos de toma de decisiones. De la misma manera, cuando se formó el Maya Leaders Alliance of Southern Belize (MLA) a finales de la década del 90, ellas representaban la voz y preocupación de las mujeres sobre todo en asuntos sobre el acceso a la educación para sus hijos y el parcelamiento y privatización de las tierras comunales mayas, así como las concesiones forestales que el gobierno estaba emitiendo a empresas extranjeras. La inclusión del TMWC en el TMCC y el MLA fue imprescindible para la representación completa de las preocupaciones de las comunidades mayas, dado las fuertes barreras culturales para el empoderamiento de la mujer maya y la clara división del trabajo basado en género que se da al interior de las comunidades. La participación de las mujeres fortaleció el movimiento porque se vieron involucrados hombres y mujeres, ancianos y jóvenes en el proceso, dándole mayor legitimidad. Desafortunadamente, con la crisis y conflictos entre los liderazgos que llevó al TMCC al colapso, todas salieron de dicho proceso y la única fundadora que aún queda como participante en ese ámbito, a través del MLA es Doña Francisca Así, una de las ancianas mopanes de la comunidad de San Antonio.

Lamentablemente, como muchas de las organizaciones indígenas en Toledo, el TMWC tuvo que cerrar sus puertas en el 2011 debido a una crisis de liderazgo, así como a la falta de fondos para el funcionamiento, pues mucha de

11. Al inicio del trabajo de campo para mi tesis, tuve la oportunidad hacer trabajo voluntariado en el Toledo Maya Women's Council por 6 meses. Esto me dio la oportunidad de compartir con las fundadoras, la Junta Directiva del momento, así como algunos de los grupos de mujeres afiliadas a la organización y comprender y apoyar el trabajo de la organización.

la cooperación internacional que les financiaba se retiraron de Belice, llevando la organización a quedar inactiva. Según las fundadoras, las miembros de la organización tienen la esperanza que algún día esta organización vuelva a reactivarse, puesto que es la única que atiende de manera holística las preocupaciones de las mujeres mayas en Toledo y les da un espacio para que sus voces sean escuchadas.

Finalmente, a partir de esta experiencia de las mujeres de TMWC, puedo afirmar que el asunto de la participación de las mujeres indígenas en los procesos de toma de decisiones que les afecta es un entramado complejo y de contradicciones, puesto que muchos de los valores y normas sociales indígenas respecto a la complementariedad entre hombres y mujeres se han debilitado o perdido, contribuyendo a la desigualdad y discriminación que viven las mujeres indígenas en sus entornos. Además, aunque las mujeres indígenas de Toledo no han logrado una transformación masiva de la subordinación que sufren frente a los hombres en la toma de decisiones, la discriminación y violencia que sufren en sus hogares, las desventajas de la falta de acceso a la educación, participación política, autonomía económica, etc., estas pioneras han abierto un largo camino que las nuevas generaciones de mujeres están tomando como ejemplo a seguir. De hecho, a pesar del colapso de TMWC, las ancianas del movimiento como Michaela Wewe y Francisca Así me expresaron que ellas tienen esperanzas de que así como ellas fueron capaces de vencer todos los obstáculos que se cruzaron por sus caminos y lograron acertarse como tomadoras de decisiones en el seno familiar y comunitario, también esperan que las jóvenes de hoy, especialmente las que ya tienen educación secundaria o superior, no renuncien a también ir dejando huellas para las futuras generaciones. En ese sentido, a mi parecer lo que se necesita urgentemente es la recuperación de los saberes y valores ancestrales mayas que se han perdido y que rigen las relaciones sociales en las comunidades, especialmente el respeto por igual a hombres y mujeres, el cual es un valor fundamental para la convivencia con dignidad para todos y todas y que propicia el interés por las y los demás expresado en la solidaridad. Adicionado a esto, a mi parecer las mujeres de TMWC han instaurado

una plataforma, la cual debe fortalecerse con la educación sobre las leyes nacionales, convenciones y tratados internacionales y los mecanismos legales que existen para la defensa no solo de los derechos de los pueblos indígenas, sino que en particular el de las mujeres indígenas, puesto que derecho que no se conoce, no se puede reclamar y mucho menos ejercer.

Los Líderes Tradicionales se Organizan en el Toledo Alcaldes Association (TAA)

Como he mencionado con anterioridad, una de las organizaciones de mayor importancia que ha surgido en Toledo y que sobrevive hasta este momento, aunque con muchas dificultades, es el Toledo Alcaldes' Association (TAA, la Asociación de Alcaldes de Toledo). Esta organización fue fundada en diciembre de 1992 y está compuesta por una asamblea general integrada por cada uno de los alcaldes electos por cada una de las 38 comunidades mayas de Toledo, quienes son las figuras de autoridad tradicional y son reconocidos como los líderes tradicionales mayas. Esto ha convertido al TAA en la organización de mayor liderazgo, legitimidad y representación comunal que existe hoy en Toledo.

El TAA fue formado porque líderes tradicionales de las comunidades de San Pedro Colombia, San Miguel, Silver Creek, Big Falls, entre otros, estaban preocupados de la erosión que estaba sufriendo el sistema de alcaldes como estructura de gobernanza en las comunidades mayas, debido a la intrusión del sistema de Village Council y les pareció que, como líderes responsables de sus comunidades, ellos tenían la obligación de buscar una alternativa a dicha amenaza. Esta situación se agravó por el hecho de que en esa misma época varias compañías forestales extranjeras estaban llegando a realizar una deforestación masiva¹² en Toledo en las tierras mayas; y como líderes comunitarios, los alcaldes sintieron que deberían organizarse estratégicamente de manera que las voces de las comunidades sean escuchadas y

12. Para 1995, el gobierno beliceño había emitido concesiones forestales a empresas extranjeras para la extracción forestal masiva. Estas concesiones cubrían un total de 183,000 acres de tierras mayas en el sur de Belice, afectando directamente el territorio de más de 7 comunidades (TMCC & TAA, 1997).

sus preocupaciones atendidas, a través del liderazgo tradicional. Añadido a estas dos preocupaciones principales fue el hecho de que al igual que el TMCC y KCB, los alcaldes querían asegurarse de que el gobierno de Belice proporcionara becas para jóvenes mayas para que estos tuviesen la oportunidad de cursar una educación secundaria, la cual era muy escasa en aquel momento para niños de Toledo. En ese sentido, el TAA concretamente buscaba el reconocimiento, reafirmación y legitimación del sistema de alcaldes como la estructura de gobernanza en las comunidades mayas del sur; la defensa de las tierras comunales mayas en contra de la explotación forestal y el acceso a mayores oportunidades de educación para los jóvenes mayas.

Para lograr lo anterior, el TAA recibió tremendo apoyo del TMCC y KCB, sin quienes realmente no se hubiese podido establecer la organización, puesto que estas eran las instancias de mayor fuerza en el sur en ese momento y las que manejaban fondos internacionales para poder concretar dicho esfuerzo. Fue así que el TAA concertó su trabajo y se dedicó a educar al público beliceño sobre el significado e importancia del sistema de alcaldes; promover el reconocimiento, por parte del gobierno beliceño, de la invaluable contribución de los alcaldes a sus comunidades y al país; organizar una respetable ceremonia de juramentación para la instauración de los alcaldes; promover el reconocimiento del TAA por gobiernos internacionalmente; hacer lobby con el gobierno beliceño para que se promoviera el desarrollo del Pueblo Maya, especialmente gestionar becas para que los jóvenes mayas pudiesen recibir educación secundaria en el Toledo Community Collage (TCC) (TMCC & TAA, 1997). Como los objetivos del TAA empataban estrechamente con los del TMCC, ya que el primero buscaba salvaguardar tanto el sistema de alcaldes como los intereses de las comunidades, este fusionó sus esfuerzos y su representación comunitaria con el trabajo del TMCC, fortaleciendo el trabajo de esta, lo que los llevó a conducir con mucha fuerza y en unidad la movilización política maya que había iniciado en la década del 70, a un nuevo nivel a mediados y finales de la década del 90.

Hoy día el TAA es la única organización socio-política auténticamente comunitaria y meramente

arraigada en el sistema tradicional de gobernanza indígena que representa a todas las comunidades mayas de Toledo. Esta ha sido la organización legal y representativa del conjunto total de comunidades mayas, a través de los alcaldes, en la mayoría de las negociaciones y casos de defensa territorial llevados ante los tribunales en Belice. También es la única organización comunitaria que ha sobrevivido la crisis de las intrusiones de los políticos beliceños y las influencias de las transnacionales, quienes han tratado de comprar a los líderes indígenas para desmantelar la organización.

Finalmente, debo reiterar que en Toledo existen otras organizaciones indígenas sobre todo las ONGs indígenas con base comunitaria, pero que no son representativas de todas las comunidades indígenas en unidad como Pueblo Maya de Toledo, sino que representan a fracciones o pequeñas agrupaciones de comunidades que batallan contra alguna problemática específica a su micro región, por lo general relacionado al acceso a la tierra; aunque públicamente siempre cementan sus discursos y reclamos en nombre del Pueblo Maya de Toledo. De hecho, una de las mayores dificultades que ha tenido el TAA en cumplir sus objetivos es que ha tenido que entrar en contienda con otras organizaciones indígenas por la legitimidad de su representación. Esta situación ha sido una de las problemáticas más grandes para el movimiento maya del sur de Belice y las organizaciones involucradas; ya que entre ellos ha habido muchas divisiones y conflictos entre los liderazgos basados en intereses personales, egos individuales, estilos de liderazgo y la continua disputa por los espacios de poder político, los recursos financieros que vienen del extranjero y la legitimidad de su representación.

Los Tiempos de Crisis se Enfrentan con una Alianza Maya

Al inicio de la década del 90, el Movimiento Maya de Toledo empezó a cuestionar las iniciativas de desarrollo, así como la exploración y explotación de los recursos en las tierras comunales mayas, resultantes de la apertura de la economía de Belice a los procesos de globalización económica. Estas iniciativas fueron mayormente actividades de extracción forestal y

grandes proyectos de desarrollo que amenazaban la existencia de las comunidades mayas y representaban la invasión a sus tierras y recursos. Los líderes y organizaciones también empezaron a cuestionar los servicios y programas que pretendieron responder a las condiciones de pobreza de las comunidades, porque la mayoría de dichos programas sirvieron para erosionar la integridad y cohesión de las comunidades, dado que por lo general fueron concebidos dentro de un marco ajeno a la visión indígena y sin su consentimiento libre, previo e informado. Estas amenazas reactivaron el latente problema de la ambigua situación de los derechos de los mayas sobre sus tierras, obligándolos a accionar e impulsar un fuerte reclamo por el reconocimiento de sus derechos territoriales, utilizando como eje esencial su identidad étnica, sus tradiciones y costumbres, su historia de larga ocupación y relación intrínseca con la tierra.

Atendiendo estas cuestiones estaban la gama de organizaciones indígenas que se habían formado en Toledo desde la fundación del TMCC, KCB, TMWC y el TAA. No obstante, para finales de la década del 90 las fricciones por las posiciones de liderazgos, representación y legitimidad internamente, así como entre estas organizaciones, había generado una significativa fragmentación en la organización socio-política del movimiento, así como el debilitamiento de las organizaciones, liderazgos y de las demandas que estas hacían frente al gobierno. Incluso, algunas de las organizaciones empezaban a decaer y quedar latentes.

Es precisamente en respuesta a esta crisis y al hecho de que todas estas organizaciones tenían el objetivo común de reafirmar la identidad y cultura maya, así como lograr la seguridad sobre la tenencia de las tierras comunales, los líderes mayas se vieron obligados a reconocer lo peligroso que era la fragmentación y crisis del liderazgo que estaba escalando en Toledo y a tomar medidas estratégicas para cambiar esta realidad. Fue con base en esto que los líderes de las organizaciones decidieron formar una alianza que sirviera como plataforma política unificada para articularse con fuerza y gestar un movimiento más maduro y sólido con estrategias y demandas claras y bien planificadas para defender las tierras comunales mayas. Esta iniciativa fue lo que en 1999 dio como resultado la formación de

la alianza conocida como el Toledo Maya Leader's Alliance of Southern Belize, el cual hoy se conoce como el MLA (Alianza de Líderes Mayas de Toledo). En su fundación esta alianza aglutinó al TMCC, TMWC, KCB y TAA y jugó un papel protagónico en el proceso de lucha y negociación entre las comunidades mayas y el Estado beliceño sobre el problema de la inseguridad de los derechos de los pueblos indígenas a sus tierras y recursos. A través del MLA entonces, las organizaciones y comunidades optaron por desarrollar una estrategia común de demanda para conservar y garantizar sus derechos a la tierra, reafirmar su identidad como mayas y articular sus reclamos socio-políticos y culturales, utilizando su identidad étnica como Pueblo Maya y la ocupación histórica que han tenido sobre el área en cuestión, como la base fundamental de sus reclamos.

Lo anterior queda demostrado por el hecho de que, durante el proceso de reclamo de tierras, el MLA proyectó una voz maya más unificada porque basó el reclamo de las tierras mayas de Toledo sobre los derechos indígenas, los cuales se igualaron a la identidad maya y no a las identidades mopan o q'eqchi's individualmente. Es más, en sus discursos públicos los líderes mayas siempre ponen énfasis sobre la identidad maya y resaltan que hablan en nombre del Pueblo Maya de Toledo. En ese sentido, vemos que la identidad étnica de los mayas de Toledo les ha servido como un arma para convertirlos de una comunidad étnica a en una comunidad política al estilo de Weber (1944), quien enuncia que hay ciertos grupos humanos que tienen una fuerza subjetiva de identificación la cual se funda en la semejanza de su hábito exterior y sus costumbres así como en la creencia subjetiva en un origen común, y que les permite articularse como colectivo, con sus propias normas e instituciones, para llegar a la acción política. De la misma manera la realidad de estas organizaciones y comunidades de Toledo se ve expresada en lo que Camus (2006) describe refiriéndose a que la forma de organización del grupo ligada a su identidad, convierte a la comunidad étnica en una comunidad política. Es así que los mayas del sur de Toledo han llegado a ser una comunidad política con el sello de su identidad de Pueblo Maya como su escudo para sus luchas y con

una voz cohesionada que deberá ser atendida por el gobierno beliceño.

Adicionado a lo anterior, debo destacar que el MLA también tuvo un papel importante en la vinculación de la lucha maya de Toledo con el movimiento indígena a nivel internacional, que utilizó todos los medios posibles incluyendo los medios de comunicación masiva a nivel nacional e internacional, las redes de organizaciones indígenas, instancias internacionales del sistema de protección de derechos humanos, entre otros, para dar a conocer la situación que atentaba contra los derechos de los mayas en Belice y recibir apoyo para lograr un éxito en sus reclamos.

Como he mencionado anteriormente, en Belice, el movimiento indígena comienza a partir de reivindicaciones culturales, mientras que hoy se centra sobre la protección de las tierras comunales mayas, así como sobre el ejercer el derecho a decidir en su propio marco de tiempo, sobre su desarrollo y cualquier asunto que afecte a las comunidades. Por otro lado, hoy día este esfuerzo está ligado al auge de los movimientos indígenas a nivel global, los cuales se articulan partiendo de las dinámicas locales, para culminar en la movilización global, centrada sobre todo en la defensa del territorio, apoyándose en un marco internacional de derechos indígenas. Esta posibilidad de articulación y movilización se debe a la elevación e inserción del movimiento indígena local y nacional en el movimiento transnacional de pueblos indígenas. Esta realidad vivida en el sur de Belice, va de acorde a lo que plantea Minde (2008) quien resalta que en todo el mundo se han generado movimientos indígenas debido a un efecto histórico de estira y encoje, donde los territorios de los pueblos indígenas alrededor del mundo son atractivos para el desarrollo de mega proyectos, los cuales violentan los derechos y amenazan la existencia de dichos pueblos. Por ende, estos se coordinaron para accionar en defensa de sus territorios. Al mismo tiempo, han descubierto plataformas de derechos humanos como el de la Organización de Estados Americanos (OEA) y la Organización de Naciones Unidas (ONU) que les ofrecen un marco para apoyar sus reclamos y luchas y que sus preocupaciones pueden ser atendidas en solidaridad por estas plataformas globales. Desde

mi experiencia y participación en estos espacios sé que la transnacionalización de los asuntos o movimientos indígenas se plantea desde el esquema de la colaboración y coordinación en la incidencia en torno a las prioridades estratégicas derivadas del contexto de las comunidades y las amenazas que sufren sus territorios. Este es un proceso colectivo que se va construyendo y respondiendo a la realidad de cada momento de los pueblos indígenas. Su propósito también incluye el compartir un marco de principios y prioridades temáticas que sirvan de guía orientadora para el trabajo que los pueblos indígenas y sus organizaciones realizan en los territorios indígenas y en los ámbitos políticos locales, nacionales, regionales e Internacionales. En ese sentido, el proceso de la transnacionalización generalmente es un proceso participativo, incluyendo varios momentos y acciones a través de las cuales se llegan a acuerdos sobre los avances que se quieren alcanzar para los pueblos indígenas de la región y del mundo. En el caso de los pueblos indígenas a nivel global, este es el tipo de movilización que se ha seguido en las últimas cuatro décadas, especialmente en la disputa por el reconocimiento de los derechos territoriales según la lógica de coordinar acciones locales con acciones y proceso de “lobby” a nivel internacional, en una dinámica de vaivén, donde ambos niveles se coordinan para ejercer presión sobre los distintos Estados para que estos avancen en el reconocimiento de sus derechos. El Movimiento Maya de Toledo que se describe en este trabajo, ha utilizado esta dinámica como herramienta política y estratégica para avanzar su proceso a nivel internacional porque coordinaron sus acciones con distintas redes indígenas internacionales para recibir apoyo a su reclamo, llevaron sus peticiones a la Comisión Interamericana de Derechos Humanos (CIDH), visibilizando la problemática indígena de Belice y posibilitando que trascienda al plano internacional y haciendo una fuerte presión sobre el Estado beliceño y poniéndolo en vergüenza en el espacio global como un violador de derechos.

A mi consideración, esta transnacionalización fue crucialmente necesaria para el movimiento maya en Belice y es parte de la estrategia que ha fortalecido al movimiento y que ha dado a conocer

el caso de los mayas beliceños en Norte América, Centro América, el Caribe, así como el resto del mundo y facilitando que organizaciones indígenas de alrededor del globo apoyasen el movimiento en Toledo. Se me hace estratégico la utilización de esta acción especialmente debido a que en Belice hay una total ausencia de legislación nacional que promulgue leyes que salvaguardan el respeto y ejercicio de los derechos de los Pueblos Indígenas. Por otra parte, Belice tampoco ha ratificado ciertos instrumentos internacionales legales específicos a Pueblos Indígenas como lo es el Convenio 169 de la Organización Internacional del Trabajo (OIT) sobre Pueblos Indígenas y Tribales. Este Convenio llegó a actualizar el Convenio 107 de la OIT que también trata sobre Pueblos Indígenas pero que abogó por la vieja filosofía de la asimilación de los Pueblos Indígenas a las sociedades dominantes en que viven, mientras que el nuevo promueve la libre determinación de los pueblos indígenas del mundo, reconociendo el avance de los derechos indígenas en el marco del derecho internacional. Adicionado a esto, este país tampoco ha ratificado la competencia de la Corte Interamericana de la OEA. Esto significa que este país es uno de los más atrasados en el desarrollo de legislación y políticas públicas para Pueblos Indígenas. Sumado a esto, debo resaltar que en la constitución política de Belice también hay una total ausencia de materia legal que proteja los derechos específicos de los Pueblos Indígenas, por ejemplo, no hay un reconocimiento al derecho consuetudinario maya, o que la forma de tenencia de la tierra es colectiva en las comunidades mayas o incluso que el Sistema de Alcaldes es una institución tradicional de autogobierno indígena. En ese sentido, la constitución política de Belice es la más atrasada en toda la región de Centro América, en lo que se refiere a la materia sobre los derechos indígenas. A parte de esto, en Belice tampoco existen estrategias, planes ni programas que se enfoquen en avanzar los derechos de los indígenas en ese país o que sean dirigidos específicamente al desarrollo de dicho pueblo. En ese sentido, los líderes y organizaciones indígenas han sido prácticamente obligados a recurrir al marco de derecho internacional en la búsqueda de protección de sus derechos y la afiliación y coordinación con otras instancias indígenas regionales e internacionales para recibir apoyo.

Finalmente, debo mencionar que, en octubre del 2007, dos comunidades Mayas - Santa Cruz (Mopan) y Conejo (Q'eqchi's), de la región sur de Belice ganaron un caso contra el gobierno de Belice, donde reclamaron el reconocimiento y respeto de sus derechos territoriales. La Corte Suprema de Belice emitió un fallo a favor de estas comunidades, utilizando la Constitución de Belice, estableciendo que la constitución protege el derecho a la propiedad, y que la tenencia comunal de la tierra en estas comunidades, constituye una forma de propiedad, la cual deberá ser protegida al igual que la propiedad privada. Por otro lado, se utilizó el artículo sobre el derecho a la vida, reconociendo que el territorio es la base de la existencia de las comunidades indígenas y que, si sus derechos sobre este son negados, también es negado su derecho a la vida. Es en este sentido que la Constitución política de Belice fue utilizado para la defensa de los derechos territoriales de las comunidades Mayas. Sin embargo, cabe resaltar que hasta hoy no existe ninguna legislación, ni política pública, o proyecto de ley, específico para Pueblos Indígenas en este país; y mucho menos una iniciativa específica para la implementación del fallo emitido a favor de estas comunidades.

Y los Yucatecos se Organizan

Mientras que los q'eqchi's y mopanes se organizaban en el sur de Belice, los yucatecos del norte y oeste del país también estaban armando sus iniciativas de rescate identitario cultural y buscando las maneras de mejorar el acceso a la educación por parte de los jóvenes mayas. La principal organización de estos es U' Kuxtal Masewal (UKM) también conocido como el Maya Institute of Belize, la cual fue concebida en 1985 y registrada oficialmente con personería jurídica en 1986, como una entidad cultural maya sin fines de lucro. El concepto de la organización se vino cristalizando en las mentes indígenas de mayas yucatecos de dicha época, quienes habían cursado educación a nivel terciario en instituciones fuera de Belice. La experiencia en dichas instituciones les había expuesto a la crisis de identidad y pena oculta por no saber su idioma indígena y sus tradiciones, que todo indígena asimilado en el sistema educacional occidental atraviesa cuando se encuentra con indígenas de otras partes del mundo,

que se enorgullecen en manifestar su identidad, cultura, su idioma, su historia, su arte y más. Dichas mentes despertaron a la realidad de la cultura Maya en Belice; y se apenaron de la preocupante situación, más triste aun porque en aquella época nadie parecía preocuparse por la decadencia cultural maya, porque no había muchos Mayas que habían salido de Belice a países Latinoamericanos donde abundan los indígenas en lucha por sus derechos desde décadas antes de la década del 80.

El líder maya que sembró la semilla del renacimiento cultural maya en Belice a través del concepto de revitalización étnica fue el Ing. Agrónomo Celso Poot (ahora difunto), maya yucateco de la comunidad de Pachakan en el distrito de Corozal al norte de Belice. Él era egresado de la Escuela Agrícola Panamericana (EAP/El Zamorano) de Honduras, donde se encontró con toda una gama de indígenas de Latinoamérica y el Caribe. Esta idea le llamó la atención a varios otros agrónomos que también habían estudiado en El Zamorano y tenían las mismas experiencias culturales y que habían atravesado la crisis de identidad. Entre estos se encontraban: Pedro Quetzal (de Santa Clara, Corozal), Anselmo Castañeda (de Santa Clara, Corozal), Crispín Blanco (de Yo Creek, Orange Walk), Angel Tzec (de Bullet Tree Falls, Cayo) todos estos del pueblo Maya Yucateco. Otros interesados no -agrónomos fueron Pedro Cho (Maya Mopan, de San Antonio Toledo), Domingo Choco (Maya Q'eqchi', de Silver Creek, Toledo) y Alfonso Tzul (Maya Yucateco de San Antonio, Cayo). Se facilitó la planificación y razonamiento de la organización porque cinco de los fundadores trabajaban en la misma institución - el Banco de Desarrollo de Belice conocido en aquel entonces como el Development Finance Corporation of Belize (DFC). Después de varias reuniones de pensamientos y razonamiento se acordó que la idea era buena porque en verdad los mayas estaban perdiendo su cultura e identidad rápidamente. Ya en Belice, los “indios” tenían vergüenza de reconocer e identificarse como tal.

Fue entonces que se decide llamar la organización U'Kuxtal Masewal, lo que significa: “el modo de vida del masewal”, porque en la lengua maya no existe la palabra cultura y se usó masewal, porque fue la palabra que se usó/usa para identificar a los

mayas rebeldes de Chan Santa Cruz (ahora Carrillo Puerto, Quintana Roo, México) durante la Guerra de Castas de Yucatán, México. Finalmente se definió la misión de la organización la cual buscaba el rescate cultural y la promoción del desarrollo holístico del maya beliceño, incluidos los yucatecos, q'eqchi'es y mopanes, sin prejuicio o discriminación; en colaboración con organizaciones nacionales e internacionales que tengan propósitos similares para lograr el desarrollo pleno del potencial cultural e intelectual de los pueblos Mayas de Belice. Habiendo conceptualizado la misión de la organización se decidió darle vida a través de la personería jurídica. Para entonces ya se habían convencido un total de 13 personas (el número sagrado maya).

En 1987, U' Kuxtal Masewal recibió \$5,000 canadienses de la organización Canadian International Development Agency (CIDA) del Canadá. Parte de estos fondos se usaron para emplear a tiempo completo a un “informante reclutador” en la persona de Fernando Tzib, maya yucateco de la comunidad de San Antonio, Cayo quien en ese entonces era maestro de escuela primaria. Fernando dejó el trabajo de maestro y se dedicó a diseminar la información sobre los conceptos, misión y propósito/objetivos de la organización. Viajó por todo Belice en las comunidades indígenas yucatecas, mopanes, q'eqchi'es. Después de un año de trabajo se logró reclutar a 90 miembros que incluía a personas de los tres pueblos mayas del país. Así se compuso U' Kuxtal Masewal - Maya Institute of Belize; una sociedad maya, gestora por el desarrollo holístico maya y aboga por los derechos de todos los mayas. Es una organización de gestión y oficialmente representa solamente el consenso de su membresía maya. No representa a todos los mayas de Belice, pero aboga por ellos y si se le consulta se involucra en la lucha siempre y cuando este dentro del marco de su misión. En ese sentido esta organización es distinta a las del sur donde se representan comunidades, mientras que esta representa solamente a su membresía.

Los avances concretos más sobresalientes que ha tenido UKM incluyen la instalación del primer y único centro Maya de educación alternativa que toma en cuenta la lengua, el modo de vida, la cosmogonía y la espiritualidad maya para la promoción del desarrollo

integral de la persona y fortalecer la autoestima y la identidad como indígena. Además, este centro retoma la ciencia y saberes mayas combinados con el uso de la ciencia moderna para complementar la formación holística de los jóvenes en el centro de capacitación. El centro se nombró TumulK'in Centre of Learning y se instaló en la comunidad mopan de Blue Creek en el distrito de Toledo en el año 2000 por el Ing. Agr. Angel Tzec, uno de los fundadores del U'Kuxtal Masewal, quien fue el director y único profesor desde el 2000 al 2003, año en el cual se retiró del oficio, dejando encargado al Dr. Filiberto Penados de San José Succotz del distrito del Cayo, en el oeste de Belice.

Por otro lado, en el año 2000 UKM cruzó las fronteras de Belice al norte y sur y estableció una relación sociocultural con las organizaciones mayas; Mayaón de Yucatán, México y la Academia de Lenguas Mayas de Guatemala y se dio inicio a los Encuentros Internacionales Mayas de México -Belice -Guatemala que se ha convertido en el evento anual más grande que se celebra y hospeda de manera rotativa en comunidades indígenas de los tres países. Este vínculo ha dado pie al fortalecimiento de los enlaces socio -culturales entre distintos pueblos mayas de los tres países y ha puesto en la plataforma transnacional, la problemática de la débil identidad maya de los indígenas de Belice, quienes con el pasar del tiempo y toda la exposición y enseñanza aprendida con los hermanos de los otros países, quienes han tenido mayores avances en el fortalecimiento cultural, se ha ido fortaleciendo poco a poco la identidad de los mayas de Belice.

Para UKM, el idioma es uno de los pilares fundamentales del rescate de la cultura e identidad maya. Por ende, en este instituto se ha inventado un nuevo sistema de alfabeto al cual se le ha denominado Masewal Tzib. Este consiste de 40 símbolos o glifos que según los mayistas beliceños, representan fielmente todos los sonidos universales de las lenguas mayas. Esto se hizo especialmente para facilitar la escritura de la lengua maya sin necesidad de estar tratando de adoptar los sonidos mayas al alfabeto latino, ya que los fundadores consideran que el abecedario latino jamás le podrá

ser fiel a los sonidos del idioma maya. En Belice se hicieron ensayos de enseñanza y se prepararon libretas y manuales de enseñanza que resultaron efectivos en la transmisión del idioma maya.

Un aspecto muy importante es que el UKM ha desarrollado relaciones de trabajo con otras organizaciones indígenas y no-indígenas, nacionales e internacionales que han aportado al logro de los objetivos de educación y capacitación de los mayas beliceños, así como a la articulación de una plataforma nacional de apoyo al movimiento maya de Toledo. Algunas organizaciones internacionales han aportado financiamiento para ciertos aspectos del plan de trabajo anual de UKM. Por ejemplo, la Unión Internacional para la Conservación de la Naturaleza (UICN), a través de UKM, ha aportado fondos para la lucha de los mayas del sur del país, específicamente para el proceso de litigio de los casos de defensa territorial. El Fondo Indígena para América Latina y el Caribe (FILC) también ha aportado financiamiento, a través de UKM, para la realización de los encuentros internacionales como también para la publicación de materiales educativos sobre los derechos territoriales de los mayas del sur, así como el significado y alcance del fallo del 2007 de la Corte Suprema de Belice a favor de los mayas de Toledo. Otras organizaciones con las que se han establecido vínculos de trabajo y representación son el Consejo Indígena de Centroamérica (CICA), la Organización de Estados Americanos (OEA), el Foro Internacional de Mujeres Indígenas (FIMI), entre otras. Una nota importante es que el 90% de los proyectos de UKM sobre capacitación y liderazgos han sido capitalizados en involucrar mayormente a mujeres y jóvenes, porque se reconoce que estos son dos de los sectores de los pueblos indígenas que menos oportunidades tienen. Las áreas de capacitación han incluido temas relacionados a los derechos humanos, derechos indígenas, el acceso a la Comisión Interamericana de Derechos Humanos (CIDH), los pueblos indígenas en el sistema Interamericano y Universal de derechos humanos, la gobernanza indígena, el Convenio 169 de la OIT, derechos de la mujer, el VIH/SIDA, la conservación ambiental, el cambio climático y su impacto sobre la seguridad alimentaria de los pueblos indígenas, entre otros.

Después de la fundación del Instituto Maya de Belice - U'kuxtal Masewal, se fueron gestando otras pequeñas organizaciones de mayas yucatecos que reconocieron la importancia de rescatar y fortalecer la cultura maya yucateca. En el oeste de Belice, en la comunidad de San José Succotz, se fundó la Asociación Xunantunich en 1990 por los hermanos Magaña, quienes desde entonces se han dedicado al rescate del arte y artesanía maya a través de su trabajo en arcilla, pinturas, tallados en piedra y madera. Aunque ellos no se dedican al trabajo político, se me hace esencial mencionar esta organización, pues es una de las pocas que se dedica completamente al rescate cultural y que ha sobrevivido a través del tiempo, a pesar de la falta de recursos, alti -bajos de los mercados, etc. Hoy, la comunidad de San José Succotz tiene a algunos de los mejores artistas mayas que se dedican a la producción para el mercado de turismo local, nacional e internacional. Mientras, al norte de Belice en la comunidad de Pachakan se fundó también en 1990 el U'pilich Masewal. Ellos se han dedicado más al rescate de la espiritualidad y medicina tradicional maya y son la única comunidad donde aún se practican anualmente las “primicias” en ofrendas a los dioses mayas y donde aún permanecen los mejores y últimos médicos tradicionales yucatecos.

En definitiva, se puede decir que, aunque UKM no representa a comunidades, sino que, a una membresía maya compuesta de indígenas de todo el país, este instituto ha apoyado en distintos momentos el movimiento maya del sur de Belice, primero apoyando el trabajo del TMCC y KCB, luego estableciendo Tumul K'in, hasta buscando fondos para apoyar el proceso de litigio y documentación de los casos de demanda territorial de las comunidades de Toledo.

La Gestión Ambiental Facilita la Apropiación Territorial a Través de SATIIM

Con el pasar de los años, las amenazas a las tierras mayas, sobre todo a los bosques y sus recursos, fueron incrementado, dando paso a la necesidad de la formación de nuevas instancias indígenas que se dedicaran a velar por las cuestiones ambientales. Una de las usurpaciones más recientes en la última década y media fue el establecimiento de un área

protegida en gran parte de las tierras q'eqchi's y garífuna, en el sur de Belice. En 1994, el gobierno beliceño estableció un área protegida conocida como el Sarstoon Temash National Park (STNP), el cual se encuentra en la región entre los ríos Sarstoon y Temash. Este parque tiene una extensión de 41,898 acres y es el segundo más grande en todo el país y el menos accesible a nivel nacional. El establecimiento del STNP respondió a la necesidad del gobierno beliceño de intercambiar medidas de conservación por apoyo financiero de la cooperación internacional, lo cual convenientemente se ajustaba al deseo de incrementar la seguridad y resguardar la frontera sur con Guatemala. En concreto, durante esta época surgió enérgicamente el financiamiento extranjero para apoyar iniciativas de conservación ambiental y de desarrollo sostenible para el sur de Belice. Esto empujó al gobierno beliceño a concentrarse en dichas iniciativas, al mismo tiempo que condujo a los líderes mayas a recanalizar sus energías en la búsqueda de respuestas que les permitieran ser partícipes de dichas iniciativas y sobre todo a no perder el control sobre las tierras designadas a las mismas.

Cuando se estableció el STNP el gobierno beliceño ignoró completamente la existencia de las seis comunidades q'eqchi's de Graham Creek, Temash Bar, Crique Sarco, Sunday Wood, Conejo y Midway, al igual que Barranco, la única comunidad garífuna en el área. También ignoró el hecho que el STNP se estaba estableciendo en el territorio ancestral de estas comunidades y que por muchos años ellas habían estado utilizando los bosques del área como fuente de recursos que sostienen sus formas de vida. De hecho, las comunidades no sabían que se había establecido el parque. La falta de una presencia permanente de representantes del gobierno en el área y de una clara demarcación de los bordes del parque lo confirmaban.

En comunicación personal con Gregory Ch'oc, director del Sarstoon Temash Institute for Indigenous Management (SATIIM), organización que tiene a su cargo el co -manejo del parque, me explicó que no fue hasta en 1996, tres años después del establecimiento del parque, que las comunidades indígenas supieron que se había creado el mismo. Llegaron a saber sobre ello a través de los distintos medios de comunicación y por el aumento en la llegada de representantes del

gobierno al área. Esto enfureció a las comunidades, quienes estaban disgustadas porque el gobierno se había apropiado de una gran parte de sus tierras y sobre todo porque se les estaba prohibiendo tener acceso a recursos que eran la base de su subsistencia. Incluso trataron de abogar para que se desmantele el área protegida pero no tuvieron éxito.

En vista de que el gobierno seguiría adelante con el STNP y que, aunque las comunidades indígenas se quejaron no se disolvería; en 1997, estas convocaron una reunión urgente para discutir las posibles opciones. A esta reunión invitaron miembros del gobierno, así como a las ONGs ambientales nacionales e internacionales y las organizaciones indígenas de Toledo. Presentes estuvieron el Kekchi Council of Belize (KCB), el Toledo Alcaldes Association (TAA), el National Garifuna Council (NGC), el Protected Areas Conservation Trust (PACT), el Global Environmental Facility (GEF), el Belize Centre for Environmental Studies (BCES), el Inuit Circumpolar Conference (ICC), el Coastal Zone Management Authority, el Belize National Association of Tour Guides, The Nature Conservancy (TNC), el Indigenous Mapping Project (IMP) y el Forest Department del gobierno (FD). La participación fue asombrosa con más de 72 personas que incluyó a líderes de todas las comunidades afectadas. Esta fue liderada por los garífunas y se llevó a cabo en Barranco, la única y última comunidad garífuna en el Sarstoon Temash Región (STR). A esta reunión se le llamó el Sarstoon-Temash National Park Stakeholders Workshop.

Ch'oc (2012) apúntala que durante esta reunión los líderes y representantes comunitarios reconocieron que la opción del co-manejo era la única que podría darles la oportunidad de proveerles una plataforma para estar directamente involucrados en el manejo del área y no perder el control y acceso a los recursos en ella. Al final del taller, se formó un Comité Directivo (Steering Committee) para comenzar la difícil tarea del co-manejo y se designó a Gregory Ch'oc como el presidente de dicho comité. Más adelante, el EcoLogic Development Fund (EDF), el Environmental, Social and Technical Assistance Project (ESTAP) y la sede del IFAD en Roma aportaron los recursos financieros necesarios para la capacitación y legalización

del Comité Directivo, el cual se registró con el gobierno bajo el nombre Sarstoon Temash Institute for Indigenous Management (SATIIM) en 1999. Fue así que SATIIM se fundó como una ONG indígena ambiental de base comunitaria dedicada al co-manejo del STNP en conjunto con las comunidades q'eqchi's y garífuna en la zona de amortiguamiento. Hoy día, el área de operaciones de SATIIM se extiende a lo largo de la costa de los ríos Sarstoon y Temash en el sur, hasta el río Moho en el norte de la región STR. SATIIM trabaja actualmente con una población total de casi 1000 indígenas de los cuales 200 son garífunas y el restante son q'eqchi's. Un punto crucial en la zona es la comunidad de Graham Creek que se encuentra en el límite del parque y demarca la frontera con Guatemala. En los últimos dos años SATIIM ha ampliado su área de cobertura, incorporando a la comunidad q'eqchi' de Santa Teresa que también se encuentra en el área general de amortiguamiento del STR. En ese sentido, SATIIM trabaja con un total de siete comunidades q'eqchi's (Graham Creek, Temash Bar, Crique Sarco, Sunday Wood, Conejo, Midway y Santa Teresa) y una garífuna (Barranco). La organización ha estado dirigida desde su inicio por Gregory Ch'oc un maya q'eqchi', quien durante esa época también fue el presidente del KCB y posteriormente se convirtió en el principal vocero y negociador del MLA ante el gobierno beliceño. Este traslape en el liderazgo de Ch'oc fue uno de los elementos principales que dio paso a que SATIIM llegara a articularse con importantes organizaciones indígenas en Toledo y apoyara el movimiento más amplio de defensa territorial de las comunidades mayas.

La estructura de SATIIM consiste en una Junta Directiva que está compuesta por representantes de cada una de las comunidades miembros, así como representantes del KCB, TAA, NGC y el Departamento Forestal del gobierno. Los representantes de las comunidades por lo general son los líderes tradicionales o algún otro líder electo por la comunidad. Estos son cambiados cada dos años en una asamblea general. Los representantes del gobierno casi siempre han estado ausentes y son los que menos participan en los procesos de toma de decisión de la organización.

Como el trabajo de SATIIM inició con el co-manejo del STNP, la mayoría de su labor se concentró sobre la conservación de los recursos naturales y la protección de la biodiversidad. No obstante, en el contexto del co-manejo realizado por SATIIM y las comunidades indígenas de la región, el manejo de áreas protegidas se ha alejado de la práctica convencional de conservar sin la presencia humana. Más allá de la gestión de los recursos naturales, la organización hace hincapié en la documentación y el uso de los sistemas de conocimientos tradicionales de las comunidades indígenas relacionados con el ambiente circundante. Este enfoque inserta un componente cultural explícitamente fuerte en la práctica de la gestión de áreas protegidas y resalta la importancia de la relación entre las comunidades indígenas y su entorno. De hecho, el STNP es la única área protegida en Belice que tiene una zona de uso tradicional donde se permite la actividad humana, dando paso a que los comunitarios pueden acceder a los recursos que tradicionalmente han utilizado para sostener sus formas de vida. Allí se permite la extracción de materiales (palos y hojas, etc.) para la construcción de casas, extracción de plantas medicinales, la caza y la pesca, entre otros, debido a que estos son parte fundamental de la subsistencia de las comunidades indígenas de la región. Esto fue algo que SATIIM negoció fuertemente con el gobierno beliceño cuando se estaba zonificando el parque. En ese sentido, los propósitos de SATIIM van más allá de la gestión ambiental, también incluyendo objetivos que velan por los intereses económicos, culturales, sociales y ecológicos de las comunidades dueñas de dicho territorio.

En cuanto a sus objetivos económicos SATIIM pretende garantizar que las comunidades mantengan el control sobre sus tierras y recursos a nivel local. Asimismo, busca la creación de empleo y el fortalecimiento de las capacidades locales a través de la capacitación. Sus propósitos culturales implican demostrar el valor del conocimiento tradicional indígena y cerrar la brecha entre las comunidades mayas y garífunas. Ecológicamente hablando, la organización busca administrar el parque a través de una mezcla entre el conocimiento ambiental occidental con el tradicional.

SATIIM evolucionó y pasó de ser una organización ambiental a una organización técnica/política que facilitó el proceso de preparación técnico -legal para apoyar el caso de Conejo; hasta convertirse hoy en una de las principales organizaciones que abogan por los derechos de las comunidades mayas a sus tierras y recursos, sobre todo en contra de la explotación petrolera y extracción forestal masiva. Esto fue posible ya que, a través de sus 15 años de trabajo en el área, SATIIM fue construyendo una plataforma política en el marco de los derechos indígenas para garantizar el derecho al control, acceso, extracción y gestión colectiva que poseen las comunidades q'eqchi's y garífunas al parque nacional. De hecho, en varios de sus discursos públicos Ch'oc asegura que SATIIM ha combinado la gestión ambiental con garantizar el derecho de las comunidades indígenas al parque porque esta forma parte integral de las tierras ancestrales de los q'eqchi's y garífunas de la región Sarstoon Temash.

Desde mi perspectiva, la creación de SATIIM fue una estrategia crucial que generaron las comunidades, líderes y organizaciones indígenas de la región STR, para no perder el control sobre dicha vasta área de su territorio. Sin embargo, aunque esta experiencia ha funcionado hasta cierto punto, creo que siempre es necesario mantener una posición contundente y recordarle constantemente al Estado beliceño sobre lo que ha significado el establecimiento de dicha área protegida en el territorio indígena. No debe perderse de vista que la dinámica de las áreas protegidas ha afectado seriamente la vida de los pueblos en toda la región Centroamericana y no puede afirmarse que hay casos exitosos, cuando los pueblos indígenas no son los administradores de los mismos y nunca han dado consentimiento de su existencia. De hecho, hay que recordar que la mayoría de las regiones donde se han establecido áreas protegidas, ha significado una desposesión territorial completa para los pueblos que habitaban allí. En ese sentido, creo que es importante que las organizaciones indígenas como SATIIM, empiecen por eliminar las frases aquellas que los Estados usan como por ejemplo "los territorios o comunidades indígenas que se encuentran en áreas protegidas" cuando es todo lo contrario. A mi parecer, queda como tarea de las

organizaciones de los pueblos indígenas el educar a los gobiernos y descolonizar los procesos donde se discuten estos temas, así como exigirle al Estado beliceño que establezca espacios serios de debate nacional donde se aborden estos temas seriamente y se tomen responsabilidades concretas para asegurar que las comunidades indígenas no pierdan el control, acceso y uso de las tierras y recursos que existen en sus territorios. Fundamentalmente, hay que exigir que se reconozca que hay ciertas áreas protegidas que están traslapadas sobre los territorios indígenas y demandar que no se sigan enajenando los derechos de los pueblos a dichas áreas.

La Plataforma Indígena Nacional

Como hemos visto, en las últimas cuatro décadas se han gestado un sin número de organizaciones que forman parte de la compleja organización socio-política de los indígenas en Belice. A pesar de esto, ninguna representaba una plataforma nacional que atendiera de manera integral los intereses y preocupaciones colectivos de todos los indígenas, ambos mayas y garífunas, en el país. Fue así que, en 1997, en un taller organizado conjuntamente por el KCB y el ICC en el sur de Belice, donde se discutía la nueva iniciativa del co -manejo del STNP, se aprobó una resolución por todos los líderes indígenas presentes, la cual respondió a la necesidad de crear una nueva organización que representara los intereses colectivos sobre grandes temas de política nacional e internacional que les afectaban. Esta resolución posteriormente dio nacimiento en 1998 al Belize National Indigenous Council (BENIC - la Mesa Nacional Indígena de Belice), la cual se definió como una organización “sombria” compuesta de organizaciones mayas y garífunas de todo el país. Desde su inicio BENIC tuvo como objetivo ser la mesa indígena a nivel nacional y representar los intereses de todas aquellas organizaciones indígenas miembros y abogar por los derechos de los pueblos indígenas en Belice. En ese sentido, se buscaba que BENIC fuera la plataforma nacional de diálogo y concertación con el Estado beliceño; así como la organización que enlazaría el movimiento indígena de Belice con iniciativas indígenas regionales, especialmente Latinoamericanas y del Caribe.

Para 1999, BENIC había participado en tres reuniones regionales que le permitieron poder llevar los asuntos indígenas de Belice a estas discusiones y plasmar los intereses de la mesa nacional en formar parte de las redes indígenas regionales y buscar apoyo para el movimiento en Belice. La primera reunión en la cual se participó como mesa nacional fue la invitación del Consejo Indígena de Centro América (CICA) a Nicaragua. A esta reunión atendieron Pulcheria Teul (fue representante del TMWC en BENIC), Pio Coc (fue representante de TMCC en BENIC) y Augustine Flores (ahora difunto, fue representante de NGC en BENIC). La segunda reunión fue la Asamblea General del Fondo Indígena que tiene el mandato para apoyar el desarrollo de los pueblos indígenas de América Latina y el Caribe. El Ministro de cultura y Desarrollo Rural de ese momento, Marcial Mes, representó al gobierno beliceño mientras que Pio Coc y Augustine Flores representaron a los pueblos mayas y garífunas de Belice. Esta reunión tuvo lugar en la ciudad de México. La tercera volvió a ser en Nicaragua, ocasión en la cual se discutió la posibilidad de presentar una propuesta integral para el desarrollo técnico de los pueblos indígenas de América Central, desde Belice hasta Panamá, particularmente en asuntos legales. La Organización Internacional del Trabajo (OIT) jugó un papel importante en la implementación de estas propuestas. BENIC estuvo representado en esta reunión por Bartolo Teul quien para entonces ya era el vicepresidente del CICA, mientras que Pio Coc representó al TMCC y Augustine Flores al NGC.

Las principales organizaciones fundadoras de BENIC fueron el TMCC, el KCB, el TMWC, el NGC, el UKM y el Belize Indigenous Training Institute (BITI). Los líderes de ese momento fueron Pio Coc, Bartolo Teul, Pulcheria Teul, Augustine Flores, Benigno Bol, Alfonso Tzul, Víctor Cal, Francisca Así, Michaela Wewe y Michael Polonio. En el año 2000 a 2001 se unieron al grupo Angel Tzec, Fernando Tzib, Gregory Ch’oc, Filiberto Penados, Judith Cayetano, Dativa Martínez, Valentino Shal y la tercera generación de representantes incluyeron a Angel Cal, Cesar Ross, Susie Oh, Olga Tzec, Esther Sánchez, Aurelio Sho y mi persona.

Con el pasar de los años, BENIC al igual que todas las organizaciones indígenas antecesoras llegó a

tener problemas de división entre los liderazgos hasta el punto que muchas de las organizaciones fundadoras, especialmente las de Toledo, se retiraron. Esto se dio especialmente porque los líderes del sur, además de liderar sus organizaciones en Toledo, también querían mantener la hegemonía sobre la instancia nacional porque ellos fueron prácticamente los fundadores; pero con la entrada de nueva membresía, perdieron dicho control y por ende terminaron retirándose. También, aunque en el entorno indígena no se habla, ha habido cierto recelo de algunos de los nuevos líderes q'eqchi's (aunque silencioso), sobre la participación de los garífunas en la plataforma indígena nacional, puesto que consideran que estos no deben participar en espacios que ellos consideran corresponden a los mayas. Hoy día las organizaciones que componen BENIC y siguen dándole vida a la organización son el National Garifuna Council (NGC), World Garifuna Organization (WGO), U' Kuxtal Masewal (Maya Institute of Belize), Tumul Kin Center of Learning, Hopkins Garifuna Women's Group, Maya Center Women's Group, Friends of Gra Gra Lagoon, Toledo Maya Women's Council (TMWC) y Xunantunich Maya Association of Soccotz. Cada dos años se realiza una asamblea general donde se eligen nuevos miembros de la Junta Directiva.

Una de las problemáticas más grandes que BENIC ha enfrentado en los últimos años es la pugna por su representatividad y legitimidad. Este cuestionamiento viene a raíz de que a pesar de que esta mesa fue fundada en su mayoría por los mayas del sur de Belice en conjunto con los garífunas, al intensificarse la lucha por las tierras comunales mayas del sur y con la entrada de líderes jóvenes en Toledo, en vez de apoyarse en BENIC como plataforma nacional, estos han tomado la decisión de abanderar sus demandas y movimiento solos y desligarse de BENIC. Esto realmente se ha basado sobre una actitud separatista entre los liderazgos del sur, quienes cada vez más luchan entre sí por tener sus propios espacios de poder. De hecho, ha habido momentos en que el gobierno beliceño ha consultado a BENIC para algunas cuestiones como lo son su iniciativa sobre REDD+ y los mayas del sur se han indignado y reclamado que BENIC no los representa y que por ende no se debe aceptar su posición como

una posición indígena. Al discutir esto con los presentes líderes de BENIC, ellos aseguran que, aunque ellos representan solamente los intereses de sus organizaciones miembros, mayas y garífunas, sus principios se basan en abogar por los derechos indígenas en general a nivel nacional y por ende sus preocupaciones y posiciones no pueden ser des-legitimadas por otro grupo que no sea miembro. Adicionado a esto, los líderes en BENIC reconocen que, aunque ellos no representan la lucha territorial de los mayas del sur ni están involucrados directamente, siempre han apoyado dicho movimiento cuando se les ha solicitado. De hecho, en varios momentos algunas de las mismas organizaciones del sur que tratan de deslegitimar a BENIC han acudido a esta organización para la búsqueda de fondos en apoyo a la lucha del sur. BENIC recalca que reconoce que estas divisiones entre los liderazgos y los pleitos por representatividad y poder político dañan el avance de los indígenas a nivel nacional y que hasta que los mayas del sur acepten que ellos no son los únicos indígenas en el país, solamente porque viven de manera tradicional a diferencia de los del oeste y norte que han sido bastante asimilados, se podrá reconstruir nuevamente y fortalecer una plataforma indígena nacional que de paso a una cohesión y voz indígena unida ante el Estado beliceño. Mientras, los distintos gobiernos que han estado en el poder aprovechan estas divisiones para desentenderse de sus responsabilidades hacia estos pueblos y decir que los indígenas no se ponen de acuerdo o que no saben lo que quieren.

Reflexiones

En toda esta discusión sobre la organización socio-política de los mayas de Belice es importante resaltar que, si revisamos cuidadosamente la tendencia de los reclamos de derechos por parte de los indígenas en América Latina, nos daremos cuenta que la tendencia fue igual que en Belice, con la demanda de derechos culturales como primer paso. Esto se dio como estrategia pues, los Estados consideraban dichos derechos como inofensivos y que no les representaban ningún riesgo. La organización socio-política de los indígenas se vio amarrada a dichos reclamos culturales. Esta tendencia es resaltada en los escritos de Yrigoyen (2009), quien en su

Tabla 7.1. Organizaciones de primer, segundo y tercer grado resultado de la organización socio -política de los mayas en Belice. Fuente: elaboración propia.

GRADO	NOMBRE DE LA ORGANIZACIÓN	TIPO DE ORGANIZACIÓN
Primer Grado	Institucionalidad indígena - Sistema de Alcaldes	Sistema de gobernanza indígena a nivel comunitario. Es el primer nivel (interno) de organización indígena.
Segundo Grado	Toledo Maya Cultural Council (TMCC)	Político/ cultural
	Kekchi Council of Belize (KCB)	Político/ cultural
	Toledo Maya Women's Council (TMWC)	Cultural/económico
	Toledo Alcaldes Association (TAA)	Político
	Maya Institute of Belize - U'kuxtal Masewal (UKM)	Cultural/ educacional
	TumulK'in Centre of Learning	Educacional
	Sarstoon Temash Institute for Indigenous Management (SATIIM)	Técnico/ político
	National Garífuna Council (NGC)	Cultural
	World Garífuna Organization (WGO)	Cultural
Tercer Grado	Maya Leaders Alliance (MLA) (nivel regional concentrado en el sur de Belice) sus miembros son el TAA, TMCC, KCB, TMWC, Tumulkin.	Político
	Belize National Indigenous Council (BENIC) - sus miembros son UKM, NGC, WGC, TMWC, Tumulkin,	Mesa Nacional Indígena – Político.

análisis sobre los tres ciclos de las reformas jurídico-políticas de los Estados en nuestra región reconoce que en un primer momento durante la década del 80, antes de la aprobación del Convenio N° 169 de la OIT sobre Pueblos Indígenas y Tribales en Países Independientes, en Guatemala (1985), en Nicaragua (1987) y en Brasil (1988) se impulsaron reformas que estaban centradas principalmente sobre el reconocimiento y la protección de la pluri- etnicidad y el derecho a la identidad cultural individual y colectiva. Ella establece que durante esta época se hicieron solamente referencias básicas a los derechos específicos sobre la tierra y algunas formas de autonomía. Sin embargo, en las siguientes dos décadas, el 90 y el 2000, se realizaron cambios constitucionales en varios Estados, donde

se reconoció el carácter colectivo de los pueblos indígenas, así como sus derechos a la tierra y territorio. Precisamente varios autores llaman a este proceso la “multiculturalización del Estado y de las políticas públicas”; se reconocen derechos colectivos, pero en la práctica cotidiana se deja muy poco espacio y presupuesto para hacer realidad el goce de esos derechos.

Esta tendencia también se experimentó en las discusiones llevadas a cabo en el seno de la Organización de Naciones Unidas (ONU) durante la elaboración de la Declaración de Naciones Unidas sobre los Derechos de los Pueblos Indígenas (UNDRIP). Entre el liderazgo indígena había algunos que proponían el abordaje de la demanda

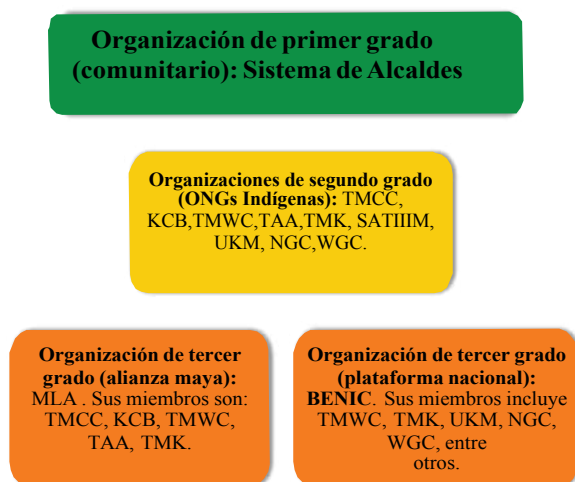


Figura 18.5. Estructura de la organización socio-política maya en Belice, organizaciones de segundo y tercer grado. Fuente: elaboración propia.

por la tierra y el territorio desde el inicio porque estos son derechos fundamentales para la continuación de los pueblos. Sin embargo, la mayoría concordó que llegar al reconocimiento de estos derechos sería muy difícil de entrada al proceso y es por esto que se dejaron para posterior. Es así que, durante la época de la corriente de discusión multicultural, los Estados reconocieron los derechos culturales, los cuales englobaban la identidad, el idioma, la vestimenta, la espiritualidad, la cosmovisión, entre otros. Sin embargo, como estos son derechos colectivos y los indígenas como pueblo necesitan su propio espacio para ejercer dichos derechos culturales, posterior al reconocimiento de estos se hicieron reclamos sobre el derecho a la autonomía, así como a las tierras y el territorio. La fundamentación fue que, para practicar y mantener su cultura, como una garantía para su continuación, los indígenas necesitan ser autónomos y tener su propio espacio. Fue por esto que se reclamaron los derechos a las tierras y territorios en vista de que estos son sus espacios ancestrales propios donde practican su cultura y ejercen su autonomía. Al igual que en la ONU, esta misma tendencia fue la que siguió durante los 19 años de negociación sobre el Borrador de la Declaración Americana sobre los Derechos de los Pueblos Indígenas en el seno de la

Organización de los Estados Americanos (OEA)¹³. En ese sentido, no es de extrañarse que después del auge de la multiculturalización de los Estados en América Latina, hoy por hoy las demandas indígenas han girado hacia los derechos económicos y políticos que tienen como piedra angular el derecho a la tierra, territorio y recursos, los cuales son fundamentales para ejercer la autonomía y libre determinación.

Desde el contexto beliceño, podemos rescatar que la organización socio-política de los mayas de Belice inició como un proceso de revitalización étnico-cultural en respuesta a la constante discriminación hacia la cultura maya que era considerada atrasada, contribuyendo a la pérdida de esta; así como al hecho que los mayas han estado relegados a una de las clases sociales más bajas en el país, sufriendo las más notables injusticias económicas, sociales y políticas expresadas a través de la pobreza y la exclusión social y política que agobia a este pueblo. Los mayas lograron varios avances culturales y sociales (como el aumentar el acceso a la educación secundaria) a través de su presión basada en reivindicaciones étnico culturales, aunque el Estado beliceño ha dado respuestas momentáneas y leves. De hecho, hasta el momento no se han tomado acciones concretas estatales para desarrollar políticas o estrategias interculturales que atiendan las demandas específicas de los indígenas en Belice. En ese sentido, me atrevo a decir que en Belice aún no se ha dado el proceso de multiculturalización del Estado, porque este se queda corto de acciones afirmativas a favor de los mayas.

Adicionado a esto, no hay que perder de vista que a pesar de las figuras tradicionales de autoridad en las comunidades mayas, en respuesta a esa inflexibilidad del sistema y los constantes retos a la cultura y territorio, los mayas han trascendido a constituir nuevas formas de organización socio-política y representación, las cuales se ven expresadas a

13. Este proceso inicio desde 1997 y tuve la oportunidad de participar en el desde el 2005 al 2016.

través de organizaciones de segundo y tercer grado formadas estratégicamente en momentos específicos del Movimiento Maya para la defensa territorial y así responder a las amenazas que enfrentan sus tierras y recursos naturales, sobre todo ante los intereses de las industrias extractivas y la apertura de Belice al mercado internacional e inversiones extranjeras. Esto ha permitido que los indígenas tengan un espacio propio en el cual articular, en distintos niveles, las demandas comunitarias y generar un movimiento más sólido para que este gran reto no se quede a nivel de cada comunidad, sino que trascienda como demandas del Pueblo Maya de Toledo, siendo este hoy un nuevo actor político muy importante en el debate nacional sobre todo en cuestiones relevantes a la tierra y los recursos naturales.

Por otra parte, como la etnicidad ha sido identificada como un recurso social y cultural que los actores ocasionalmente pueden utilizar, como instrumento político, en la búsqueda de su propio beneficio individual o colectivo, estos usan la estrategia de la identidad étnica de una manera racional e interesada. Para el caso de los mayas del sur de Belice, yo diría que la organización socio-política que estos han generado ha respondido justamente al hecho que ellos han utilizado el concepto de etnicidad como un instrumento político a través del cual han movilizadado parte de su cultura (incluyendo su identidad como mayas, su historia, cosmovisión y su ocupación y uso tradicional de la tierra), con la finalidad de articular sus demandas por la tierra y asegurar la tenencia colectiva sobre esta y sus recursos. Esto también es visible a través del agudo aumento en la categoría étnica de “Maya” reportado en el censo nacional en el Distrito de Toledo el cual incremento de un 36% en 1946 a 57% en 1980. Según Shoman (2010), este tipo de cambios puede deberse en parte a la mejora en la tasa de natalidad, así como a la continua inmigración de Guatemala. Yo diría que esto está relacionado al hecho de que a partir de la década del 70, en Toledo se desarrolló un movimiento de reivindicación étnica y fortalecimiento de la identidad maya; movimiento que exigió derechos especiales para los pueblos indígenas de dicha región (sobre todo relacionado al acceso a la tierra y recursos). Soy del pensamiento que esto promovió la auto adscripción al estilo de Barth, hecho que contribuyó a que más personas estuvieran dispuestas a identificarse como mayas. Para mí, es

crítico el poder apreciar la importancia que pueden tener la identidad y conciencia étnica para los grupos, especialmente cuando estos sienten que el respeto y los recursos se les niegan debido a su pertenencia a un grupo étnico en particular. De hecho, creo que, con tanta interferencia del mundo externo, sería un suicidio cultural si los grupos étnicos no buscan dentro de sí mismos sus contenidos primordiales, y reafirmar estos, aunque a veces sus demandas de reivindicación parecen ser contradictorias.

Al mismo tiempo, no hay que olvidar que el incremento de las amenazas a las tierras comunales mayas en la forma de la parcelación y privatización de estas, adicionado a la entrada de la industria extractiva forestal y petrolera, los líderes mayas fueron obligados a buscar nuevas formas de organización para proteger sus tierras comunales, arraigándose en sus formas tradicionales de gobernanza y sus normas de gestión colectiva. También debo reiterar que a pesar que la organización socio-política de los mayas del sur de Belice ha tenido varios momentos de crisis y fragmentación en los liderazgos; lo cual ha generado un movimiento de defensa territorial en un estilo que yo llamaría espiral, con marcados momentos de éxito legal, así como bajones organizacionales fuertes, hoy esta organización sigue con cierta potencia que le ha permitido tener varios éxitos legales en el reconocimiento a sus derechos territoriales. No obstante, se han tenido que buscar nuevas estrategias de apropiación y defensa territorial para asegurar que las comunidades mayas del sur mantengan el control sobre sus tierras y recursos. Sin embargo, queda ver si algún día el gobierno beliceño tomará pasos hacia el desarrollo de legislación, políticas, estrategias y programas específicos, que no solo reconozcan y protejan los derechos mayas a la tierra, sino que también permitan que los mayas de Toledo puedan alcanzar el pleno goce de sus derechos y autonomía como pueblo indígena.

19. Iguanazul Cartonera

Revitalization of Mexican Languages Among Indigenous Migrant Communities in New York City

Judith Santopietro

To the communities from Teopantlán, and San Jerónimo Xayacatlán, Puebla, settled in New York City.

In 2005 we founded *Proyecto Iguanazul* to disseminate and revitalize Mexican languages from outside and inside the communities, as part of the cultural and linguistic rights of Indigenous People, and with the goal of having native speakers – writers, storytellers, artists – form part of the process of language preservation.

We created *Revista Iguanazul* to spread the intangible heritage of which more than 364 dialects in Mexico are part. We need to consider that 10 years ago, dissemination, and the spaces dedicated to the use and preservation of indigenous languages, were only just starting to emerge, even though this legacy was recognized by the Convention for the Safeguarding of the Intangible Cultural Heritage. In 2003, the General Law of Linguistic Rights of Indigenous Peoples was approved, which considers only 62 languages to be part of the cultural and linguistic heritage of our country, including recognizing the collective and individual rights of every native person that speaks these languages.

Although the literary movement of indigenous languages, as it has been called, started positively in the 1970s with the first multilingual publications, some literary workshops, and the foundation of institutes dedicated to the promotion of these languages through artistic disciplines (one of them

as a result of the San Andrés Larráinzar agreements, signed between the *Ejército Zapatista de Liberación Nacional* (EZLN) and the Mexican government), by 2005 there still wasn't a huge variety of editorial projects being promoted. Therefore, in the context of a country with more than 68 native languages and 364 varying dialects, we decided to take up the challenge of creating multilingual editions for the audience.

Radio Nómada Iguanazul

In 2008 we started *Radio Nómada Iguanazul* to recreate the work of indigenous artists through multilingual podcasts transmitted via mass media such as *Radio Universidad Nacional Autónoma de México* (UNAM). Creating archives for these forms of literature was the main objective in the development of the project, which consisted of a series of podcasts recorded in the artists' original communities. We did not have any space on the airwaves or a special weekly program. Instead, the podcasts could be downloaded and retransmitted by several community and university radio stations. Through interviews, the artists, writers and storytellers narrated their own experiences of the creative writing process and their literary influences related to daily life. They also read excerpts of their work in bilingual versions. Through the podcasts, we delved deep into the universes of Zapoteco, Tseltal, Dulegaya, Nahuatl, Zoque, Maya, and Spanish. The *Radio Nómada* walked the same paths as the artists in various communities.



Figure 19.1: By Judith Santopietro. “Danzantes mexicana en Times Square”, as part of the exhibition ‘Field Notes’, Benson Latin American Collection, The University of Texas at Austin, 2015-2016.

Editorial Cartonera Iguanazul

The *editoriales cartoneras* (cardboard editions) are a unique and autonomous format; the books are handmade from recycled materials. There are now more than eighty of them and they have spread all over Latin America and the world, building on the foundation of *Eloísa Cartonera*, the first such edition created in Buenos Aires, Argentina, in 2003, in the legendary La Boca neighborhood. They work simultaneously as an editorial and as a cooperative at the place where they also facilitate workshops. Following the recession in Argentina, when people took to the streets to protest against the banks with *cacerolazos* and the slogan ¡Que se vayan todos! (Everybody out!), in reference to corrupt politicians, businessmen, etc., the writer

Washington Cucurto, alongside other artists, began this self-sustaining project which has since published other new and recognized writers including Gabriela Bejerman, Ricardo Piglia, Haroldo de Campos, Enrique Lihn, César Aira and Tomás Eloy Martínez, among other important figures. These writers also signed over their rights to be part of the collection of this edition.

This independent movement arrived in Mexico through *La Cartonera* in Cuernavaca in 2008, making it the first of its kind in our country and a guide for other editorials starting out, such as *Iguanazul*. They facilitated workshops to replicate the model for emergent collectives and planned a journey to the *Altas Montañas* to share the story, the goals, the social context, the manifesto and, above

all, their friendship. Following that training, we started production of our first books experimenting with recycled materials: ink, cardboard, nails, and threads. In this way, *La Cartonera* has continued the cycle, and the number of *editoriales cartoneras* has increased and spread across five continents.

The Manifesto

One of the peculiarities of the movement is that most *editoriales cartoneras* have their own manifesto, like the *avant-gardes* in 19th and 20th centuries in Europe and America — impressionists, surrealists, dadaists, estridentistas and infrarrealistas in Mexico — through which the artists relate their own political positions and leanings. As such, we need to emphasize that *editoriales cartoneras* are based on the struggle of facing up to the dominant process of the editorial industry at present, such as a political response in most of the projects.

While we were collecting the archives of Nahuatl literature and oral tradition in the Sierra de Zongolica and traversing the *Altas Montañas* in the summer of 2010, we were able to introduce new young participants to *Iguanazul* and, as for other *editoriales cartoneras*, wrote a collective manifesto which states:

“(...) We gathered a group of youngsters interested (...) in doing activities focused on native language revitalization, especially in the ancestors’ spoken language, Nahuatl.

Through these alliances and friendships, we initiated this autonomous project of *cartonera* workshops with children and young people born in Zongolica. Most of them were native Nahuatl speakers who illustrated and wrote a book from their own worldview. We want to link the new generations to the elders - who are storytellers, who know the oral tradition, who are keepers of wisdom, defenders of culture - using compilation techniques that stimulate interest in preserving our roots both in writing and verbally. We want to face up to the racism and discrimination against indigenous peoples through these actions to show the value of identity.

Moreover, we considered the importance of cardboard as the material. We consider mother



Figure 19.2: By Itzel Pereda/ Archivo Iguanazul. ‘Guardianes de la Memoria Oral’, in the process of collecting archives of oral tradition in Nahuatl language, Sierra de Zongolica, Veracruz, Mexico, 2012.

nature relevant to our peoples in the ritual sphere, so we’ve started a campaign of recycling in the community. We participate with the communities to record people’s knowledge of daily life. Likewise, we support the democratization of reading and writing in native languages. We wish to fight racism and discrimination against our native people with actions that demonstrate identity and courage (...).”

From *Iguanazul Cartonera* emerged the *Guardianes de la Memoria Oral* group, comprising Nahua youth who were immersed in a multidisciplinary professionalization process: culture, indigenous languages, sustainability, human rights and health. As a result of this collaborative process, we designed the *Centro de Formación para Jóvenes Indígenas* (training center for indigenous youth), which was the main objective of *Proyecto Iguanazul*. With great regret, this endeavor was cancelled due to the violence in Veracruz and throughout the country, following a very traumatic attempted kidnap.

The New York Route

My own migration journey began with my first trip to Bolivia in June 2013 with new questions about cultural identity and language. I was determined to be exiled because of the war on drugs in Mexico, so after some violent attacks against the project in Veracruz in 2012, I decided to live in Los Andes to trace other paths of reflection. At that moment, I was full of self-doubt. South America



Figure 19.3: By Judith Santopietro. Danzantes moros make the sign of the holy cross in the presence of Santiago Apóstol, during a festivity held in Queens, NYC, 2015.

seemed the perfect place to collaborate with other organizations that were working on similar issues regarding language, especially due to the generous political context following the arrival of President Evo Morales in 2006. I then approached the *Taller de Historia Oral Andina*, founded by Silvia Rivera Cusicanqui and other scholars.

Before my second journey there I considered some questions about the purpose of a project connected to Mesoamerican culture (my native region) and the possibility of locating the project in South America: Could I recreate my culture and identity in a faraway place, as a migrant subject? How do we relaunch this process in Bolivia?

Towards the end of my journey I read an article in the *The New York Times* which outlined the work of some organizations related to Mexican languages. Emphasis was given to the process of linguistic isolation, particularly among Mixteco women living in Harlem. Then, I knew an epiphany had been created during these migrations to the South, and it was time to go back to Mesoamerica and its territories expanded by the indigenous diaspora in New York. New York Tlan, Mannhattitlán, El Gringo, as the migrants called it.

After two months preparing the new challenge, *Iguanazul Cartonera* expanded its activities of intervention among migrant communities in New York City where, according to mapping conducted by the city's Mexican Consulate in 2013, there are 14 Mexican languages in the tristate area of New York, Connecticut, and New Jersey. Although figures from the research are general and we do not know the methodology used, this was undoubtedly the only data registered until recently, due to the absence of a research center on indigenous migration in the zone until now. Hard data shows that of the 1 million Mexicans based in the region 61% live in New York State, 17% of whom speak an indigenous language, of which 39% is Mixteco, 29% Nahuatl, 7% Triqui, 7% Zapoteco, 5% Otomí, 5% Tlapaneco, 2% Mixe, and 1% Chinanteco. Meanwhile traces of Amuzgo, Tsotsil, Tojolabal, Popoloca, Totonaco and Chol are present but are not assigned a percentage. The same mapping listed the states from which these populations migrate and among the most significant are Guerrero, Oaxaca, Puebla, Hidalgo and Veracruz. This same mapping also mentions what it considers to be one of the major issues faced by indigenous migrants: linguistic isolation.

Between November 2014 and March 2015 *Iguanazul* carried out activities in New York City, supported by the Popular Assembly of Migrant Families (APOFAM) based in Staten Island, which collaborates with Mixteco communities from Puebla. They also developed the Ñani Migrante project in conjunction with which we created a workshop program, established for organizations and collectives to share tools to record oral tradition in *cartonero* books created by each participant.

We did not create projects to teach native languages or oral history, because it was the first time such a context was addressed and we lacked professors specialized in teaching the dialects of those languages. The priority was the compilation of oral tradition and the teaching of the *cartonero* model, although different needs did then emerge alongside the learning. The workshops recreated community spaces in which their mother tongues, Da'an davi and Nahuatl, played a special role in reconnecting

them with the stories told by elders in Mexico. This included narrating their own stories of migration, including its inherent characteristics of violence, suffering and nostalgia, but above all strength. As such, oral history played the most important role as it was a means to listen and be heard, a way to find solace for the loss of family and territory. Ultimately, it was a profound way to reminisce. Every session included participants using the space to narrate their own stories of migration: from taking the decision to abandon their communities, to the ways of crossing the border and establishing themselves in New York City. Some made the journey 10 or 15 years ago. As the project progressed, expectations changed and the need to learn how to write, read and speak in their own respective languages emerged.

The workshop model is based in other experiences of linguistic revitalization in Mexico. Its goals include obtaining definitions of language, dialect and oral tradition formed by the participants; defining cultural identity (using data about multiculturalism in Mexico); introducing the audio-visual and editorial productions created by artists, writers and broadcasters; using language in daily life; learning audio-recording techniques; defining revitalization and the ways in which it can be utilized; producing an agenda of activities related to mother tongues in the context of New York City; defining the archives; creating interview scripts; collecting oral tradition; sharing the *editoriales cartoneras* story; and making vocabulary archives in their mother tongues and making their own cardboard books.

During the workshops with Ñani Migrante we worked with the first generation of migrant families from San Jerónimo Xayacatlán, Puebla, Mexico, who settled in the district of Staten Island. I played the role as a facilitator of dynamics with the support of the visual artist Andrés de La Torre and the archaeologist Adriana Linares Palma, both of whom also knew the cultural identification of the participants and the use of their mother language: Da'an davi or Mixteco. I used the Total Physical Response method to recreate greetings and farewells in Da'an Davi with the support of the participants during each session. At the beginning, I asked them if they considered themselves to be native speakers of Mixteco, although

none of them did. There was also the case whereby some of them admitted understanding a little, but rejecting speaking Mixteco. Using that method made it apparent that they did know the language. They spoke with ease, although not with great fluency. They wrote dialogues for greetings and as the sessions progressed they were reconnected with the wisdom. They reminisced about more vocabulary and short conversations sprung up among the community. Alongside the ancestors' way of talking and pronouncing — gestures, jokes, details that determined greetings such as position, movement, time, and the age of speakers — this created collective memory. Through these reminiscences they created a short vocabulary of animals that children used to illustrate the books. Other goals included collecting stories of oral tradition from the community in which they were born. Here, they used technology to build transnational bonds for which they proposed five stories from San Jerónimo Xayacatlán to be recorded, transcribed and narrated in the *cartonero* books of *Iguanazul*. They also participated in the Indigenous Languages Challenge launched by Native Americans on social media and replicated by people related to *Iguanazul* in Mexico and USA, using the hashtags #IndigenousLanguageChallenge and #RetoenLenguasIndigenas.

Similar workshops were run with the Enlace Teopantlán organization from Teopantlán, Puebla, Mexico, constituted by Nahuatl families settled mainly in Queens and Brooklyn, founded 10 years ago. They were also involved in the honoring of Santiago Apóstol in an apartment in Brooklyn. The *mayordomo* (the chief) and the community were gathered around the saint's image decorated with dollars and honored with weekly prayers to the *fiesta patronal*.

Replicating the *fiesta patronal* brought up more questions about the development of mother tongues and cultural transmission in the new territories of the indigenous diasporas. As a subject of the migratory process myself, I was reminded of the festival for honoring the same saint in the community where my father was born: San Pedro Ixhuatlán del Café, Veracruz. In general, the objectives were achieved during the



Figure 19.4: Judith Santopietro. Danzante moro participates in a dance honoring Santiago Apóstol, during a festivity held in Queens, NYC, 2015.

stay in New York, although some difficulties did arise during the activities. For example, the lack of participation of children, who are a central axis in the process of linguistic revitalization. At times the parents lacked motivation when introducing them to the language learning process, which was the case with native speakers.

Together we were able to achieve the most important goals: the participants created their oral tradition audio archives, their *cartonero* book — each one has a copy so that they can continue writing more stories in it — and we planned the utopia agenda whereby they expressed what activities they would like to undertake in the future for the continuity of their language. In the ten years that have passed since the foundation of the *Proyecto Iguanazul* we have wondered: *What is the role of these editions in the process of linguistic*

and cultural revitalization? Since the creation of *Revista Iguanazul*, we consider it to have played a valuable role in supporting a process of memory and language learning, and because it is transcendental for the archives and records that allow the expansion of oral and written features. Certainly, with multilingual editions, we exercise the cultural and linguistic right to express ourselves in our mother tongues. We do this precisely when we observe the most accelerated process of linguistic disappearance. It is estimated that in one hundred years more than a half of the six thousand languages in the world will disappear and, with this loss, many ways of conceiving the universe will cease to exist.

After ten years of walking, there are more questions than answers: What does it mean to be an indigenous person in the diaspora's territory? What will the benefits of editions in Mexican languages be among migrant communities? In what ways are the new territories and new identities established in New York City? Why is it possible to revitalize dances, traditional food, and music, but not language? How is women's sense of ethnic belonging being transmitted and redefined in the new territories? How will we achieve a reversal of the disappearance of Mexican languages?

TOWARDS A DECOLONIAL HERITAGESCAPE

20. Desacralizing Land (scapes)

The Maya Heritage in the Global Picture

Manuel May Castillo

Yuum k'albi k'axile'ex, yuum muulileex
t'albi t'aanile'ex, kalamil t'aanile'ex, in yuumil
t'aanile'ex, tin k'atic yo'lal le mako'ba' in yuum, zak
ik'alilo'ob k'ankabi oko'ob, yuum k'inili t'aanili, tin
k'atic teeoh yuum ...

(fragment of a song during a Maya ceremony
by *Hmen* Miguel Kan Chí, Oxkintok¹,
Yucatán, transcription by Félix May)

*Guardians of the bushes, protectors of the
mounds and of precious speech, guardians of the
speech, my protectors of the word, I ask you for these
persons, hikers of pure spirits. Protector, in time of
speaking, I'm asking you...*

(translation into English by Manuel May
with the support of Félix May)

The concept of landscape used here comes from recent academic debates touching upon the problem of environmental destruction. The most innovative aspect considered in these discussions is that people's subjectivities (cultural or spiritual) are relevant factors when developing a holistic legal framework for protection and preservation of landscape(s). Although not clear at first glance, the notion of *cultural landscapes* raises collective awareness of environmental protection. Think of the Swiss Alps landscape and the cultural/psychological arguments Swiss people put forward against any initiative of mining, damning or forest clearing for GMO² plantations there, not to mention the environmental destruction. So, this notion of *cultural landscape*

is close to Indigenous Peoples' notions of *sacred land*. Naturally both notions come from different ontological worlds; hence this chapter aims to achieve an ontological encounter in order to approach the global problem of environmental destruction and its impact on the Maya heritage.

Maya Land³

Similar to other Indigenous Peoples, when the Maya advocate for sacredness of the Land (*Yóok'ol Kaab* or *Itzam Kaab Áayin* in Maya Yucatec language), we use cultural, religious and psychological well-being arguments to protest against environmental destruction. This is a long way from the traditional anthropological view which categorizes the indigenous spiritual relationship with Land as 'primitive beliefs' that derive from 'magic thought' or 'superstition'⁴ in the anthropological vocabulary.⁵ Certainly, Indigenous Peoples share the idea that Land is more than a natural resource. She [Land] is the mother who feeds the community, in a literal and spiritual sense. For Yucatec Maya the *Yóok'ol Kaab* refers to the symbolic world. This concept is not restricted to physical 'territory' or land but involves all entities living there, be it physically or metaphysically. In fact, the term *Kaab* is more similar to the Spanish concept *Mundo* that refers to the universe of known entities. For the Maya

1. Oxkintok is sacred place -though under the partial control of the Mexican institution of heritage (INAH)- where Maya people perform ancestral ceremonies.

2. Genetically Modified Organism.

3. Due to her sacred and spiritual values I'm using capital letters here to differentiate the indigenous notion of Land vs the 'Western' notion of land, which nowadays is mostly restricted to economic values.

4. Since 'superstition' is the opposite of reason in academic vocabulary, this stereotype suggests to the academic reader that Indigenous Peoples lack rationality.

5. See the seminal works on anthropological criticism by Deloria, 1988(1969): 78-100 and Fabian, 2002(1983).

peoples, all entities living on the *Yóok'ol Kaab* have a numinous counterpart (sacred 'protector') and they deserve respect from human beings (see the fragment of the song cited at the beginning of this text). Humans are not superior to them but are, as trees and animals, part of the diversity of life on the *Kaab*. Moreover, this notion of objective/subjective world is shared not only by Maya peoples, but also by most Indigenous Peoples in the Americas. It is worth mentioning an anecdotal passage by Mrs. Rose Cunningham, a Miskitu elder, during the 3rd International Colloquium on Heritage and Rights of Indigenous Peoples that took place in Leiden University. Mrs. Cunningham talked about recent discussions in Miskito communities where people were asked to define what 'territory' is. The answer was clear for the community: 'territory' is a living world including all the trees, animals such as chickens or insects, and so on. Territory is not just a piece of land comparable to a slice of apple pie; it is a living world.

Again, the indigenous notion of Land is not to be misunderstood as 'primitive beliefs' or 'non-rational magic thoughts'. Instead, the notion of Land embodies ancestral knowledge, expressed in metaphorical ways, to raise awareness among all members of the community that life, in all its diversity, deserves the greatest of respect. Respect for all manifestations of life means that they must be considered as *sacred beings*. Naturally, the Maya people need to cultivate the land, hunt, and extract medicinal plants, wood and so on, but remembering that all Land resources have sacred values and deserve moral respect. Rituals enhance moral commitments to respect Land in communal (collective) ways. Consequently, overexploitation is avoided to prevent an eventual lack of resources that would impact on the communities' well-being. For the Maya, epigraphic evidence shows that such ancestral knowledge has been in force for thousands of years. The numinous entities of the world, including the sacred *Kaab*, are identifiable from two thousand years ago, or even longer (see Schele & Miller, 1986: 41-55). This means that awareness of respecting the Land to avoid environmental degradation is part of our ancestral heritage. But this heritage is not restricted to the Maya

peoples. As mentioned before, this notion of Land is shared by most Indigenous Peoples in the Americas⁶, which means that this has been a shared heritage for a very long time. Furthermore, I agree with De Loria (1993: 135-149) in the sense that religious narratives referring to global catastrophes seem to belong to a body of knowledge informing present day peoples about dramatic events in the past. They are not just 'myths' by 'primitive' societies, but are effective ways of transmitting knowledge and moral values in metaphorical speech, as Christianity does.

Therefore, the problem of environmental degradation has been a constant concern of Indigenous Peoples for many centuries (and apparently for millennia). But colonial powers never paid any attention to it, nor do modern neo-colonial powers.

Desacralizing Land (scapes)

For Maya peoples, it is clear that Land means homeland first and foremost. Spiritual, psychological, and metaphysical connections are more than evident in the ancestral ceremonies in sacred places (mountains, hills, rivers, lakes, caves, bushes, etc.). These ceremonies re-enacting sacred meanings and values of the Land represent cultural continuities that are some thousands of years old, as archaeological and epigraphic evidence demonstrates.⁷ Generally speaking, however, academia, Christian institutions, legal bodies and the global economy collaborate (consciously or unconsciously) in endangering this heritage, some of which, it should be noted, is considered World Heritage. To better illustrate how Maya heritage is being threatened by the above-mentioned factors I shall highlight two case studies in the Yucatan peninsula, in Mexico.

6. See also the contributions by Reyes Gómez, Macuil Martínez and Aguilar in this volume.

7. It is sometimes frustrating for Indigenous Peoples trying to communicate our concerns to some journalists who question the sacred value the Land has for Indigenous Peoples. Eventually we get disrespectful questions such as: Are there sacred places really? Did they exist before? Or, isn't this a 'new' political argument to defend your territory? Most of the times behind the journalists' *naïveté* lies a political/religious position, aligned with neo-colonial powers. In some cases, such questions are only *naïve* reactions of colonized minds.

Hopelchen vs. Monsanto Soya Plantation

Recently, the Maya community of Hopelchen won a legal battle (at national level) against the well-known transnational corporation Monsanto for the cultivation of soya in Maya Lands. In November 2015, the National Supreme Court (SCJN, Suprema Corte de Justicia de la Nación) ruled in favour of the Maya communities of Yucatan and Campeche to stop Monsanto's soya cultivation (it should be noted that Maya women activists played a major role). The Court's ruling was based on the lack of *free, prior and informed consent* by SAGARPA (the national institution for agriculture, animal breeding, rural development and fishing activities) when they granted Monsanto permission to cultivate large expanses of soya in Maya Lands. The lawsuit accused Mexican agencies of being responsible for the destruction of Maya beekeepers' livelihoods, forests and exposing them to massive use of herbicides and deforestation (killing and poisoning the sacred Land) by violating the right to *free, prior and informed consent* of Maya peoples, in particular failing to implement Article 7 of ILO convention 169. However, despite the Court's ruling, GM soya is still being cultivated in Hopelchen with the permission of Mexican agencies (figure 20.1). Meanwhile, Mexican institutions and Monsanto are concentrating their efforts on achieving 'free, prior and informed consent', which makes no sense when plantations are created *prior* to consultation being carried out.

Certainly, the legal case in Hopelchen is a battle carried out in the context of the global economy. The Maya communities are one of the most important producers of organic honey in Mexico, generating about 40% of the national production which is mainly exported to the EU and USA.⁸ Obviously, there are other transnational companies trading in honey whose interests are affected by Monsanto, but this case illustrates how transnationalism does not necessarily have a negative impact on indigenous communities. One of the positive consequences of this legal case is that global society is raising awareness about human rights violations worldwide generated by unrestrained global economies. In

addition, certain sectors of global society, such as NGOs and consumers of organic honey, expressed their solidarity with the Maya peoples and, it should be noted, are supporting the legal battles on social networks. This is an important step in global rights discourse, due to the expression of solidarity between human beings irrespective of their national ascriptions and identities.

Despite the effort to achieve free, prior and informed consent, which constitutes a real breakthrough, there are still three aspects of Maya Land that remain overshadowed by the economic dimension, even though they are interrelated and are equally relevant. The sacredness of the Land in the Hopelchen case is not being considered in the whole process of consultation and this is not a minor consideration. Needless to say, the Maya Land is full of sacred places involving natural resources. Moreover, sacred places involve archaeological sites⁹ as well, which in turn are under the protection of national legal bodies and the national institutions of heritage and culture (INAH, CONACULTA). Despite all this institutional protection, soya plantations are destroying archaeological sites as well as ancestral water sources, permitted by the passivity of Mexican agencies (Figure 20.2).

Of particular interest is the case of Nocuchich, a sacred place with archaeological values that has caught the attention of renowned Mayanists in the past (Andrews, 1989; Maler 1997 (1889-?)). This site and many others (so far, 59 officially registered by archaeological surveys, see Map 20.1) are in the middle of the area where soya is expected to be cultivated. As mentioned above, soya cultivation is today carried out in Hopelchen against the Court's ruling. Such illegal plantations are being promoted by political groups, who are in favour of Monsanto's project, and are co-opting farmers¹⁰ into advocating soybean plantations as their livelihood. Consequently, soya cultivation has destroyed a number of (sacred) buildings with archaeological values as well as

8. FAO report available at [ftp://ftp.fao.org/docrep/fao/012/i0842e/i0842e16.pdf](http://ftp.fao.org/docrep/fao/012/i0842e/i0842e16.pdf)

9. Further considerations are included by Maya people in Guatemala and summarized in the project *Law on Sacred Sites and Sacred Places* (see Gomez et al. 2011).

10. In the middle of this battle is the Mennonite community, which is now planting soybean using industrial methods.



Figure 20.1. Soy plantation over the sacred place Nocuchich, date August 2016. Notice that the area where soy does not grow is the same area where a building was. What we see then is the foundation of the destroyed building.

(sacred) water sources in the area of Nocuchich. Worth noting the failure to respect Art. 26.3 of the UNDRIP, on the ‘protection to these lands, territories and resources.’

The destruction of Maya archaeological heritage was reported by a Maya group to the INAH in August 2016.¹¹ INAH reacted swiftly by sending a group of archaeologists to verify the destruction of the archaeological site. In September 2016, we received an official response¹² from INAH stating that the destruction of buildings was evident and that ‘they needed to do more research in order to define the areas

deserving protection and safeguarding.’ Despite the swift reaction of INAH, it was too late to avoid the destruction by illegal plantations. The definition of areas deserving protection is now much smaller and the buildings destroyed are lost for future generations (failing to respect art. 25 of UNDRIP). The following question thus emerges: Who is going to make reparations to the Maya Peoples? Naturally, industrial farmers have a responsibility but they are just the last link in the global economic chain. In agreement with the legal decision against the destruction of Maya beekeepers’ livelihoods, the Mexican agency SAGARPA is also responsible for the destruction of the archaeological heritage and the cultural landscape (Maya sacred places) by allowing soya cultivation in protected areas, without proper consultation with Maya Peoples. Of late, the Mexican state has been

11. The author of this text was part of the Maya group who visited the site and elaborated the report.

12. Document No.401.F (4) I38 .2016/JUR-4246



Figure 20.2. Ceramic sherds fragmented by the industrial cultivation process.

responsible for this destruction by failing to seek *free, prior and informed consent* with Maya peoples, as well as failing to implement ILO Convention 169, Art. 7 and UNDRIP, Arts. 11 and 12. It is worth reminding ourselves of paragraph 2 of UNDRIP's Art. 11:

‘States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.’

However, the State is just part of the economic chain. Monsanto bears a huge responsibility for not following the Court's ruling and for not tackling the distribution

and plantation of soybeans. In fact, their local agents continue disseminating the idea that soybean plantations will bring benefits to Maya communities and that this cultivation will contribute to reduce world famine. This is clearly to influence public opinion in favour of soya plantation, and to deviate the public's attention away from related pesticides used throughout the process, which are under scientific inquiry.¹³

Furthermore, in the municipality of Hopelchen, there are more than 59 archaeological sites deserving protection and safeguarding due to their endangered

13. See the position of some Mexican scholars in <http://maogm.org/carta-de-estudiantes-profesor-as-investigadoras-y-trabajadoras-de-el-colegio-de-la-frontera-sur-ecosur/>. See the speech by prof. Damian Verzeñassi on epidemiological consequences related to glyphosate in Argentina: <https://vimeo.com/187550055>.

situation caused by large scale soya cultivation. Responsibility lies with the Mexican agencies INAH and SAGARPA, but other State institutions should take this into account. It is worth reiterating that water sources and cultural landscapes, such as Maya sacred places, need more effective protection from global economic policies. However, Mexican agencies, due to their Western¹⁴-oriented frameworks, are not familiar with the notion of Maya sacred places. As such, Maya people need to play a leading role in decision-making. To raise awareness about the need to involve Maya peoples in issues concerning them, in particular the safeguarding Maya sacred places, a map (Fig. 20.3) has been submitted by the Maya group of Hopelchen to the institutions in charge of developing a plan of ecological management¹⁵ in the municipality. Naturally, much more collaborative, intercultural work needs to be done.

Digging in Sacred Places. Calcehtok and Archaeological Projects

This case involves the sacred place of Oxkintok in Yucatán, México. This site was excavated by the Spanish mission of archaeology in Mexico (MAEM) in collaboration with the national institution of heritage in Mexico (INAH) in the early 1980s (see an overview in Rivera, 1986; 1987). When the Spanish mission ended, the Mexican institution took up the mantle and continued digging the ceremonial place. For the communities nearby, this was a ceremonial place before excavations started. In fact, when archaeologists started digging the sacred ground, the Maya *Meno'ob* (religious leaders) protested in different ways to stop the desacralization of the ceremonial place, but, the national institutions paid no attention to the *Meno'ob* protests. Furthermore, Maya communities were already being divided by the Christian Protestants and so the *Meno'ob* were

targets of religious harassment by Christians. Thanks to these discriminatory attitudes, the religious specialists had to abandon the centre of Oxkintok and conduct ceremonies in other locations nearby. Some oral narratives recount non-conformance by the Maya *Meno'ob*. For instance, they said that during the excavations the archaeologists wanted to steal the treasure of the Maya peoples, but...

‘...while the archaeologists would dig great holes during the day, at night the numinous guardians of the sacred place would fill them again. So, the astonished archaeologists had to start digging again every morning. After several attempts, the archaeologists realized that no matter how many times they dug holes, the guardians would cover them again and again. So, they gave up and went back to their country.’¹⁶

It is worth noting that this narrative is shared in ceremonial contexts and, in metaphorical speech, aims to communicate to the Maya community that despite the physical efforts by archaeologists digging and extracting the burial offerings, ceramics, etc., the ancestral site has sacred values which will not easily be detached from the collective memory. The narrative concludes:

‘...they can’t steal the treasure of the Maya, because the Maya treasure is located in the mind and heart.’

Sacred values are still attached to the site today thanks to the persistence of the community in performing ceremonies there; the archaeologists have stopped digging, for now.

However, after the excavations ended, the national institution of heritage (INAH) fenced off the excavated area in order to control access to it and manage the site for tourism. Throughout the process there was no consultation with the nearby Maya communities, thereby failing to fulfil the requirement

14. I’m using here the term ‘Western’, not as a locative nor as inherent of a particular social group, but rather to refer to the theoretical (philosophical, moral, and scientific) apparatus used to first legitimate the ‘supremacy’ and ‘hegemony’ of colonial powers and consequently used to legitimate the subjugation of the Indigenous Peoples of the Americas. From such a ‘Western’ framework emerged the ideologies of modernity, progress, economic development that - in combination with notions of ownership, private property, and others - are being promoted by neo-colonial powers to perpetuate the subjugation and dispossession of Indigenous Peoples.

15. Programa de ordenamiento ecológico local del municipio de Hopelchén, Campeche.

16. I listened to the narrative during a ceremony in Calcehtok. This is an excerpt by me, any mistakes or misunderstandings of the narrative are mine. It is worth noting that, as a Maya person I receive teachings from the elders in the way Indigenous epistemology works. Because of that my research is not aligned with ethnographic methods.

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of free, prior and informed consent.¹⁷ So, decision making was done unilaterally and in a non-inclusive manner. Furthermore, random criteria, based on the extension of the excavated area, were applied to protect only the fenced area. Thus, buildings beyond the fence were left without protection by the national institutions and vulnerable to looters. As expected, the fenced area is currently restricted to tourism and ceremonies are not allowed there anymore. Consequently, the spiritual values of the site have been displaced by the positivist notion of heritage developed unilaterally by the national agencies. This has had an enormous consequence for the local community's understanding of what heritage means. Exclusion from decision making and dispossession of the sacred place resulted in the local community attaching negative connotations to archaeologists and national institutions. The scenario became even worse in the recent past when some ceremonies were performed on buildings close to the fenced area. The guards, trained on a positivistic archaeological basis, called the police and accused the *Hmen* of being a looter! To avoid such misunderstandings, ceremonies are now performed far away from the archaeological site and hidden from the guard's eyes, as 'aliens' in their own Land.

Clearly, the way Maya communities understand heritage is through particular attitudes and interests being imposed upon the concerns of Indigenous Peoples. This is not to give an essentialist view of heritage or archaeology, but to point out where conflicts and incompatibilities are when dealing with indigenous heritage, in order to provoke reactions in the quest for solutions.

In fact, the problem is quite complex. As mentioned above, we can identify at least four dimensions of the problem, belonging to the spheres of religion, academic praxis, law and economy.

Exclusion and dispossession of Maya heritage are consequences of cracks in the Mexican legal framework caused by colonial legacies, positivist

paradigms and current exclusionary policies. In fact, once a site has been declared an 'archaeological site' it enters under the protection of the state, which grants the national agency INAH legal responsibility for managing the ancestral places. Heritage management by INAH includes controlling access to the site for tourism, but this control contradicts Articles 10, 11 and 12 of UNDRIP when Maya people wish to access the site. Maya people who wish to visit the sacred site are considered tourists and therefore *have to pay a tax to access their own heritage*. This conflictive relationship between Mexican agencies and Indigenous Peoples results from the assimilation policy of the state whereby the Maya and other Indigenous Peoples are considered Mexicans. So, Maya people can visit the archaeological sites as Mexican tourists, but not as the inheritors of the sacred place. In other words, Maya peoples get access only on the terms dictated by the state and, consequently, are not allowed to continue performing religious ceremonies in our own ancestral places. In the eyes of the state, the Maya peoples enjoy the rights established in the Mexican Constitution, but must implicitly renounce their rights as Indigenous Peoples.

In summary, the notion of 'archaeological site', in the experience of Maya communities, is related to exclusion, alienation, dispossession of heritage and desacralization of ancestral places.

However, these are not unique cases. The story of dispossession and alienation occurs in daily life despite the voting in favour of UNDRIP by the Mexican State almost a decade ago. Neither the archaeological projects nor the anthropological ones, are required by the INAH to implement the UNDRIP when doing research in the Maya field. In fact, this is one of the first steps on the road ahead; archaeologists, anthropologists and other scholars, following the ethical values of science, should put into practice the tenets of free, prior and (well) informed consent when designing projects (excavation, ethnographic fieldwork, etc.). Mexican academia needs to promote self-determination on research, aiming for the empowerment of indigenous communities through decision-making over scientific projects (see Arts. 3, 5 of UNDRIP).

17. The site was opened for tourism after 1992, but Mexico ratified the ILO Convention 169 in September 1990 (http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::p11200_country_id:102764)

It should be noted that for the Maya peoples in Guatemala the situation is somewhat better since the national institution of heritage (IDAEH),¹⁸ finally agreed on allowing the spiritual leaders to perform ceremonies in some archaeological places. Naturally, this is also in the interest of the Guatemalan State with potential economic benefits from tourism. But there clearly exist different (and conflicting) notions of the concept of cultural heritage between the states and the Maya.

For the Maya Peoples the notion of cultural heritage is more related to the legacy of our ancestors (physically and metaphysically speaking) whereas for the state, the notion (and extent) of cultural heritage is based on positivist notions of tangible and intangible heritage, informed by traditional archaeological and anthropological reports. Of course, for the state, the scientific knowledge of academia (especially anthropology and archaeology) is a powerful (unquestionable) voice, which is positioned above the voice of Indigenous Peoples, leading to cultural discrimination. At the end of the day, Maya heritage is converted into a marketable product to be sold as a tourist attraction in the global market. This is economically beneficial for the states in question, but no such benefit reaches the pockets of Maya communities. The socio-economic condition of Maya communities remains below the poverty line because of exclusionary policy making, cultural discrimination and heritage dispossession.

Sacred Places under Threat. Calcehtok and Transnational Mining

As in the case of Hopelchen described above, the differences and conflictive notions of heritage from states in relation to the Maya generates environmental disasters as well as destruction and looting of heritage. To illustrate this, I am widening the discussion on the sacred place of Oxkintok to include its surrounding cultural landscape.

The site of Oxkintok and its surrounding landscape embody a wider notion of sacred place from the indigenous perspective. The landscape surrounding

the fenced archaeological site embodies a number of symbolic values, corresponding to a sacred sense of the world where the natural landscape, numinous entities, ancestral temples, and the Maya peoples have been living in synergy since precolonial times. The notion of sacred world (*Kaab*) is promoted by the elders and the *Meno'ob* of the Maya communities nearby (mainly Calcehtok and Opichen). The surrounding landscape includes some sacred hills with groups of caves where ceremonies are performed by the communities nearby. In fact, around 37 caves have been registered by the Spanish archaeological mission (MAEM) with archaeological remains found inside (Bonor, 1987), confirming that the contemporary rituals in these caves pertain to cultural continuities from precolonial times. Roughly speaking, but based on archaeological data, rituals in the caves can be dated to be more than two thousand years ago (See Rivera, 1996; 1998). As expected, the Spanish archaeological mission had strong support of the elders of the Maya community for registering the caves. We must acknowledge the important contribution of the Maya elders in knowledge transmission, in particular of the *Xmeno'ob* and *Hmeno'ob* (women and men). In the present day, the Maya elders preserve the ancestral notion of a symbolic world where the sacred hills and caves are interwoven together with the temples and ceremonial spaces in the archaeological site, to create a harmonic sacred *Kaab* (world). Such a symbolic connection has been exposed in detail in recent studies.¹⁹

However, as mentioned above, the site has been physically delimited by the Mexican agency of heritage following rough and random criteria. Essentially, the area was fenced to be controlled and exploited for tourism, at the same time expelling Maya people from the sacred places.²⁰ This way, the archaeological remains (including those in the caves) beyond the fenced area were left vulnerable in terms of protection.

Yet from what or whom should archaeological remains be protected?

19. See May 2014:263-288 for a wider discussion on the site of Oxkintok and its cultural/ceremonial landscape.

20. Notice the colonial legacies still perpetuating practices of limiting and controlling territory in similar ways as 'Western' empires did (Pagden 1995:11-28).

18. Instituto de Antropología e Historia (IDAEH).

Certainly not from the people who value them as ancestral-sacred legacy, and who have safeguarded these sacred places for centuries despite long term colonial oppression. Rather, it is external factors that are endangering the Maya sacred places. In the case of the sacred hills of Calcehtok, transnational enterprises are nowadays exploiting the hills as a quarry to export 'Maya' stones for construction elsewhere. The idea behind it is that you could make your house with the same stones used by the ancient Maya. However, this mining exploitation is destroying the sacred caves, including the archaeological remains inside them, as well as subterranean rivers and lakes²¹ that have dried up because of the desecration of the sacred hills. The ecological disaster is so evident that it can be seen from satellites, yet the mining exploitation continues on a large scale, without control measures by the state agencies. In fact, the Mexican agency SAGARPA²² granted permission to transnationals for mining exploitation in Calcehtok's sacred hills. Furthermore, the transnational company has fenced a large area to 'protect' their interests, thus expelling the *Meno'ob* who used to perform ceremonies in the area (figures 20.3 and 20.4). Thus, Articles 11 and 12 of UNDRIP are ignored by Mexican agencies and transnationals alike. Again, colonial legacies can be highlighted as well as neoliberal policies by the state's agencies favouring economic benefits of elite groups.

As expected, no consultation was made on the terms provided by UNDRIP or mandated by ILO Convention 169. Certainly, there was an approval by the local Mayor who is part of the state's political system. But free, prior and informed consent was lacking. Instead there exists co-optation, by the transnational and national political parties, of certain groups of the community, which is also supported by extremist doctrines of Protestant Christians.

In summary, there are some fundamental gaps at state level hindering the implementation of UNDRIP in terms of heritage and land. The lack of inclusive policies on decision making is one of them and,

as seen at Oxkintok-Calcehtok, protecting an archaeological place by national policies sometimes is not enough. In this case, heritage is under threat not because of looting but because of economic powers interested in mining extraction, taking advantage of the gaps in national policies. Needless to say, looting is not an issue in this case because the Maya communities nearby identify these places as having spiritual values and ancestral connections. As such, most people are engaged in safeguarding this heritage irrespective of national policies of protection. In fact, Maya communities recognize larger areas and sacred places deserving protection more than the national institutions. However, it is in these larger areas where heritage is being threatened by economic interests on a larger scale.

Mining exploitation in Calcehtok's sacred hills provoked a natural disaster, as the hill became dead Land no longer suitable for harvesting. Nor is it possible to regenerate the jungle, which is essential for beekeeping and cultivating medicinal plants. Apart from the biodiversity, the subterranean lakes in the hill - important for the *Ch'a Cháak* or rain rituals - are now lost forever.

Positioning Maya Resistance in the Global/National Arenas

The overexploitation and desecration of sacred places that we Maya peoples are experiencing today does not occur by chance. Regretfully, this is a global phenomenon affecting Indigenous Peoples worldwide, caused by colonial legacies and economic interests influencing policy-making and legal bodies at international (global) and local (national) levels. I argue here that the combination of four main factors (academia, Christian religion, legal frameworks and global economies) influencing policy-making does not only allow the destruction of Indigenous Peoples' Lands but it also makes it appear 'legal' and intellectually 'reasonable' in the eyes of global society.

First, we note that academia has a significant impact on the way in which policymakers understand the world and indigenous Land. Traditional anthropologists and archaeologists, claiming a

21. Named *Cenotes* or *D'zono'ot* in Maya language.

22. This is the same agency which granted permission to Monsanto without free, prior and informed consent by the Maya communities in Hopelchen.



Figure 20.4. Fenced area of the sacred hills by the mining company

secular mindset, can influence the way in which indigenous Land (including its sacredness) is translated into legal instruments as ‘land’ with merely ‘objective’, ‘tangible’ and economic values. Traditional anthropologists/archaeologists discuss indigenous religion without even knowing what religious experience means in a wider sense. Why then undertake the authority to define a sacred entity, such as Indigenous Land, without ever having any religious experience or spiritual connection with said Land?

Instead, traditional archaeology and anthropology normally rely on Christian-colonial sources which in turn repudiate Indigenous religions. As we know, ‘Idolatry’ as opposed to ‘true faith’, was the name colonizers attached to Indigenous religions (see the introductory note by Jansen and Pérez for further elaboration). Interestingly, this and other

negative stereotypes abound in literature when referring to indigenous spiritual relationships with the Land (‘witchcraft’, ‘sorcery’, ‘Indian idols’, ‘Earth monster’ and so on and so forth). Clearly, the secular mindset does not guarantee critical thinking and historical criticism. In fact, it is expected that positivist-oriented disciplines dealing with human subjectivities would lead to scientific inconsistencies. Furthermore, being influenced by the colonial mindset, traditional archaeology and anthropology play in favour of modern Christian institutions and contribute to perpetuating the oppression and subjugation of Indigenous Peoples.

Secondly, modern Christian institutions strongly influence policymakers, since politicians and Christian leaders establish partnerships in the political life of the nation, as will be seen next.

Similar to colonial times, rulers and religious leaders share, and often dispute, power. The secular state is more of a fantasy in countries where Maya peoples live (Mexico, Guatemala, Belize, Honduras and El Salvador) because most of the people seem to be ascribed to a sect of the Christian religion. According to the Mexican institution of geography and statistics (INEGI) around 99.8 % of the population belongs to one of the Catholic, Protestant or 'biblical' branches of the Christian religion.²³ Based on this data, let us try to determine which religious groups politicians belong to. It is hard to convince ourselves that politicians, and in particular policymakers, belong to the 0.2 % of non-Christian groups. In fact, the INEGI notes that this 0.2% of the population is ascribed to other religions such as 'oriental', Judaica, Islamic, New Age or 'ethnic rooted'. It is conceivable that policymakers in Mexico mostly belong to one of the Christian groups and that as a consequence, there is a lack of protection of Indigenous Land and her religious values. Policymakers are inevitable influenced, to a greater or lesser extent, by Christian mindsets and 'Western' ideologies rooted in the colonial period. However, to what extent does this phenomenon influence the (lack of) protection of Indigenous Lands?

At present we have a situation whereby there is no official recognition of Indigenous religion in most of the countries where Maya peoples live. There is an exception in Guatemala, where some advances have been made in the recognition of Maya sacred places through the Law on Sacred Sites and Sacred Places. However, this law currently receives strong opposition from oligarchic sectors in the country including academia.²⁴ State representatives and Christian leaders, with the intellectual support of academia, are rejecting a law that aims to promote respect for human rights and religious diversity!

These attitudes are hard to defend in democratic countries that adopted UNDRIP and ratified the

ILO Convention 169. However, in countries where notions of democracy are conditioned by oligarchy, neo-colonialism, cultural racism, corruption and mafia organizations, such attitudes are normalized. In fact, political partnership among 'secular' states and Christian institutions is highly normalized in these countries. Thus, it was not rare to see on national television the marriage of the former presidential candidate Enrique Peña Nieto to a Mexican actress by the Archbishop of Mexico (UIEAN, 2016), or to see the Guatemalan president and the Government Cabinet attending an evangelic meeting in early 2016.²⁵ This kind of 'medieval rooted partnership' constitutes an endemic problem in the whole of the Americas as we could see in the Alfred E. Smith Memorial Foundation Dinner in October 2016, where New York Cardinal Timothy M. Dolan was seated between the two presidential candidates, Hilary Clinton and Donald Trump.²⁶ It may be naïve to believe that, at the end of the day, Christian mindsets (especially negative ones which lean towards bigotry and fanaticism) do not influence policy-making on Indigenous Land. This problem is not then reduced to the religious influence on secular states and policy making, but it actually promotes human rights violations, in particular when disempowering Indigenous Peoples to enjoy the right of performing ceremonies in ancestral sacred places or when allowing 'religious bullying' by Christian leaders towards indigenous religious leaders.²⁷ In this way, the implementation of UNDRIP's tenets (Art. 11, 12, 25, 26) remains blocked due to the strong influence of modern Christian mindsets on policymakers.

Thirdly, international law - which is meant to be of universal application - is inescapably framed within 'Western'/colonial ontologies and 'modern-capitalistic' values that often exclude Indigenous Peoples' ontologies and values. At the national

23. This data is according to the census in 2010, see <http://www.beta.inegi.org.mx/temas/religion/>. However, we must be conscious of the fact that indigenous religion is being made invisible by national statistics because they are integrated into Catholic groups, in the majority of cases.

24. This problem was recently highlighted by Carlos Chex Mux, a Maya Kakchiquel lawyer, during the 4th International Colloquium on Heritage and Rights of Indigenous Peoples, held in Leiden University in November 2016.

25. See <http://www.prensalibre.com/guatemala/politica/presidente-jimmy-morales-participa-de-oficio-religioso>

26. http://www.nytimes.com/2016/10/21/us/politics/al-smith-dinner-clinton-trump.html?_r=0

27. E.g. the *Hmen* (Maya religious guide) of Calcehtok is often being harassed by the Protestant pastor by screaming down the street that *Hmen* had established covenants with the devil and that in turn he, being Christian, works for the 'true god'. Regrettably, this is not an isolated anecdote; it happens more often than expected in the Maya region and there is no policy from the states to avoid these attacks against the dignity of their own citizens and the right to maintain and practice the ancestral religion.

level, legal bodies bear colonial legacies, especially regarding alien notions of land detached from any spiritual value. After Mexican Independence, Creoles (mostly Spanish descendants²⁸) started a Nation-building project using the history of Indigenous Peoples but excluding them from the project itself. Consequently, the legal body created at the time had essentially the same European principles, including the colonial notion of land or *terra nullius* (see Jansen and Pérez Jiménez in this volume) as a good to be owned and (over) exploited (by neo-colonial elites). With few changes from colonial times up to the present (except for the Mexican revolution a century ago), Land is at the disposal of alien interests seeking economic profit. Due to such colonial legacies, it is not surprising that sacred values of Land have been ignored by the current national legal bodies. Furthermore, Indigenous Peoples were/are never involved in decision-making and the drafting of legislation in relation to Indigenous Lands. Such marginalization by nation states towards Indigenous Peoples often generates grotesque contradictions, such as making Indigenous Peoples ‘aliens’ in their own ancestral Lands (see similar examples in the USA in Volpp, 2015). For instance, Maya Peoples are nowadays thrown out from their sacred places once the national institution of heritage (INAH for México, IDAEH for Guatemala) declares them to be ‘archaeological’ sites. Maya peoples are banished from their sacred places and tourism is welcomed in their place.

Fourthly, we must mention the most aggressive factor that not only influences policy-making but actively destroys the Land through over-exploitation of resources. Global economies are promoting not only the desecration of sacred places but also human rights violations. Turning to the national level, states such as México, Guatemala, Honduras and El Salvador currently promote doctrinal discourses of economic development and provide transnational enterprises with neoliberal (*laissez-faire*) policies to overexploit Maya lands. Private sector domination of the economic life of these nations benefits the interest of global economic powers based in the USA,

Europe, China as well as México.²⁹ Being tied to global economic interests, governments, either from the right or left, will hardly serve the interests of their people (*dēmos*), thus failing to achieve the ideals of democracy placed on their shoulders. This explains, at least partially, why in several cases governments proceed with projects that are rejected by the vast majority of society, whether Indigenous Peoples or not. On the other hand, high levels of corruption in these countries allow mafia organizations to enter into the neoliberal scenario and the market economy.³⁰ Hence, when social protests arise, brutal repression is used by police and military forces in combination with mafia organizations, as shown by the emblematic case of 43 students from Ayotzinapa abducted in Mexico, or the case of dozens of activists killed in Guatemala.³¹ To give an idea of the alarming situation of structural violence in these countries, it is worth mentioning that over the course of one weekend when this text was being written, three students together with another twenty people were killed in the Mexican state of Veracruz, in just one weekend (see García, 2016).

Openness to global economic interests is proving to be harmful not only for Land but it is also threatening the existence of Indigenous Peoples in these countries. As shown, global dynamics and human rights violations are interrelated. But how do we suddenly find ourselves in this situation of structural violence carried out on indigenous Land? How could we counteract the devastating effects of overexploitation of Land and systemic violence?

Current overexploitation seems to be the result of long-term global processes rooted in medieval times. In more recent decades, neoliberal policies by national governments prepared the field for the global economy, by imposing abstract notions of private property and ownership upon communal and sacred

28. with the exception of Belize which was an English colony and gained Independence a few decades ago.

29. E.g. the ‘Mexican’ company CEMEX is nowadays extracting minerals in the sacred place of *Cuevas del Pomier* in Dominican Republic in spite of the community’s protests. The author of this chapter had an interview with the community in *Cuevas del Pomier* in June, 2015.

30. See a particular case in Mexico where, according to a journalist’s research, campaign finance for the current president was provided by transnationals, banks and mafia organizations alike (in La Redacción, 2015; Redacción AN, 2016; Staff Códice Informativo, 2016).

31. During the first semester of 2016 (from January to June) 9 human rights activists were killed in Guatemala (see, La Prensa AFP, 2016)

notions of Land. Privatization, deregulation and fragmentation of communal lands were necessary steps for global economies to penetrate the national spaces while local governments were waving the flag of 'economic development'. This drastic change - from national economic protectionism to neoliberalism - is a global phenomenon occurring simultaneously in different parts of the world since the 1980s (Sassen, 2010;32-35). It is not surprising at all then that from Mexico to Indonesia, passing through Guatemala, Peru, Martinique and Guadeloupe, Nigeria and the Philippines, neoliberal policies have been promoted almost at the same time, irrespective of the ideological orientation of governments. Both left- and right-wing political parties, as well as dictatorial regimes, have been subdued by neoliberal ideology in the service of global-economic interests, to a greater or lesser extent. Interestingly, at the same time, presidents gained power over their legislative and judicial counterparts. This is to say that they could act with a certain degree of autonomy without being accountable to congresses. As expected, the power gained by executive governments was used to grant *laissez-faire* policies to economic powers. In agreement with Sassen, this argument is not aimed at supporting any conspiracy theory; rather it illustrates how ('subterranean') global assemblages facilitate transnationals entering through the front door of the national spaces of Guatemala, Mexico, Honduras, El Salvador and Belize. Governments are not only accomplices but also beneficiaries in the over-exploitation and desacralization of Indigenous Lands.

As suggested above, market-oriented notions of land have been developed since medieval times to benefit economic elites (Fairle, 2011; Linklater, 2015; Sassen, 2010). Obviously, present day processes on Land are not the same as in medieval times; they are dynamic, in constant transformation across time and space. However, continuities are evident in these processes. For instance, the notions of ownership and private property are being introduced in Maya territories via neoliberal ideologies aimed at benefitting global economies, opening the doors to transnational enterprises. Privatization is meant to dismember communal Lands in order to prepare them for large scale acquisition. Communal Lands

in the Maya region were protected in the past by the ancestral communal jurisprudence and by some national legislation inherited from the Revolution (in Mexico). Therefore, discourses on 'economic development', 'national underdevelopment' as well as 'indigenous laziness' (borrowed from colonial times) were/are political weapons used by governments to legitimize neoliberal policies and market-oriented exploitation of Land. This was/is done without taking into account Maya concerns and, in retrospect, has proven only to benefit alien economic elites and not the Maya Peoples.

Governments are clearly responsible for creating problems in indigenous territories and we can point the finger at them, but they are not the final beneficiaries and in many cases they are just puppets of global economic powers. Similar to what Frantz Fanon (2005:136, ss) noted more than five decades ago, today we see national governments playing the role of servants or business agents working for external powers (global economy and advanced capitalism) with a neo-colonial impetus.

Even when elections replace right-wing governments with left-wing ones, or vice-versa, the global economy subdues them sooner or later. This is not to victimize governments, because they know - and benefit from - their role in the global picture. The problem is bigger and more complex than shown in political discourses and global media. The problem is not just a problem between mafia groups, nor just a problem of corrupt governments, nor a problem of sick societies who cannot change governments via democratic elections. It is not just an Indigenous Peoples' problem, but a problem that concerns global society as a whole and therefore deserves global solutions. It is time for everyone in global society to assume their shared responsibility. It is time to point the finger at corrupt governments, Christian extremists and transnational enterprises - irrespective of their 'nationality', being based in Europe, the USA, Canada, China, or anywhere in the world. Certainly 'economic powers' are an abstraction, and their representatives are not clearly identifiable as individuals or particular groups - like barons and lords were in medieval times. However, we can point



Figure 20.5. Mining exploitation in Calcehtok's sacred hills

out concrete entities - such as global anonymous societies or *holdings*³² - behind transnational enterprises pulling the strings of the puppets in the global and national scenarios. More concretely, in countries like Mexico, Guatemala, Belize, Honduras and El Salvador, governments appear to be the puppets playing the overture of a transnational era in which global economic powers overexploit resources around the globe without any restrictive legal body capable of controlling them. In fact, these (brutal) overexploitations in remote corners of the planet are expelling marginalized sectors of global society from their homelands, forcing them to migrate to cities, both within and outside their national borders, because overexploitation creates dead lands,

contaminated water sources, chemical pollution (see the contribution by M. Ferdinand in this volume), as well as structural and systemic violence which claims tens of thousands of lives per year (for further details on global processes see Sassen, 2010; 2015). Indigenous Peoples and activists defending the Land are targeted by systemic violence that is directly linked to governmental and transnational interests, even when the trigger is pulled by a local hitman. This was the case for the Indigenous activist Bertha Cáceres in Honduras and the more than 185 known deaths of activists worldwide in 2015 alone.³³

In the Maya region, resistance to transnational violence becomes evident when one travels

32. A company created to administrate properties of other companies and societies.

33. <https://www.globalwitness.org/en/press-releases/2015-sees-unprecedented-killings-environmental-activists/>.



Figure 20.6. Signboard on the international road crossing from México to Guatemala

across Mexico, Guatemala, Honduras and Belize. Clearly, Maya communities disagree with transnational overexploitation of Land resources. Maya communities express non-conformance by using signboards along the roads to raise people's awareness about the rejection of transnational projects (Figure 20.6). Metaphorically speaking, the Land(scape) is loudly expressing to the traveller her disagreement with governmental policies promoting mining, damming, massive industrial agriculture, and so on and so forth. As such, local governments and transnational companies already know what the indigenous community think about their projects. Clearly, there is no prior and informed consent. Nonetheless, Maya resistance is normally repressed, in similar ways as in other parts of the world, via police and military forces or via mafia hitmen. The examples

in Guatemala mentioned above are cases under the spotlight but they are just the tip of the iceberg.³⁴ There are many other cases lurking in the shadows.

The European Land (Scape) in Comparison

Current international debates on landscape have raised awareness for safeguarding landscape(s) in line with the principles of sustainable development and sociocultural values. As exposed by some authors, the current concept of landscape adopted by the European Landscape Convention (ELC) is more humanized than it was in the last century (Strecker, 2012; 2015). It refers to outstanding landscapes as

34. See some other examples in Guatemala mentioned in this volume by van den Akker.

well as ‘the places where most people live and work’ (Strecker, 2012). Even when the ELC appears to be a reaction to particular policies regarding market-oriented industrial cultivation (Common Agricultural Policy in Europe) and overexploitation, it touches upon intangible (subjective) aspects that European society attaches to land and territory. Similar to UNDRIP, the ELC offers tools to policymakers to develop legal instruments for protecting cultural landscapes. However, the concept of cultural landscape, as developed in Europe and particularly as used by the ELC, provides an ontological arena to start discussing similar/shared problems around the globe³⁵, and particularly on Indigenous Lands.

The reason why I use the term landscape here is because it triggers global awareness of sustainability and sociocultural involvement. This offers the opportunity to communicate better to global society Indigenous Peoples’ demands for safeguarding lands and territories against overexploitation by transnational companies. Transnational corporations, which operate within a neoliberal paradigm, are extracting resources and besieging Indigenous Peoples’ territories by generating structural violence, conflicts and human rights violations. Yet, as shown above, the notion of Land for Indigenous Peoples is different and more complex than the notion of landscape. It involves more concrete subjectivities such as indigenous moral and spiritual values, and lately means survival of peoples in the short term. Needless to say, Indigenous Peoples as a concept emerged in the global arena because of the symbiotic interaction of globalization and neo-colonialism.³⁶ As a result, particular local problems in Indigenous Lands need to be framed in both global and national dynamics, but ensuring that local ontologies of Indigenous Peoples are in the spotlight during the debates.

As mentioned in the ELC, landscape protection, management, and planning entails rights for everyone. Although part of the individual human

rights framework, collective rights can be approached based on the legal cases of Indigenous Peoples around the world (see some cases in Strecker, 2012). It is not unreasonable to say that the ELC’s initiatives are to some extent trying to undo the wrongs of the past in Europe, by advocating the *human dimension* of the landscape. The debates on cultural landscapes in Europe are aimed at developing legal frameworks for the protection and preservation of landscapes because their intangible aspects (cultural or spiritual) ensure human well-being. Even when legal bodies need to be constructed effectively to implement the ELC, this does not reduce its moral strength, which in my opinion takes precedence over legal agreements. Furthermore, the human dimension of landscape that stands out in the ELC intersects with the sphere of human rights (Strecker, 2012; 2015) as well as the sphere of Indigenous values, thereby allowing the establishment of effective intercultural dialogues at the global level in terms of human rights.

The persistence of *communitas* as an intrinsic value of most Indigenous Peoples is reinforced by living and interacting with the Land (scape). Rituals in sacred places create, renovate or restore the *communitas* of Indigenous Peoples and moral commitments are being ratified or re-enacted.³⁷ Those commitments related to respect for Land resources, environmental preservation (or sustainable development), socio-cultural values of land and territories enter the sphere of human rights which in fact connect peoples around the globe irrespective of skin colour, religion, language or other natural diversity. Human rights (both individual and collective/communal) belong to the universal language allowing intercultural communications between diverse peoples.

Needless to say, this discussion is about human rights and it is distanced from any racial-ethnic determinism. Those responsible for human rights violations must be condemned in the northern and southern hemispheres, irrespective of artificial nationalisms and racial prejudices.

35. To avoid essentialist and dichotomist debates, I suggest looking at the countryside in the UK where problems of social inequality are also faced by the people there, and not only in the so called global south (see the e.g. The Land Magazine et al. 2016).

36. See Jansen & Pérez in this volume.

37. I’m using *re-enacted* here as used in legal vocabulary referring to bring a statute (in this case moral statute) into effect again when the original has been repealed (because of colonialism and neo-colonialism).

Historical Parallels and Continuities

Additionally, some historical events, such as the Enclosure movement in England, can help us to develop some prognostications for the immediate future of Indigenous Peoples and other marginalized sectors of global society. Discursive parallels can easily be identified in medieval times in Europe when nobles and lords started monopolizing large extensions of land for their private benefit to the detriment of the collective/communal interest (or social interest). Notions of ownership and private property supported the ideologies of powerful elites, imposed with swords when necessary, to dispossess people of their communal lands (Linklater, 2015). The Enclosure movement in England became more popular from the middle of the 15th century until the middle of the 17th century when the aristocracy wanted to increase the size of their manorial lands. Interestingly, at the same time witch-hunting became a common practice in England to eliminate political enemies.³⁸ Witch trials had existed long before all over Europe but it was institutionalized by the leader of the Christian religion in the 15th century, Pope Inocencio. Consequently, large-scale persecution³⁹ of (mostly) women was officialised by male religious elites. Clearly, witch-hunting and the Enclosure movement coexisted, but when they started symbiotic interactions catastrophic results ensued, the effects/continuation of which are still palpable all over the world today.⁴⁰ In fact, witch-hunting and the Enclosure movement started to be systematized in the 15th century and both lasted for around two centuries. The combination of the desire for land, by nobles and lords, and the use of religious dogmas supported the expulsion of those pagans resisting displacement. It also burnt at the stake intellectuals who resisted, in particular wise women bearing invaluable knowledge of,

for example, medicine and psychological therapy integrated into non-Christian rituals (Blazquez, 2011; Cohn, 2005). The promise of improving agriculture was an ideological weapon used to legitimize the aristocracy's possession of large expanses of land. Certainly, the industrialization of agriculture improved production to a certain extent, but it forced people to migrate to the cities to gain employment in industries and consequently increased social inequality. Even though there are still some defenders of the Enclosure movement, it is clear that the improvement of agriculture was not meant to benefit farmers but to serve the interest of economic elites:

‘it is hard not to conclude that “improvement” served partly as a Trojan horse for those whose main interest was consolidation and engrossment of land’
(Fairly, 2011).

Such deracination of people from nature eventually led to a loss of ancestral knowledge related to sustainable management of land resources as well as the loss of religious and moral values attached to it.⁴¹

In a similar vein, Maya peoples are nowadays being exposed to dispossession, forced migration and religious persecution by alien agents that are only concerned on economic benefits. Parallels can be identified, such as discourses of ‘improving Indigenous agriculture’, or dehumanizing indigenous communities who are actively opposed to the desacralization of Land, and whose ‘sorceres’ and ‘witches’ are identified by traditional anthropology and harassed by Christian extremists.

But overall is worth noting the interesting combination of economic powers, religious dogmas and intellectual discourses on the dispossession or peoples in past and present time.

Final Reflections

This chapter focused on the problem of environmental destruction, what I term the desacralization of

38. As illustrated by the story of Eleanor Cobham, Duchess of Gloucester, who in 1441 stood accused of sorcery and attempting to assassinate Henry VI; she pleaded that she just wanted to get pregnant by consulting a wise ‘magician’ (midwife) couple. In parallel, witch-hunting started to be formalized in central Europe with the publication of the *Malleus maleficarum* in 1486 three years after the papal bull *Summis desiderantes affectibus* by Inocencio VIII (Kramer & Sprenger, 2004).

39. In contemporary terms we would refer to this persecution as genocide

40. E.g. gender inequalities particularly at high levels of social organization, religious dogmas and economic interests influencing policy making, environmental overexploitation/degradation, and so on.

41. Fortunately some of these values were preserved until present day by the Sami and Inuit peoples of northern Europe.

landscape; a problem not just affecting Maya Land, as illustrated above, but of larger dimensions affecting many people around the globe. In particular, Land desecration is a major concern for the global society given that we are now witnessing the most dramatic consequences of overexploitation that humankind has ever done to Mother Earth. More than forty years ago, Vine Deloria Jr. (1993(1972)) focused attention on the environmental catastrophe caused by a dominant 'Western' way of understanding the natural world. In Deloria's account, the US government was busy authorizing destruction of the Land benefiting so called 'developers', but this failure of the state was reflecting the conflict between indigenous notions of the living world and a secular/economic oriented perspective. The conflict was...

'...between a religious view of life and the secularization that science and industry have brought.'

(Deloria, Op. Cit: 3)

Forty years after Deloria's pronouncement we are not seeing serious advances to change the desecration of Mother Earth. I believe that one of the major achievements of modern humankind is the United Nations Declaration on the Rights of Indigenous Peoples, yet it is despairing to see that there is no implementation on the ground. There appears to be no serious commitment by states to change overexploitation, which is leading to the alarming extinction of life's diversity. In particular, transnational exploitation of resources in combination with structural violence is forcing Maya peoples to migrate to big cities in Mexico and the USA, thus endangering indigenous languages, cultural memory, and other intangible dimensions of heritage. Maya people are also being systematically disconnected from sacred places, many of them being destroyed in the name of economic development or being controlled in non-inclusive ways by the national heritage institutions.

Global society should be ashamed of the environmental catastrophe that will be inherited by future generations. Without any doubt, our descendants will blame us, yet there are many heroines/heroes fighting in the trenches, and literally

defending the Land against desecration, with their own bodies. However, they are victims of systematic extermination. One wonders, how many people will die before serious commitments by the states to stop the systematic killing of indigenous activists? Is this not systemic genocide? Dispossession of Land, expulsion and forced migration reflect the lack of commitment by the states to implementing UNDRIP, as well as international human rights law more generally. Desacralization of Land by state agencies and transnationals occurs at different levels and is symptomatic of cultural genocide. How can global society close its eyes to all these crucial problems? The echoes of Aimé Césaire's Discourse now sound louder than ever:

'A civilization that proves incapable of solving the problems it creates is a decadent civilization.

A civilization that chooses to close its eyes to its most crucial problems is a sick civilization.

A civilization that plays fast and loose with its principles is a dying civilization.'

(Césaire, 2000(1955):31)

In order for UNDRIP to be implemented, it is crucial to seek ontological encounters between current dominant 'Western' notions and Indigenous Peoples' notions of the world. Ontological encounters may seem chimerical dreams, but we could learn from the indigenous religious elders in Mesoamerica who for centuries integrated Christian values into the Mesoamerican religion. They succeeded in achieving ontological encounters with Christianity because they started a dialogue of human values, not of racial determinism or imperialist interest. Thus, Indigenous Peoples initiated synergies between both religious worlds (see Jansen & Pérez, 2015).

I believe we could achieve ontological encounters on Land issues by establishing intercultural dialogues in the realm of human rights. In fact, others' global efforts to tackle environmental degradation, such as the ELC, find intersections with Indigenous Peoples concerns, so we should join efforts for safeguarding Mother Earth within a global collective movement. Needless to say, when the problem is framed in the context of human rights, then it can be easily recognized by any individual or collective around the world.

As argued before, the ontological conflicts are often the result of dominant 'Western' academic paradigms, Christian extremism, positivistic-oriented legal bodies and savage global economies. However, the aim of my criticism is not to fall into essentialisms. In fact, I do believe that within academia and international organizations we find niches where the biggest changes can be triggered. It should be noted that postcolonial studies and indigenous scholars/activists are encouraging academia to overcome colonial legacies in research,⁴² and that the International Law Association is busy working out international legal frameworks to achieve the implementation of UNDRIP on the ground. In the same vein, Christian values and globalization are not intrinsically evil, yet misuses of the Christian religion and global economy by particular elite groups are certainly evil when they perpetuate colonialism and trigger human rights violations.

Decolonization concerns everyone in the global society. Furthermore, I believe that most people are morally committed against human rights violations, but most of the time these violations are not visible. As such, we should be actively committed to making visible what is normally invisible for the eyes of global society.

The international legal framework plays a key role in the decolonization process. International legal frameworks should be open to integrate the diversity of the global society and involve Indigenous Peoples' ontologies as well. Each article of UNDRIP has the potential to be developed further in accordance with the particularities of each case (see Jansen & Pérez in this volume). This is already being done, but the global challenge is achieving real intercultural dialogue and true encounters of ontologies.

At national level, the sacredness of Land should be developed further by involving the active/protagonist role of Maya peoples in order to adapt the national legal bodies. In order to do so, it is necessary for Mexican agencies to be aware of existing colonial legacies and promote decolonization of legal bodies,

policies, and educational programs. Otherwise the implementation of UNDRIP will be hardly achieved and it will remain a political game, with states playing different and contradictory roles towards the international community on the one hand and the local communities on the other.

The sacred notion of Land should be a major concern during the processes of free, prior and informed consent and the spiritual guides *Meno'ob* should be seated at the table during the dialogues. Their voices must play a major role in order to avoid partial results because of the influence of colonized Christians⁴³ and local politicians. Believe it or not, Protestant people (some Catholics extremists as well) are at the forefront of religious harassment and inquisitorial practices towards the Maya spiritual guides.⁴⁴

Maya elders should be consulted on the nature and extension of sacred places, but at the same time the notions of territory should be rethought. Let us remember that the idea of limited territory has to do with the medieval enclosure movement and colonial imperialism, but when dealing with sacred places we see that territorial limits do not make any sense, instead the sacred places (for instance, the sacred hills at Calcehtok) are areas in which different communities can meet when performing rituals. So, sacred places are places of communal encounters. In opposition to it, we see that borders divide communities instead of promoting encounters. Therefore, instead of thinking of territorial limits⁴⁵ it is worth thinking about gradient areas where communities meet each other.

From an academic position, we can contribute by critically analysing and denouncing the diverse processes affecting Indigenous heritage, in particular concerning Land. From colonial legacies to

42. A positive example of this is the International Colloquia on Heritage and Rights of Indigenous Peoples held at Leiden University since 2014.

43. It should be noted that large populations of Yucatec Maya are nowadays joining the ranks of Protestantism and other extremist Christian sects, which in turn repudiate the indigenous religion. This complicates further the achievement of *free, prior and (well) informed consent* regarding to the spiritual values of the Land.

44. Let us not forget that the Christian's hostility against other religions, in combination with political interests, led to the 'Witchcraft trial' which charged thousands of lives in Europe and the Americas. So, it is unacceptable the indifference of the State and policy makers regarding the 'neo witch persecution' in the Maya region by Protestant Christians against our religious leaders (failing with the implementation of articles 9, 12 and 13).

45. For instance, when developing maps of indigenous territories.

contemporary global dynamics, Land (as heritage) is being threatened by social, economic, and political processes that need to be placed in the spotlight, making them visible, in order to seek effective solutions at local and international levels. In particular, academia needs to be creative and open-minded on the ontological/epistemic implications that religious meanings of the Land have. Furthermore, Indigenous Peoples should define the extent and meanings of Land and heritage in their own terms and according to indigenous ontologies.⁴⁶ This way, experts in true collaboration with IP can develop a wider, diverse, and inclusive notion of Land (including its cultural dimension) in the quest for more democratic and bottom-up based policymaking. Critical thinking and social engagement are important for identifying the problems as well as proposing possible solutions that can assist national and international policy makers. But overall, experts on heritage should explore ways for achieving the implementation of the tenets of the UNDRIP, in particular those related to indigenous Land and heritage. Experts should promote the tenets of self-determination and free, prior and well informed consent when assisting the development of policies for safeguarding indigenous heritage. National and international policies should not rely exclusively on top-down structures because they often perpetuate colonial legacies, but instead policies should rely on bottom-up processes as well as transversal decision making.

In particular, Mayanist academia faces some challenges in research praxis. Some of them are:

- a) Developing theoretical frameworks and methods to implement the tenets of free, prior and (well) informed consent when designing and executing projects;
- b) promoting self-determination in research, to empower indigenous communities for decision-making regarding scientific projects as well as supporting indigenous scholars playing protagonist roles in research. There are different ways in which the community expresses non-conformance with academic research, so the researcher must be aware of the disagreements and take a passive role in the community's decision-making process. If requested, the researcher could give further explanations, exposing not only the benefits but also the potential wrongs, such as desacralization, dispossession, deracination, and alienation. The scholar must be open-minded and respect rejection - to a lesser or greater extent - to any research project, and in particular to excavations and anthropological studies. This must be understood as NO prior consent, irrespective of the benefits the researcher believes it will bring to the community. The scholar must be aware of the complexities of the self-determination process and the colonial legacies that potentially affect it. For instance, a community highly influenced by Protestant Christians should prefer the 'scientific' value of the research to the detriment of the religious value of the sacred place. But this is because Protestant Christians repudiate the ancestral religion. In those cases, it is not worth starting any project because the wrongs will be bigger than the potential benefits. A project on decolonizing sacred places would be preferred.
- c) Decolonizing the academic vocabulary when dealing with indigenous issues. For instance, we urge the following terms be replaced in the archaeological/anthropological vocabulary; *earth-monster* with *earth deity*, *witch/sorcerer* with *religious leader*, *hmen/xmen*, *ajk'ijab*, *mahawil k'ij* or any other native concept, *indian idol* with *indigenous deity*. Using the terms *earth-monster*, *witch/sorcerer* and *indian idol* in academic writing is offensive, racist and perpetuates colonialism.
- d) In addition to this, there is an urgent necessity to reshape certain concepts in the Maya context, such as 'archaeological sites' as this is now linked to meanings of dispossession, deracination and alienation. Archaeological sites appear to be the sites deserving archaeological inquiry and state management/protection and excluding Maya peoples at the same time (against the right of the Maya communities to maintain,

46. See a positive example in Toledo & Toledo, 1997

preserve and transmit their own heritage). As an alternative I propose using simultaneously *sacred places* or *ancestral places* in combination with *archaeological site*, to raise awareness of the spiritual connection Maya peoples have with these places. In this way we can inform policy-makers⁴⁷ on the profound meanings of indigenous Lands.

- e) Confronting the current criticisms on Mayanist research (which are along similar lines as Césaire's statement): How can we choose to close our eyes to the most crucial problems of Maya communities? While investigations are taking place in the Maya region, transnational corporations are simultaneously destroying Maya Land and endangering heritage just beside the area of research. Interestingly, academic reports often miss mentioning these crucial problems in the communities. Someone may argue, 'I'm not an activist but a researcher'. Such an attitude misses the point that research is not only linked with science but also with society. It also misses the opportunity to prove that scientific inquiry can be guided by ethical values in the first place and that crucial problems can be translated into a research question. On the other hand, looking at the crucial problems in Maya communities offers the opportunity to overcome colonial legacies in research. For instance, research questions should not be pre-designed according to the interest of an alien academic community and in accordance with the research agenda of their countries. Nor should a project pre-accepted by alien institutions and the national agencies (INAH-IDAHEH) be imposed upon the concerns of the Maya communities without prior consultation. Instead, the project should arise from the crucial problems of the indigenous community and be based on an indigenous agenda (Atalay, 2012:167-ss; Tuhiwai, 2012:198- ss).

Finally, I would like to make a call to Maya people and activists to remind them that the struggle of

liberation and decolonization requires reconstructing our sense of communal people. Along the way there will always be cracks and divisions because of co-optation, envy, mistrust, and other elements provoked and promoted by external neo-colonial agents. Colonial legacies are still generating divisions between Indigenous Peoples themselves. Let us not forget that the divisions between our ancestors was exploited by the colonizers, and today neo-colonial agents are doing the same when they extract our resources, desacralize our ancestral places, and kill our sisters, brothers, sons, daughters, and Mother Earth. There is no time to discuss the defects of each member but only to look for their potential contributions to the struggle based on her/his virtues and values. All hands are welcome in the struggle.

Acknowledgements:

First of all I would like to thank the Maya communities of Calcehtok and Hopelchen for their invaluable support. Secondly I would like to thank Mixtec researcher and activist Aurora Pérez Jiménez and Prof. Dr. Maarten E.R.G.N. Jansen for giving me unconditional support these past years and for their tireless commitment to the decolonization project. I also thank Amy Strecker for her thoughtful comments on this chapter and for the English language review.

The research leading to the results presented here forms part of the project 'Time in Intercultural Context', directed by Prof. Dr. Maarten E.R.G.N. Jansen (Faculty of Archaeology, Leiden University, The Netherlands), and has received funding from the European Union's Seventh Framework Programme (FP7/2007-2013) under grant agreement n° 295434.

47. The same criteria can be applied to 'economic development' that, based on the experience of Indigenous Peoples, often generates dead lands, contaminated water sources, chemical pollution and so on. When developing policies, economic development should be replaced by concepts of sustainable development or well-being that are more respectful to Indigenous Peoples' way of life.

21. Académicos y Académicas de Pueblos Originarios. Una Experiencia Entre la Sabiduría Indígena y las Teorías Académicas Clásicas

Leticia Aparicio Soriano

Abstract

This chapter explores the role of indigenous scholars in promoting Indigenous Peoples' rights in relation to ancestral knowledge and territories. Based on my experience as coordinator of the graduate diploma Investigación Intercultural y Modernidad desde los Pueblos Indígenas (Modernity and Intercultural Research by Indigenous Peoples) and as a member of the postgraduate indigenous network Red IINPIM: Red Interdisciplinaria de Investigadores de los Pueblos Indígenas de México (Interdisciplinary network of Indigenous Peoples in Mexico), I discuss critical debates taking place in academic fora in Mexico City. Such a network, I illustrate, has been created by indigenous scholars who carried out postgraduate studies in diverse institutions worldwide in the spirit of contributing to knowledge transmission, whether academic or indigenous, for the benefit of local indigenous communities. In this regard it provides a space to critically approach the role of hegemonic powers in promoting exclusion and neo-colonization.

In terms of education, this chapter discusses the complexities and obstacles in achieving decolonization and self-determination in academic studies, as well as highlighting the advances in particular niches of Mexican institutions. It brings into the spotlight the lack of academic fora and

scholars with sufficient knowledge and sensitivity on indigenous affairs, as well as contesting institutional racism, discrimination and classism.

I conclude that initiatives, such as the graduate diploma, contribute to shifting the paradigms of research, and promoting Indigenous Peoples in Mexico to become active and protagonist researchers rather than passive researched subjects. Both indigenous and non-indigenous scholars should be respectful with indigenous knowledge and epistemology when undertaking research. In this regard I highlight the importance of taking into account the rights of Indigenous Peoples as well as ethical practices.

Like many other indigenous women struggling in their particular workspaces, I find myself imaging, visualizing and creating, while combining ancestral legacy with modernity, in the spirit of contributing to social empowerment and decision-making.

Introducción

A partir de la formación de una trinchera de lucha diaria al ingresar a un espacio académico tengo la oportunidad de ejercer la docencia pero también contar con alguna forma de seguir construyendo y

de-construyendo elementos teóricos para la lectura e interpretación de la realidad social, política y cultural de los seres humanos, aunado a proponer herramientas para la praxis en una sociedad en la que busco promover la equidad tomando también como referente las visiones y filosofías planteadas por los pueblos indígenas. Situarme en un espacio académico, a pesar de lo cerrado hacia las formas de pensar diversas como las de los pueblos originarios, nos brinda cierta posibilidad de abrir brecha a fin de jugar un rol crítico y cuestionar posicionamientos académicos eurocentricos, excluyentes, hegemónicos y en muchos casos reproductores de colonialidad entendida como un proceso que pervive en lo contemporáneo, manifestándose tanto en la vida cotidiana como en el mundo académico mediante prácticas coloniales de poder, de saber y de ser. Así, las instituciones que promovieron el tipo de conocimientos impuestos por acción de la conquista a lo que ahora se denomina Latinoamérica deben dar crédito a la ciencia indígena que no son sólo saberes. Es necesario traer a la luz la sabiduría ancestral acumulada durante siglos pues resulta imprescindible descolonizar el saber y reinventar el poder, pero agregaríamos que debe ser desde la cosmovisión de las luchas de los pueblos.

Un Posicionamiento desde Dentro

Estas inquietudes me situaron en espacios educativos, académicos y de investigación, considerados de amplios alcances en el continente, pues desde estos nichos quizás tales cuestionamientos tendientes a replantear las visiones de la ciencia actual en relación a los saberes de los pueblos originarios, y generar investigación pero también denuncia y acciones contra la violación sistemática de los derechos de los pueblos indígenas, tendrían la posibilidad de ser ampliamente analizados, difundidos y tal vez generar un mayor impacto. Dichas plataformas han sido la Universidad de Texas en Austin, el Centro de Investigaciones y Estudios Superiores en Antropología Social, así como la Universidad Nacional Autónoma de México, instituciones que en su momento me han dado cierta posibilidad de acceder a herramientas teórico-metodológicas, de construir planteamientos académicos a partir de la otredad en los que se debaten definiciones, conceptualizaciones,

y teorías que debemos estudiar pero también desaprender; además de plantear interrogantes como: ¿cuáles son las fortalezas y las carencias desde donde nos situamos como profesionales indígenas? pues se insiste en la necesidad no sólo de teorizar sino también de trabajar con comunidades excluidas ¿Qué hacer para que nuestro actuar profesional no se instale en mero asistencialismo y en la atención de necesidades inmediatas? ¿Cómo no caer en paternalismos y clientelismos? ¿Cómo evitar romper con las lógicas propias de las comunidades donde se trabaja? ¿Cuál es nuestro papel como profesionistas indígenas desde la academia? Son preguntas constantes que cada día se plantean en el quehacer profesional desde lo ético, pues de lo contrario se corre el riesgo de legitimar y perpetuar la inequidad, la marginación, la exclusión y tantos otros fenómenos sociales.

Desde un punto de vista profesional es importante analizar constantemente dichos supuestos. Hoy en día es imprescindible partir de lo crítico, horizontal, participativo, decolonizante, emancipándose del pensamiento impuesto por una hegemonía de poder. Tener un posicionamiento desde el que podamos promover que los seres humanos hablen, actúen y construyan por sí mismos las respuestas a sus problemáticas y demandas. Así mismo contribuir a que los llamados saberes o conocimientos científicos indígenas sean reconocidos como un elemento de identidad reivindicadora y de las luchas de resistencia que los pueblos han tenido como un mecanismo decolonial como un ideal que se ha tratado de desarrollar desde la academia en el ejercicio de la profesión.

La Experiencia con y desde la Red IINPIM

Cada vez más los seres humanos necesitamos formular respuestas integrales desde distintas miradas a los complejos problemas sociales. También en este campo, la academia (considerando las pocas, o prácticamente nulas oportunidades que existen para las y los indígenas en éste espacio) ha brindado cierto espacio para la posibilidad de generar propuestas trabajando en grupos multidisciplinarios, desempeñando mi labor al lado de profesionistas indígenas y no indígenas. Aunado a ello, las causas de diferentes problemáticas sociales no sólo son abordadas y entendidas en su dimensión local sino

como fenómenos sociales que suceden más allá de sus fronteras. Así, se ha tenido la oportunidad trabajar con pueblos originarios dentro y fuera de México, en contextos urbanos y rurales, con quienes se comparten visiones y problemáticas desde distintas cosmogonías derivadas de sus contextos culturales diferenciados. Trabajar con y desde éstas miradas me ha llevado a ser parte de la Red de Investigadores e investigadoras indígenas de México (Red IINPIM), un colectivo de profesionistas pertenecientes a pueblos originarios, que cursaron estudios de posgrado en instituciones reconocidas y de alto prestigio, ubicadas en distintas partes del mundo. La organización se conformó con el fin de buscar alternativas para que el conocimiento de los pueblos, así como los aprendidos en la academia sean ahora patrimonio de los mismos y sea aprovechado y puesto al servicio de las comunidades.

A través del diseño, planeación, promoción y gestión de propuestas de divulgación científica en torno a educación, derechos, género, defensa del territorio, entre otros temas, se proponen a partir de la Red IINPIM capacitaciones, cursos, seminarios y un diplomado, cuyos contenidos son diseñados e impartidos por académicos/cas de pueblos originarios. Todo a partir de vivencias de investigación intercultural en las que se genera conocimiento científico como integrantes de comunidades indígenas y lo aprendido a la luz de teorías de la academia clásica. Esta labor también tiene como intención contribuir en la formación intercultural de personas y comunidades no indígenas.

Cabe mencionar la complejidad de ésta apuesta, ya que el contexto mexicano relacionado a emprender acciones que promuevan la interculturalidad es adverso. Existen pocos espacios e instituciones sensibles y conocedoras del tema. Es posible que la experiencia, siendo indígenas los actores del mismo proceso, pase por momentos de discriminación, clasismo e incluso racismo institucional. Sin embargo, con los esfuerzos de integrantes de la Red IINPIM se pudo abrir brecha, en una plataforma educativa no indígena pero con visión para promover la interculturalidad, es decir, un centro de educación continua de la UNAM, lo cual significó una oportunidad y un reto constante.

Una Propuesta Académica desde los Indígenas

Sueños, anhelos y voluntades, han motivado andar un camino en que el sentir y el pensamiento se conjugan para crear una propuesta de formación académica en la que se vean reflejadas las cosmovisiones indígenas. Me refiero al diplomado: Investigación Intercultural y Modernidad desde los Pueblos Indígenas.

La importancia de este programa radica en la necesidad de profesionalizar a los interesados en la co-investigación en poblaciones indígenas y de ésta manera mejorar el impacto de propuestas de trabajo con y desde pueblos originarios al fusionar prácticas locales con metodologías de investigación y praxis de la ciencias sociales. El diseño modular de éste diplomado fue integrado por la experiencia académica y comunitaria de los socios de la Red IINPIM.

Por su parte, como coordinadora del mismo he tenido el honor de resguardar y orientar todas sus fases. Cada sesión implicó un proceso de alto compromiso pero también de plena satisfacción. Así mismo una oportunidad de seguir trabajando, construyendo, deconstruyendo, criticando y reflexionando temas de trascendencia que afectan a pueblos indígenas. Una actividad de mucha dedicación y esfuerzo pero al mismo tiempo un acto de amor.

Como parte de los resultados de la experiencia que estoy compartiendo, he de comentar que se generó gran interés en el tema, se solicitó ampliamente la inscripción a los cursos, causó muchas expectativas ya que se promovió que indígenas ahora fueran especialistas a cargo de formar investigadores. Llamó la atención que personas de pueblos originarios se pronunciaran por no ser siempre los que están en proceso de aprendizaje, o el objeto de investigación, como ha sucedido una y otra vez; ahora ellos y ellas se encargarían de ser formadores.

Académicamente los resultados fueron muy positivos en términos de evaluación a contenidos y ponentes. Los estudiantes afirman el curso rebasó sus expectativas y rompió con muchas de las formas clásicas de ver a los indígenas.

Cabe mencionar que existieron dificultades, una de ellas fue de tipo presupuestal, ya que al ser una propuesta meramente autogestiva, se perdió la oportunidad de contar con la participación de compañeros académicos indígenas que residen en regiones muy alejadas del Distrito Federal como la península de Yucatán, sobre todo por costos de traslados.

En México a pesar de la gama de instituciones gubernamentales creadas para atender especificidades de pueblos indígenas, desde mi experiencia me atrevo a mencionar que no hay un trabajo serio sobre educación intercultural, pues en realidad quienes operan son burocracias que no tienen la sensibilidad ni el perfil para el abordaje del tema. Nuevamente ocurre que hay un trato discriminatorio y racista hacia indígenas académicos e investigadores desde éstas instancias, al negar la participación en espacios de toma de decisiones que afecta a la educación de los pueblos.

Violación de Derechos Indígenas en Materia de Propiedad Intelectual:

En éste sentido, grupos de indígenas académicos, investigadores, profesionistas, personas indígenas, independientemente de su nivel de estudios, viven sistemáticamente una violación a los derechos sobre el uso de sus conocimientos, saberes ancestrales y la toma de decisión de qué hacer con las formas de hacer ciencia.

Así, expresa el artículo 31 de la Declaración de los Derechos de los Pueblos Indígenas de las Naciones Unidas:

“Los pueblos indígenas tienen derecho a mantener, controlar, proteger y desarrollar su patrimonio cultural, sus conocimientos tradicionales, sus expresiones culturales tradicionales y las manifestaciones de sus ciencias, tecnologías y culturas, comprendidos los recursos humanos y genéticos, las semillas, las medicinas, el conocimiento de las propiedades de la fauna y la flora, las tradiciones orales, las literaturas, los diseños, los deportes y juegos tradicionales, y las artes visuales e interpretativas. También tienen derecho a mantener, controlar, proteger y desarrollar su propiedad intelectual de dicho patrimonio cultural,

sus conocimientos tradicionales y sus expresiones culturales tradicionales¹”.

Por lo tanto, los pueblos indígenas no sólo poseen derecho pleno sobre el uso y manejo de sus conocimientos biológicos, sino también lo tienen sobre sus recursos filosóficos, epistemológicos, ontológicos y todas las formas de ciencia y conocimiento que poseen estando dentro y fuera de sus territorios.

Reflexión Final

El planteamiento del diplomado resulte tal vez mecánico al pretender coadyuvar en romper paradigmas de cómo se ve y trata a indígenas: de investigados a investigadores, sin embargo, en un primer momento se considera merece crítica constructiva para la retroalimentación ya que se encuentra todavía en su etapa de consolidación.

Coordinar el diplomado como parte de los proyectos de la Red IINPIM ha dado mucha experiencia profesional pero sobre todo la oportunidad de generar una vivencia cuya base es el convencimiento, la lucha, y el amor como elementos de lo que se lleva a cabo con pasión.

Por otra parte, los investigadores indígenas y no indígenas deben ser respetuosos ante los conocimientos, y las formas de hacer ciencia de los pueblos originarios. Es importante tener presente la legislación en materia de derechos pero también un código de ética para promover prácticas constructivas en relación a ello.

He de señalar finalmente que en el mundo de la academia y de sus diferentes dinámicas, me encuentro imaginando, visualizando, creando como tantas mujeres que luchamos desde nuestros espacios de trabajo, combinando elementos identitarios ancestrales, y viviéndolos en la modernidad con el propósito de contribuir a posicionarnos como actores sociales tomadores de decisiones.

1. Declaración de las Naciones Unidas sobre los derechos de los Pueblos Indígenas. (2007). Consultado el 26 de febrero de 2016. En: http://www.un.org/esa/socdev/unpfi/documents/DRIPS_es.pdf

Epilogue: Heritage and Rights of Indigenous Peoples

Amy Strecker

The substantive and geographic breadth of contributions in the present volume make it difficult to adequately do justice to them all in an epilogue. Nevertheless, what is striking from the contributions is that despite the distance between the communities and cases discussed, which span four continents, they share many commonalities both in terms of worldviews relating to land, spirituality and self-determination (which we refer to as ‘heritage’ in the title of this volume) as well as the challenges faced by Indigenous Peoples in attaining their human rights, particularly the implementation of UNDRIP. These commonalities reveal both *lumi è ombre* (or light and shade) in the heritagescape of Indigenous Peoples globally. The light is reflected in the cultural richness and diversity of knowledge, beliefs and practices, which despite historical oppression and narratives of extinction, Indigenous Peoples have managed to maintain, develop and even revive well into the twenty-first century. This has been achieved through various resilient and creative ways, from the use of colonial maps to articulate legal rights in the case of Santo Tomás Ocotepec (Mexico), to collaborative heritage work amongst the Sami in the Várdobáiki Museum (Norway); and from the revitalization of indigenous languages amongst Mexican migrant communities in New York City, to the social mobilization of Maya communities in Belize to successfully gain legal recognition of their land rights. Legal cases have been won, international rights discourse has become more inclusive of Indigenous Peoples’ struggles, narratives are being challenged and academic practice is beginning to change. This is due, in part, to UNDRIP and the awareness it has generated since its adoption ten years ago. However, it is also, and perhaps more importantly, due to the action of Indigenous Peoples themselves. As was illustrated by many of the authors, heritage has played a protagonist role in

this regard, since it signifies, distinguishes and binds communities together. Operating at the juncture between land, spirituality and self-determination, the heritage of Indigenous Peoples, as conceived here, is all encompassing.

However, while heritage can be used to affirm identity, assert equivalence and demand respect for human rights, it can also be governed by national institutions in often reductionist and exclusionary ways, as was illustrated by Chia-yu Hu in the case of Taiwan. Intangible cultural heritage in particular lends itself to politicization. This is paralleled in Mexico, where the use of indigenous heritage by the state often masks the violence taking place in the real lives of Indigenous communities. On the one hand, heritage can galvanize communities and lead to other forms of recognition. On the other hand, however, heritage can be appropriated or co-opted by the state, which may be willing to recognise the heritage of Indigenous Peoples, but conversely not grant them corresponding rights. As stated by Hu, “the promotion concerns of indigenous people are focused more on ancestral traditions, identity and empowerment”.¹

In addition, the isolation of heritage from other issues relating to land, spirituality and self-determination only perpetuates modernist dualisms that do not accurately reflect the holistic worldview of many Indigenous Peoples. As illustrated by Osiris González in relation to maize cultivation in Mexico, cultural diversity is closely linked to biodiversity, and the spiritual connection with the land also has strong material implications.² The two cannot be

1. See Chapter 17. Chia-yu Hu, ‘Politics and practices of Indigenous heritage in Taiwan. Perspectives on cultural transmission in Indigenous communities.’

2. Chapter 11. Osiris González, ‘Spiritual knowledge unearthed. Indigenous Peoples and Land Rights.’

separated. This close, spiritual relationship with the land was underscored by many of the authors in this book. So too was the centrality of heritage for well-being and health.

UNDRIP and the (non)Realisation of Indigenous Peoples' Rights

Most of the chapters here have cited the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in one respect or another. This highlights the significance of UNDRIP for acting as a reference point, a source of inspiration and for providing a specific vocabulary to address the issues faced by Indigenous Peoples globally. At the same time, however, some of the authors reveal a distinct lack of implementation of UNDRIP in many of the regions discussed, even where there are clear violations of the gravest nature, and even when they are accompanied by judgments from regional human rights courts (for example, the non-implementation of the Saramaka judgment in Suriname) or national courts (Maya communities of Yucatan and Campeche in Mexico concerning Monsanto).³

The question emerges as to why UNDRIP and the human rights of Indigenous Peoples more generally are not being implemented on the ground, particularly in relation to land rights, free, prior and informed consent and self-determination. It is worth remembering here that 144 states voted in favour of adopting UNDRIP at the UN General Assembly on 13 September 2007. Although legal scholars often reiterate the non-binding character of UNDRIP, it is a helpful reminder that the Universal Declaration of Human Rights, which although a declaration and therefore non-binding *sensu stricto*, has now assumed the status of customary international law. This offers some hope for the legal status of UNDRIP going forward. In this regard, the contributions in this volume serve to illustrate the areas –both substantive and geographic– where the implementation of UNDRIP is most needed. The two questions I shall endeavor to answer briefly aim to reflect on the evidence provided by the authors for the non-implementation of UNDRIP and take it to

another level of inquiry. Firstly, why is UNDRIP, and indeed the human rights of Indigenous Peoples, not being implemented? Secondly, what specific actions could be taken to aid and contribute to its implementation in the immediate and long term, ten years after its adoption?

On Geography, Land and Law

The reasons for the non-realisation of Indigenous Peoples' rights are first and foremost historical and cultural in nature. As pointed out by Maarten Jansen and Pérez Jiménez at the beginning of this volume, “colonialism is not a closed chapter in the book of history, but continues to have an impact on daily life in the present”.⁴ What is required therefore is a shift in mentalities, and this can only be brought about through awareness raising, education, decolonising practices and institutions, the methodologies of which were discussed by Jansen and Pérez Jiménez in Chapter One. As a corollary, I shall endeavor to highlight some of the principle causes here that relate to the triumvirate of geography, land and law.

In relation to the first point, many Indigenous Peoples live in resource rich areas or areas that are otherwise prime attractions for international investors, particularly resource extraction industries or agribusiness: this was illustrated clearly in the chapters in this book dealing with such projects in Suriname, Indonesia, the Philippines, Nigeria and Mexico. The scramble for land is compounded by (and a contributing factor for) the lack of recognition of Indigenous Peoples land rights in these areas, which in many cases they have occupied or used long before the emergence of the modern nation state. Lack of property title and lack of written documentation proving ancestral links are often used to justify expropriation of land by the state for other purposes. In cases where Indigenous Peoples land rights *are* recognised, or demarcated, then the free, prior and informed consent must be sought by any investor or corporation seeking to carry out works, whether it be logging, mining or infrastructure. The problem arises when ways around obtaining true free, prior and informed

3. See Chapters 2 and 21 respectively.

4. See Chapter One.

consent can be gained so that it serves to justify and legitimize certain projects, which ultimately are of little benefit to communities in the long-term. Promises of prosperity and land development equate to short term benefits in the form of cash, food and seasonal employment, but this often turns into increased dependency, a deteriorated natural environment and broken social relations. The idea that a local indigenous community operates on a level playing field as a large multinational investment company belies the power relations and complexities involved in these transactions.

In applying the second question, above, that is, 'what specific actions could be taken in light of the lack of implementation', to geography, land and law, it can be said that in relation to geography, not much can be done. This is perhaps the greatest challenge of our time, given the ever increasing dependency on resources and the fact the Indigenous Peoples traditionally occupy many of these places. However, as regards land and law, something may indeed be done, provided a significant number of people put a sufficient amount of societal pressure on governments and indeed on investors and industry to do so. I am not referring to a reproduction of more rights or indeed more norms on cultural heritage (these are already aptly covered by international cultural heritage law and international human rights law, including the special regime of Indigenous Peoples rights contained in UNDRIP and the ILO Convention), but rather addressing the very fields of law dealing with investment and trade from within. Certain aspects of international law operate in a vacuum in this regard and indeed stand in sharp contrast to other international norms and standards. Consider for a moment that there are currently over 3,000 Bilateral Investment Treaties (BITs) in operation globally between states and private corporations, and most of these deal with large scale developments including resource extraction in areas with high natural and/or cultural heritage value attached to Indigenous Peoples and other local communities. According to one report, the size of land affected by land acquisition agreements signed between 2008 and 2009 alone was more than ten times what it had been in previous years,

and the trend is moving in the same direction.⁵ The problem is that the rules governing investment law protect investors rights first and foremost. NAFTA (North American Free Trade Agreement) article 1110 provides for protection of foreign investments from direct expropriation, indirect expropriation and measures tantamount to nationalization or expropriation. A wide variety of activities carried out by the state may interfere with investor's property rights and since investment agreements do not provide protective exemptions for environment, cultural heritage or Indigenous Peoples' rights, regulatory measures aimed at protecting these may be considered as tantamount to expropriation. This is when investor state arbitration occurs, and not surprisingly, many cases of investor state arbitration have indirectly dealt with the heritage and rights of Indigenous Peoples. Take the case of *Glamis Gold v the United States of America*, for example, where a Canadian mining company claimed a breach of NAFTA after California issued a law that required it to complete backfilling in open pit mines near a Native American Indian sacred site, which would render the mining operation uneconomical.⁶ In a rare victory for Indigenous Peoples, the ICSID Tribunal dismissed Glamis' claims and the mining project did not proceed through the Trail of Dreams in question. While this case illustrates a more enlightened approach of the ICSID Tribunal, it nevertheless represents an indirect form of protection and rests upon the actions of the state to break a BIT in favour of protecting the heritage and rights of Indigenous Peoples. This is not an ideal form of protection, as the issue of controlling abuse of power by the state is still an unresolved one. It seems reasonable and indeed fair to expect an area of international law (economic and trade law) to include provisions dealing with other areas of international law (respect for human rights and the environment). In this regard it is up to the state to include such provisions in any agreement and it is up to industry to act in an ethical manner towards the people who have a personal and vested interest

5. J. Perez et al., *Sleeping Lions*. International investment treaties, state-investor disputes and access to food, land and water. Oxfam Discussion Papers, May 2011.

6. *Glamis Gold Ltd v United States of America* [2009] 48 ILM.

(as opposed to an abstract economic and property interest) in the land that they call home.

The Protagonist Role of Heritage in Asserting Indigenous Rights

Indigenous Peoples have actively challenged one area of international law from the outside in. International cultural heritage law has increasingly broadened its conceptualisation, scope and governance approach to heritage as a result of the consistent agitation on the part of Indigenous Peoples. Take for example, the opening up of the World Heritage Convention to the category of cultural landscapes in 1992, which recognised the fact that many sites cannot be separated into criteria of culture or nature.⁷ It also recognised the cultural and social importance attached to landscapes, which had, until then, been designated as ‘natural’ heritage. Of particular note is the category of ‘associative cultural landscapes’ described as having ‘definable powerful, religious, artistic or cultural associations with the natural element rather than material cultural evidence, which may be insignificant or even absent’.⁸ Uluru and Tongariro, which had previously been inscribed on the World Heritage List as natural sites, were re-inscribed as cultural landscapes in recognition of the close links between these landscapes and the Anangu People (Australia) and Maori People (New Zealand) respectively. Yet the problem with cultural heritage law is that it still rests to a large extent on the sovereignty of the state (despite its increasing link with human rights) and ultimately decisions concerning heritage are made by state or its agents. Yet what happens when the heritage of Indigenous Peoples is under threat by the very state charged with its protection? Human rights are by nature limited by their focus on individual rights. Yet heritage of Indigenous Peoples has a strong collective dimension, and as such, cannot be measured in terms of personal injury in the same way that the loss of property can. There is, however, one exception to this rule and it concerns the interpretation, not of heritage or of landscape, but of ‘property’ itself to include

a more socially just conceptualization which refers not just to abstract title, but to custom, cultural ties and ancestral links to a particular place (essentially the heritage of the Indigenous Peoples) as falling within the definition of the concept.

In a number of decisions, the Inter-American Court of Human Rights has interpreted the right to property to include communal rights of Indigenous Peoples and not just abstract title. For example, in a recent case the Inter-American Court ruled against Paraguay for failing to guarantee the communal right to property of the Xákmok Kásek Indigenous community.⁹ The Court noted that the concept of property in the indigenous context can have a collective meaning, in the sense that possession is not focused on individuals but on the group and its community, and that while this concept of property does not necessarily correspond to the classic concept of property, it nevertheless deserves equal protection under the Convention.¹⁰ The Court further expanded in this by stating that ‘failing to recognise the specific versions of the right to use and enjoyment of property would be equivalent to maintaining that there is only one way of using and enjoying property and this, in turn, would make the protection granted by Article 21 meaningless for millions of individuals.’¹¹ This essentially recovers some of the identity lost in the modern conceptualisation of property and offers perhaps the most hope for future judgements, provided they are implemented by states to whom they apply. A more nuanced approach to property presents one avenue for asserting equivalence with regard to land rights, and can be a welcome development into the future. When norms to protect the rights of Indigenous Peoples are articulated within the infrastructure and language of the system itself they might begin to have an impact.

I would like to end by stating that heritage has played and will continue to play a major role in the realisation of the rights of Indigenous Peoples going forward, not only for the way in which it is capable

7. Decision 16COM XIII. 1-3.

8. Report of the Expert Group on Cultural Landscapes, La Petite Pierre (France) 24-26 October 1992, available at: <http://whc.unesco.org/archive/pierre92.htm>.

9. *Case of Xákmok Kásek Indigenous Community v. Paraguay*, IACtHR Series C No. 214.

10. *Ibid.*, paras. 86 and 87.

11. *Ibid.*, para. 87.

of producing ‘powerful and influential social transformations’ as Hu reminds us, but because it represents a way of life, an identity, the right to decide: essentially the right to be an Indigenous person.

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