

# Justice and Cultural Diversity in Guatemala

An Analysis of the Rights of Ethnic Groups in  
Guatemala Based on Two Liberal Approaches to  
Justice in Multicultural Democracies

**Trygve Bendiksbj**



## Table of Contents

Acknowledgements	3
<b>Chapter 1: Introduction</b>	5
1.1 Cultural Diversity and Justice in Guatemala	5
1.2 Political Liberalism and Political Unity	7
1.3 On the Approach, My Fieldwork in Guatemala and the Sources Used	10
1.4 The Guatemalan Context	12
1.5 The Relevance of a Discussion on Justice and Cultural Difference in Guatemala	20
<b>Chapter 2: Justice and Cultural Diversity</b>	23
2.1 'Recognition' and 'Non-Discrimination' as Approaches to Justice	23
2.2 Justifying 'Recognition'	23
2.3 Group Rights Versus Individual Rights?	28
2.4 Numerical and Sociological Minorities	30
2.5 Justifying 'Non-Discrimination'	31
<b>Chapter 3: Culture, Identity, and Rights in Guatemala</b>	37
3.1 Ethnic groups: 'Colonisers', 'Immigrants', or 'Nations'?	37
3.2 'Primordialist', 'Constructivist', and 'Instrumentalist' Approaches to Ethnic Identity	40
3.3 The Pan-Mayan Identity Project	42
3.4 Ethnicity, Culture, and the Indeterminacy of Group Membership in Guatemala	46
3.5 Transforming and Constructing Ethnic Groups in Guatemala	49
3.6 Some Arguments against 'Recognition'	51
<b>Chapter 4: Participation and Indigenous Self-Government in Guatemala</b>	55
4.1 'Recognition' and 'Non-discrimination' as Approaches to Power-Sharing	55
4.2 To What Extent is Guatemala an Ethnically Divided Society?	57
4.3 Participation, 'Presence', and the Indigenous in Guatemala	58
4.4 Local Government, Community Law, and Local Autonomy in Guatemala	64
4.5 Indigenous Self-Government in Guatemala	69
4.6 Multiculturalism, Justice, and Unity in Guatemala	71
<b>Chapter 5: Conclusion</b>	77
5.1 'Non-Discrimination' or 'Recognition' for Guatemala?	77
5.2 'Associational Democracy': A Middle Ground?	82
Literature	85
Summary	91



# Acknowledgements

This report was presented as a thesis for the degree of Cand.Polit. at the University of Oslo. My greatest fortune throughout the process of writing has been my two supervisors, Professor Knut Midgaard at the Department of Political Science at the University of Oslo, and Researcher Stener Ekern at the Norwegian Institute of Human Rights. I am greatly indebted to them for their encouragement and advice, their valuable comments on earlier drafts, and their help and assistance in various ways.

In Guatemala, where I carried out fieldwork from October 1997 to March 1998, the following kindly conceded me their time for interviews, some of whom were also helpful in other ways: Alfonso Arrivillaga, Álvaro Pop, Ángel Váldez, Benjamín Son, Carlos Cumatz, Carlos Ochoa, Celestino Tay, Claudia Dary, Demetrio Cojtí, Edelberto Torres, Estuardo Zapeta, Felipe Itzep, Francisco Calí, Gregorio Tzoc, Guisela Mayén, Haroldo Quej, Hermelinda Magzú, Isabel López, Juan León, Jordán Rodas, Leonel Padía, Leonicia Pocpop, Manuela de Alvarado, Marco Antonio de Paz, Miguel Ángel Velázquez, Pablo Ceto, Pedro Iboy, Ramiro López, Ricardo Cajas, Rigobero Quemé, Rodrigo Asturias, Rigoberta Menchú, Santos Norato, and Víctor Gálvez. A great number of other Guatemalans also gave valuable information. The Centro de Investigaciones Regionales de Mesoamérica (CIRMA) provided office space and other facilities in Guatemala and the Rodríguez Álvarez family provided housing. The Royal Norwegian Embassy in Guatemala has also been helpful on several occasions.

Most of the work on this thesis took place while I was on a student scholarship at the Norwegian Institute of International Affairs (NUPI), and the last stages were completed while I worked at the Norwegian Institute of Human

Rights (IMR). Both institutes provided great colleagues and an excellent library staff.

The following contributed with funding that made my fieldwork in Guatemala possible: NUPI, The Sasakawa Foundation, NORAD, and a scholarship fund at the University of Oslo.

A few friends and family gave valuable comments on earlier drafts: Gro Hanssen, Julie Wilhelmsen, Kristina Kvåle, Marit Solstad, Olav Bendiksby, Pernille Rieker, and to Raino Malnes for a last minute comment. Thanks also to April Stilley for reviewing my English, and to Eilert Struksnes at NUPI for additional revisions related to the publication of this report.

Lastly, I ought to mention the origin of all this: the Zamora Cubillo family of Liberia in Costa Rica, who many years ago introduced me to the captivating realities of Central America.

The responsibility for any errors or inaccuracies which may have occurred is mine exclusively.

Oslo, February 2000

Trygve Bendiksby



# Chapter 1: Introduction

## 1.1 Cultural Diversity and Justice in Guatemala

In December 1996 a 35-year-old conflict between the army and the guerrilla in Guatemala came to an end. Throughout years of negotiation the guerrilla and the Guatemalan government had reached several agreements that promised reforms in a number of areas. One of these agreements, 'The Accord on Identity and Rights of the Indigenous Peoples' (AIDPI 1995), concerns the complex relations between Guatemala's ethnic groups, and proposes a number of reforms to redress the indigenous peoples' situation of marginalisation and discrimination.

This accord, together with the recession of political repression and the reintroduction of democratic elections since 1985, has led to a growing debate on the relations between ethnic groups<sup>1</sup> in Guatemala, and in particular the relationship between the indigenous peoples and the Guatemalan state. Moreover, during the last two decades, Guatemala has experienced a proliferation of indigenous organisations that vindicate indigenous rights and struggle to change the status quo. Issues such as the official status of the indigenous languages, the official recognition of community norms, and constitutional reforms raise controversy and are much debated in Guatemala today. Since the reintroduction of democratic elections, Guatemala has taken important steps towards democracy. However, the question of what role of ethnic identity should play in the organisation of the

Guatemalan democracy still remains unresolved.

The complex issues raised by the implications of ethnic diversity for justice in modern-day democracies are also the focus of academic efforts within fields such as political science, philosophy, and social anthropology. Processes of globalisation, patterns of migration, and the velocity of cultural change force us to reconsider how we understand national identity, the nation-state and democratic institutional organisation and decision-making. These processes not only raise questions about why and how certain phenomena, such as the proliferation of ethnic conflicts, occur, they also challenge how one perceives the rights and obligations of citizenship in modern democracies. A main concern is how to achieve peaceful and stable relations between different ethnic groups within a state, while respecting the ideals of freedom and justice central to democracy.

This thesis is an attempt to analyse the implications of taking cultural diversity into account when discussing the elaboration of a just political system and just policies in Guatemala. I will do so by examining two different answers to how cultural differences should be accommodated in democratic states. These two approaches or policies, which I call 'non-discrimination' and 'recognition',<sup>2</sup> can be outlined as follows: *non-discrimination* requires that the state is 'neutral' when it comes to the particular cultural identities of its citizens. According to this approach, the state should not seek to identify, protect or promote any particular ethnic iden-

---

<sup>1</sup> 'Ethnic group' refers to a group that is bound together by an identity based on a perception of common ancestry (Adams 1995:59-81, Eriksen 1995:59). Adams (1995) discusses and rejects other definitions of 'ethnic group' and 'ethnicity'. He argues that the central characteristic of 'ethnicity' is the reproduction of an identity, not particular cultural elements, biology or class. In chapter 3 I discuss the notions of ethnic identity and ethnicity.

---

<sup>2</sup> These approaches or policies receive a number of names in the literature (Walzer 1994 and 1995, Glazer 1995, and Kymlicka 1995 a and b). 'Non-discrimination' is elsewhere referred to as 'benign neglect', 'the neutral model', 'universalism', or 'liberalism I'. 'Recognition' is called 'the group rights model', 'the corporatist model', and 'liberalism II'.

tity or cultural. *Recognition*, on the other hand, requires that the state gives explicit recognition to the particular cultural identities of its citizens. Recognition is usually given in the form of rights that differentiate members of one group from another, for example by granting degrees of political autonomy to one or several ethnic groups, or by guaranteeing the members of a group a certain quota of representation in the country's political system. Both approaches have a long history in liberal political theory (Kymlicka 1995a).

The focus throughout this thesis will be on the highly acclaimed works of the Canadian philosopher Will Kymlicka, in particular his book *Multicultural Citizenship* (1995a). This book is perhaps the most thoroughly argued liberal defence for 'recognition' yet published. As a result, more emphasis will be placed on the discussion of 'recognition' than 'non-discrimination'. The main aim of this thesis, that of understanding the implications of a liberal approach to multicultural justice in Guatemala, entails an attempt to assess both Kymlicka's defence of 'recognition' and his critique of 'non-discrimination'.

Political liberalism, or liberal political philosophy, provides the normative framework within which the discussion here will take place; it will also serve as a kind of standard against which the implications of 'non-discrimination' and 'recognition' in Guatemala will be weighed. Political liberalism is perhaps the major school of thought within contemporary political philosophy, and it is the political tradition within which Kymlicka writes. Another standard by which the implications of 'recognition' and 'non-discrimination' will be judged is political unity, though it is here given far less emphasis than political liberalism, and it does not as such represent any school of thought within political philosophy. Political unity is the concern that an approach to justice in multicultural societies must not make it impossible or difficult for different ethnic groups to co-exist within one country. I will return to both political liberalism and political unity below. Before that, however, I will give a brief outline of what is to follow.

The remainder of this chapter includes a discussion regarding political liberalism and political unity, then a brief note on the methodology employed, in particular a discussion of the empirical sources used. This is followed by an introduction to Guatemala that focuses on the relationship between ethnic groups and the state, racism and discrimination, and the indigenous organisations' attempts to change their situation of political and economic marginalisation. I conclude this chapter by arguing in favour of the relevance of a discussion on cultural diversity and justice in Guatemala.

Chapter two presents Kymlicka's and other authors' defence of 'recognition'. I then turn to the issues of whether there are any conflicts between individual rights and so-called group rights, and whether the numerical size of a particular group is of any consequence for considerations of justice in multicultural democracies. The last section of this chapter presents Kymlicka's principal critique against 'non-discrimination' and how I believe that critique can be met. I try to illustrate the implications of this defence of 'non-discrimination' by looking at a number of policy areas where cultural difference is of great relevance in Guatemala.

Chapter three takes the discussion one step further by examining what ethnic groups are, both what they appear to be empirically in Guatemala, and how they can be conceptualised theoretically. The conceptualisation of ethnic groups that seems to correspond best with Guatemala is one that is at odds with Kymlicka's, and this, I argue, has implications for considerations of liberal justice. The discussion in this chapter is concluded with a critique of 'recognition'.

While 'recognition' assigns formal political power and competencies to groups, 'non-discrimination' prohibits this. Chapter four explores arguments in favour of and against both approaches in Guatemala by examining the issues of political participation and political autonomy. I conclude this chapter by discussing likely consequences of 'recognition' and 'non-discrimination' for political unity in Guatemala.



The last chapter summarises the preceding discussion by seeking to answer whether ‘non-discrimination’ or ‘recognition’ is the best approach to justice in Guatemala. I conclude by suggesting a third approach that may solve at least some of the dilemmas created by both ‘non-discrimination’ and ‘recognition’.

## 1.2 Political Liberalism and Political Unity

### Political Liberalism

Fundamental to political liberalism is the value of ‘equality’ understood in the sense that the interests of each member of the community matter, and matter equally. Put another way, egalitarian theories require that the government treats its citizens with equal consideration; each citizen is entitled to equal concern and respect (Kymlicka 1990:4).

Kymlicka (op.cit.) argues that ‘equality’ can be seen as *the* foundational value, not only in political liberalism, but in all contemporary theories of justice. However, as Anne Phillips (1995:36) underlines, equality can be taken to imply different things. It could for example mean that ‘all citizens should have equal power over outcomes, that all preferences should be given equal weight, or...that all citizens should have an equal chance of voting for the winning candidate’. It is possible, Phillips (op.cit.) argues, ‘that in order to give people equal power over outcomes we have to weight their preferences unequally; or that in order to protect minorities we have to give their votes some additional weight’. The ambiguities of ‘equality’ are of particular relevance for multicultural societies. Amy Gutmann defines multiculturalism as

the state of a society or the world containing many cultures that interact in some significant way with each other. A culture is a human community larger than a few families that is associated with on-going ways of seeing, doing and thinking about things (Gutmann 1993:171).

Multiculturalism refers not only to the characteristics of a country, but also to

policies that give recognition to and protect cultural identities:

Multiculturalism – the acknowledgement and promotion of cultural pluralism as a feature of many societies ... multiculturalism celebrates and seeks to protect cultural variety, for example, minority languages. At the same time it focuses on the often unequal relationship of a minority to mainstream cultures (Jay et al. 1995).

Gutmann (1994:3) argues that ‘the challenge [of multiculturalism] is endemic to liberal democracies because they are committed to the principle of equal representation for all’. Equal representation for all is problematic in multicultural democracies because, as Will Kymlicka puts it,

political life has an inescapable national dimension, whether it is in the drawing of boundaries or distributing of powers, or in decisions about language, schooling, courts and bureaucracies, or in the choice of public holidays. Moreover, these inescapable aspects of political life give a profound advantage to members of majority nations (1995a:194).

In modern, liberal democracies, decisions that are of vital importance to minority groups are often left to the processes of majority decision-making, leaving minorities at a profound disadvantage. If equality of rights is to be respected, ‘the inescapable dimensions of national life’ need to be taken into account. This may require measures that protect the cultures of minority groups from the dominance of majority groups. This is also an issue of social and political stability, since it is likely that not giving minority groups any protection against being outvoted on issues of importance to the survival of their cultures, will lead to increased tension and perhaps conflict. What is needed is a conception of justice in multicultural democracies that is both based on equality and accommodates cultural difference. Both ‘non-discrimination’ and ‘recognition’ can be seen as instruments for achieving this, ‘non-discrimination’ by ignoring culture altogether, ‘recognition’ by identifying and usually giving legal

status to the different cultures that the citizens belong to.

According to political liberalism, 'the primary function of the state, and of politics generally, is to do justice to individuals, and in a pluralist society ethnicity is simply one of the background conditions for this effort' (Walzer 1995:154). I will regard 'political liberalism', 'liberal political theory' and 'liberal equality' as essentially the same.<sup>3</sup> Political liberalism can be seen as an attempt to articulate and defend the ideals that underlie modern liberal democracies. According to this theory, 'the good society is one which is not governed by particular common ends or goals but provides the framework rights or liberties or duties within which people may pursue their various ends, individually or co-operatively' (Kukhatas 1995:231-2).

The liberal political ideal is that of a society where every individual can freely choose a life according to his or her values and convictions, and where everyone is given the possibilities to revise these values and convictions at his or her own free will. In the words of Will Kymlicka: 'a liberal state should ensure that all citizens have the liberties and resources needed to make informed decisions about the good life, including the right to question and revise traditional cultural practices' (1995b:15). The function of the state is to provide and guarantee the same rights and conditions for all citizens to pursue their own perceptions of the good life. These rights are reflected in and guaranteed by a constitution. All citizens are considered equal in rights and moral worth, and the individual is given moral primacy over any collectivity. Membership in ethnic groups is only valuable to the degree that it is valuable for particular and identifiable individuals (Føllesdal 1996:62). Community life matters because it matters to individuals, but the community cannot for any reason be

invoked to violate the fundamental rights of the individual.

The requirements needed to meet the liberal ideal can, according to Gerald Doppelt (1998:230), be grouped into three. First it requires 'the absence of coercive impediments – oppressive laws and others' interference'. Secondly, it is often argued that 'the additional presence of certain enabling resources and policies – education, health care, income, employment, etc.' should be included. The third type requirement is 'recognition', by which I understand that the cultural survival of particular groups in a country will be 'acknowledged as a legitimate goal' (Taylor 1994:63).

'Recognition' will usually take the form of 'group-differentiated rights', and my focus throughout this thesis will be on these. However, it is possible that some sort of recognition can be of great importance for members of ethnic groups even when this recognition does not lead to any rights for the persons in question. I will return to this possibility in the next chapter. The essence of group-differentiated rights is 'the right of a group to limit the economic and political power exercised by the larger society over the group, to ensure that the resources and institutions on which the minority depends are not vulnerable to majority decisions' (Kymlicka op.cit.:7). I will use the term 'group-differentiated rights' synonymously with 'cultural rights', as they are rights of 'cultural groups' or 'cultures'. Group-differentiated rights represent Kymlicka's modification of, or addition to, liberal theory, and there is far less consensus on the need for and justification of these. Kymlicka argues that 'a comprehensive theory of justice in a multicultural state will include both universal rights, assigned to individuals regardless of group membership, and certain group-differentiated rights or 'special statuses' for minority cultures' (1995a:6). I present Kymlicka's defence of group-differentiated rights in chapter 2.

Kymlicka (1995a) distinguishes between three different types of group-differentiated rights: '*polyethnic rights*', '*special representation rights*', and '*self-government rights*'. Polyethnic rights are

<sup>3</sup> The literature on political liberalism is very extensive, and I will say little on the debates within and the criticism against this theory, with the exception of the debates on multiculturalism. The works of John Rawls (1971 and 1993) are essential for anyone interested in this type of theory. See also Will Kymlicka (1989, 1990, and 1995a).

‘intended to help ethnic groups and religious minorities express their cultural particularity and pride without hampering their success in the economic and political institutions of the dominant society’ (op.cit.: 31). Polyethnic rights are thus guarantees for ethnic groups against various forms of discrimination, and may take the form of public funding for cultural practices. The aim of polyethnic rights is to lessen the impact of assimilation (Doppelt 1998); their purpose is to facilitate integration into, not autonomy from the dominant culture’s institutions (Kymlicka 1997).

The two other types of group-differentiated rights entail recognition of groups in a much more comprehensive way. ‘Special representation rights’ are various rights and measures aimed at guaranteeing that a country’s political institutions or political parties reflect the diversity of the country’s population. A common example is to reserve a certain number of seats in the legislature for certain groups or assure that political parties’ electoral lists include members of minority groups.

Lastly, ‘self-government claims (...) typically take the form of devolving political power to a political unit substantially controlled by the members of the national minority, and substantially corresponding to their historical homeland or territory’ (Kymlicka 1995a:30). They are often associated with groups that have been involuntarily incorporated into a larger political unit.

A difference between these types of rights is that whereas polyethnic rights concern the *content* of specific policies, self-government and special representation rights aim at giving groups the *means* to influence policies. This distinction plays an important role throughout this thesis, because I will argue that ‘non-discrimination’ is incompatible with assigning the means to influence policy directly to groups. Polyethnic rights, on the other hand, are from my viewpoint not only compatible with ‘non-discrimination’, they are also required by that view. However, my interpretation of these differs from that of Kymlicka. Whereas Kymlicka ties the enjoyment of these

rights to membership in particular groups, I will argue that it is possible to consider polyethnic rights as general and fundamental individual rights, or as derivative of these.

### Political Unity

A central concern the in discussion of multiculturalism and justice is political unity. By political unity I have in mind the peaceful coexistence of different cultural identities within one country. There are perhaps exceptional cases where the best solution is to split a country into two or more independent political units. However, in a world with a multitude of ethnic identities, and where ethnic groups are often intermingled or share the same territory, it would simply be impossible to create a country for each single ethnic group. In the words of Kymlicka (1995a:196): ‘in general there are more nations in the world than possible states, and since we cannot simply wish national consciousness away, we need to find some way to keep multinational states together.’ Practically all countries in the world today are multiethnic, a fact any theory of justice in modern states must take into account. One way or another, ethnic diversity must be incorporated into the single political framework of the state.

Secondly, to deny the possibility of ethnic coexistence implies seeing ethnic identities as polar opposites. As I will argue in more detail in chapter 3, ethnic groups are seldom the only source of belonging and identification of a person, and there are likely to be many individuals who find it difficult to fit into any clear-cut ethnic category. Moreover, the idea of ‘ethnically pure’ states, where the terms of inclusion and exclusion are based only on membership in ethnic groups, is in my view inherently discriminatory, and has therefore no place within a liberal political framework. I discuss whether ‘recognition’ or ‘non-discrimination’ is most consistent with political unity in chapter 4.

### 1.3 On the Approach, My Fieldwork in Guatemala and the Sources Used

To explain the approach or 'method' used here I will rely on a concept from John Rawls (1971:48); 'Reflective equilibrium' is a state 'reached after a person has weighted various proposed conceptions of justice and he has either revised his judgements to accord with one of them or held fast to his original convictions'. For my purposes this implies comparing the implications of 'non-discrimination' and 'recognition' in Guatemala, and seeing whether these correspond with the fundamental values of political liberalism and with the concern for political unity.

The search for reflective equilibrium can be seen as a valuable method, whether one believes it is a device for finding moral truths, or simply that it is of practical value to make our convictions cohere around a set of principles (Sayre-McCord 1996). However, 'recognition' and 'non-discrimination' are not 'tested' so as to merit total rejection, because the 'test' is not complete. The number of considerations taken into account here is necessarily limited, and any conclusion cannot be but preliminary. The search for reflective equilibrium is likely to go on forever (Rawls 1993:97). The result of this search for reflective equilibrium does not therefore constitute a final judgement on what is to be considered the most adequate approach to liberal justice in Guatemala, much less generally.

The authors of the theories on justice in multicultural democracies draw the great majority of their examples from North America and Europe. One of my assumptions was that new insights could be gained by examining situations outside of that context. I therefore chose a 'case-study' of Guatemala. Yin (1994:13) defines a case-study as 'an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident'.

I acquired most of the documentation and conducted a number of interviews while conducting fieldwork in Guatemala between October 1997 and March 1998.

The documentation consists of articles in social science journals and a number of studies by both Guatemalan and non-Guatemalan researchers. I have also used a variety of articles in Guatemalan newspapers and magazines, and reports and other documentation from both non-governmental organisations and governmental agencies, and I attended a number of conferences addressing multicultural issues that provided valuable insights. The sources used in social science can have two basic functions (Dahl 1973:38). They can either provide information on 'facts of matter', or they can be used as testimony of someone's opinions and way of thinking, both of which I use here.

To what extent then do my descriptions of the Guatemalan context, the 'facts of matter', correspond with the observations of others? Yin (1994) calls the issue of correspondence with observation 'construct validity', and he indicates three tactics for increasing construct validity: using multiple sources of evidence (triangulation), having key informants review drafts of the study, and increasing reliability. *Triangulation* is sought achieved in this study by using a number of different sources, both interviews and an assortment of documents. When such divergent sources converge around a particular conclusion, one may have greater trust in that conclusion. Sometimes, however, different sources may disagree. When this occurs it will be discussed or otherwise indicated in the text.

I used *review by informants* by inviting a number of people with knowledge of the subject comment on earlier drafts. I have taken care both in the phases of collecting information and in the analysis and writing of the thesis to let my informant's personal expressions prevail. *Reliability* means that the operations of this study can be repeated, by myself or someone else, and produce the same results. Therefore, when relevant, the sources are referred to in the text, and transcripts of the interviews are accessible. Reliability also depends upon the degree of transparency in the collection and analysis of data, in making clear to the reader how and under which circumstances the information was

gathered. I shall therefore develop this topic a bit further.

The material I collected does not represent the opinion of any particular group in Guatemala, much less the Guatemalan population at large. Survey data that could be of use solely to my arguments here is largely non-existent. My aim has been to understand opinion, not measure it. I interviewed 39 persons, most of whom work in indigenous organisations, in addition to some government representatives and politicians, and a few Guatemalan researchers. They were chosen due to their participation in public debates, or because they are supposed to have influence over policy related to multicultural justice. I deliberately chose persons known to hold different opinions. The majority of the interviews took place in the Guatemalan capital, Guatemala City, and lasted from 1 to 7 hours. Three shorter studies were realised outside the Guatemalan capital, and these are referred to in chapter 4.

The interviews were 'open-ended' in nature, which is perhaps the most common type of interview in case-studies (Yin 1994:84). I asked the persons I interviewed, my informants, both about opinion and about facts of matter. In addition, some of them were helpful in sharing their insights on more theoretical issues. The interviews were to some extent also 'focused' (Yin 1994:84-5), in the sense that they centred on a set of predefined issues and questions, such as the nature of ethnic identity, political participation, political autonomy, indigenous organisations and indigenous rights. I also adopted the questions to suit each particular interview. For my interviews I relied on handwritten notes, which are generally less accurate than tape recordings, but are time-saving and can make the informant feel less inhibited. The names of my informants are not mentioned in the text because I hope that anonymity may prevent what is written from having any direct personal consequences (Yin 1994: 143), and because a few of my informants explicitly requested to remain anonymous.

When conducting interviews care must be taken to ensure that the questions asked do not lend themselves to misinterpreta-

tion and ambiguities. One should also seek to avoid the possibility that the questions shape the answers. I sought to lessen these dangers by letting the first couple of interviews serve as a 'pilot study', whereby the questions were tested and revised. Many of my informants gave valuable feedback on the questions. Moreover, posing the same questions to persons of divergent political opinions is another technique I used to reduce the chance that the questions were leading (Yin 1994). Butenschön (1980) underlines that if the respondents feel uncomfortable or surprised by the questions, or if the respondents feel that they are in a subordinate position, the quality of the answers one gets is deteriorated. Answers can also be tactically motivated. I took care in seeking to avoid such dangers when I approached people and when I conducted the interviews; fortunately, with one exception all my interviews took place in a friendly and open atmosphere. I will not speculate as to whether the informants were actually telling me what they believed or not, I will simply take their statements of opinion at 'face value'.<sup>4</sup>

At the moment of analysing the documentation and in particular in the analysis of the interviews there is a danger of misinterpretation. This danger is increased when, as in my case, information is collected in and concerns a somewhat unfamiliar cultural context. A technique for improving one's understanding of an alien cultural context is to focus on dialogue with the natives. This way, the researcher can seek to change his or her bias by receiving correction (Burawoy 1991). An advantage of the semi-structured way I conducted the interviews is that this interaction was facilitated. Triangulation is another way of reducing the chance of misinterpretation. Some of the informants were familiar with the theories I use here, and could therefore comment on the concepts I used directly. Lastly, but most importantly, my familiarity with the region and with Spanish, as well as the five months I spent in Guatemala during

<sup>4</sup> This is the same approach as that taken by David Stoll (1993) in his well-known study on the Guatemalan civil war in the Ixil indigenous area.

the fieldwork and subsequent visits, have been very useful for getting a grasp of Guatemalan politics and culture. Nevertheless, misinterpretations of the material and inaccuracies in the translations, as well as factual mistakes, may occur, and these are my exclusive responsibility.

Yin (1994) suggests the following criteria for a 'good quality case-study': that few significant sources have been ignored, that the major rival interpretations and opinions are presented, and success in bringing prior expert knowledge to the study. I hope the following pages of this thesis will convince the reader that these criteria have been met.

Lastly, an ethical aspect of this study should be underlined. Social science administered by 'outsiders' can be both damaging as well as helpful for those who live in the societies that are studied (Warren 1998, Watanabe 1994). This concern is particularly relevant in Guatemala, where studies by foreign anthropologists of the indigenous peoples in Guatemala have been numerous. For example, some of these studies executed in the 1950s and 1960s predicted the demise of the indigenous culture (Adams 1995, Gálvez et al. 1997b:39-40, Gálvez et al. 1997c:42-3). Many of indigenous people I spoke with in Guatemala underlined how this prediction has had harmful consequences for them. Social science does not operate in a vacuum; there is a danger of reflexivity in that the researcher's opinions and analysis has real-life consequences. The limitations of this study should therefore be strongly kept in mind should anyone wish to draw practical political conclusions of what is written here.

## 1.4 The Guatemalan Context

### On Ethnicity in Guatemalan History

The Maya historically inhabited a vast area covering today's Guatemala, Belize, the southern parts of Mexico, and parts of Honduras and El Salvador. Prior to 2000 BC there was a single Mayan language, which gradually evolved into a number of different languages with varying degrees of inter-relatedness (Coe 1993:24). The historical Maya are perhaps best known for their achievements in astronomy, writ-

ing, complex religions and social systems, and the construction of pyramids and vast cities. This civilisation suffered a collapse around 800 AD, and the great Mayan cities of the lowland jungles were abandoned.

When the Spanish conquerors in 1524 arrived in the area that later became Guatemala they met a number of indigenous groups, most of which spoke a Mayan language. Though these groups were not politically united and frequently at war with each other, they shared many cultural elements. On the Pacific coastal plains lived a number of rather small non-Maya groups: Pipil, Zoque, and Xinca. The Spaniards brought with them new diseases, which together with the violence of the conquest and forced labour quickly decimated the indigenous population. It took centuries before the population recovered its pre-conquest size. Nonetheless, the number of indigenous remained high in comparison to other parts of Central America.

During the colonial period, the indigenous were subject to forced labour and obliged to pay taxes. The colonial powers sought to substitute indigenous languages with Spanish, and the indigenous religion with Catholicism. There were numerous minor rebellions throughout this period that met violent repercussions (Dary 1997). The attempt to assimilate the indigenous culture was rewarded with limited success. The indigenous resisted assimilation by maintaining their religious and cultural practices in secrecy and by bringing their own cultural elements into Catholic rituals and beliefs. The indigenous communities, though formally subject to the Spanish monarchy, did keep a substantial degree of political autonomy. Traditional indigenous institutions, such as the 'council of the elders' were also given formal recognition by the Spanish authorities in exchange for providing labour and tribute. This is the origin of Guatemala's parallel system of authorities, which to some extent persists today.

After 1540, the colonial power sought to keep the two groups separate, and the Spaniards were prohibited from settling in indigenous communities by law. However, a new group quickly emerged as a consequence of the contact between these

two cultures: the *mestizo* or 'mixed-blood'. The *mestizo*, or *Ladino*, as they later came to be called, were stigmatised by the colonial authorities, but also enjoyed certain privileges compared to the indigenous, such as being exempt from forced labour and certain taxes (Adams 1997, Dary 1994). This gave incentives for many indigenous to 'ladinise'; by changing language and customs they endeavored to be considered 'Ladino' to avoid the disadvantages of the 'indigenous' status. The *Garifuna*, a group of Caribbean and African origin, probably started settling in Guatemala towards the end of the eighteenth century (Arrivillaga 1998).

Central America proclaimed independence from Spain in 1821, and Guatemala became an independent state in 1838 when the Central American Federation fell apart. Guatemala's first constitution, from 1825, put an end to the formal segregation of indigenous and the descendants of the Spaniards, the *criollo*. Though the *Ladino* were still regarded as second-class citizens, the nineteenth century saw this group gradually come to power at the national level (Woodward 1971:64). The influx of *Ladino* to indigenous communities increased, but in areas with a significant proportion of both *Maya* and *Ladino* a system of parallel authorities continued to exist. Locally, the *Ladino* dominated the public institutions set up by the state, whereas the indigenous maintained separate institutions for decision-making and conflict resolution. The occupation of indigenous lands gained new impetus, particularly from the 1880s and onwards when the right to collective ownership of land was abolished.

Despite the formal existence of democratic institutions and a system of civil and constitutional rights, Guatemala remained ruled by a series of presidents who made themselves life-long dictators until 1944. A new system of forced labour was introduced by inducing the indigenous into debt, a debt repaid by manual labour on the plantations of coffee, sugar and other crops. This, in addition to the so-called 'vagrancy laws' subjected huge numbers of the indigenous to temporary forced labour (Sieder 1996:61-74). To

achieve cultural assimilation of the indigenous, the state relied heavily on an educational effort, but the results were meagre (Gálvez et al. 1997c:39).

The Guatemalan revolution of 1944 brought an end to the era of dictatorships and inaugurated a ten-year period of reform-oriented democratically elected governments. The state's policy towards the indigenous, however, changed little, though the practice of forced labour was attenuated. The indigenous continued to be denied equal rights and political participation. A successful coup in 1954 brought the Guatemalan military to power with the support of the USA's government. In 1962, a few disaffected army officers left for the eastern mountains to inaugurate a guerrilla struggle that would last almost 35 years. Gradually, the guerrillas became inspired by Marxism and the experience of the Cuban revolution. This first wave of insurrection was crushed by the army by the late 1960s and did not affect the indigenous to a large extent, since it took place in an area of the country inhabited mostly by poor *Ladino* farmers. In the 1970s the army continued its violent repression of all urban opposition, and in a number of fraudulent elections high-ranking military officials were elected presidents. Social mobilisation grew toward the end of the decade and there were protests by farmers and the labour movement against the dictatorship.

Throughout the 1960s and 1970s, significant transformations were taking place within traditional *Mayan* communities as these were drawn into the global economy. A reform movement within the Catholic Church, the 'Acción Católica', prompted the growth of a new group within indigenous communities. Young *Maya* who had turned away from *Maya* tradition, usually called 'catequistas', opposed the more traditionally inclined of their fellow community members, the so-called 'costumbristas'.

In 1975 the guerrillas opened up a new front in the indigenous highlands in the northwest, and the war took a new turn. The guerrilla leadership, none of whom were indigenous, chose to recruit in the *Mayan* areas (Smith 1991:32). This recruitment was not unproblematic (Payeras

1980), but had greater success after the army increased its counterinsurgency activities. By 1981-82, the majority of the guerrilla foot soldiers were rural Maya.<sup>5</sup> The killings became more indiscriminate and entire villages were wiped out as part of the army's counterinsurgency strategy. The Guatemalan Truth Commission (CEH 1999), sponsored by the United Nations, documents no less than 626 massacres committed by the army. More than 80% of the approximately 200,000 people killed during almost 35 years of war were indigenous. 3% of the total number of killings are attributed to the guerrilla, whereas 93% are attributed to the army and its associates. Between 0.5 and 1.5 million people fled or were forced to leave their homes, many of whom ended up in refugee camps in Guatemala's neighbouring countries. The army's strategy, which in addition to the massacres included the burning of crops, systematic use of torture, 'disappearances' and terror to scare the civilian population, has been classified as an attempt to commit genocide on the Maya (CEH 1999). Respect for civilian lives and indigenous culture seems to have been lacking also from the guerrillas' standpoint, and the Truth Commission documents numerous massacres, and incidents of use of torture and terror by the guerrillas.

By 1984 the guerrillas were militarily beaten, but the war continued until 1996, though at a much lower intensity than in the early 1980s. A new constitution was introduced in 1985, and in 1986 a democratically elected government took seat. Elections have since then been regular, and considered by most external observers to be relatively free and fair, despite the persistence of a number of deficiencies of the Guatemalan democracy. The party in

power at the time of writing is the Partido de Avanzada Nacional (PAN), frequently characterised as 'neo-liberal'. At the elections on 7 November, 1999, the right-wing populist party Frente Republicano Guatemalteco (FRG) won a majority of the seats in the Congress, a substantial part of the municipalities, and came close to winning the Presidency with 48% of the votes. A run-off for the Presidency is to be held on 26 December, 1999 between the candidates of the FRG and the PAN, the two parties that received most votes on 7 November.

The Accord in Identity Rights of the Indigenous Peoples (AIDPI 1995) was signed in 1995 between the Guatemalan government and the guerrillas. The Accord states that the Xinca, Garifuna and Maya are 'peoples' with rights, and lists a number of Mayan languages and the 'fundamental elements' of Mayan identity. The government accepts to undertake a number of measures to eliminate discrimination, such as revising all Guatemalan laws. The Accord underlines that 'all languages deserve equal respect' and lists a number of measures to be taken by the government concerning this issue as well as education, protection of religious sites, constitutional reform, recognition of traditional forms of authority and decision-making, land rights and more. Central to the agreement is the notion that recognition of indigenous rights is conducive to national unity (Plant 1997). Other proposals imply an extension of indigenous autonomy, such as the recognition of community law and the strengthening of municipal government.

Not all sectors of the Guatemalan society have been pleased with the Accord. Some argue that the Accord has negative implications for national unity. The legal status of the agreement has also been controversial; several commentators have argued that the Accord was 'illegal' because one of the signatories, the guerrillas, was an 'illegal group'. In part due to this controversy it was deemed necessary to turn the Accord into something permanent and of indisputable legal status. Moreover, in the Accord the government commits itself to promote constitutional reforms that redefine the Guatemalan

<sup>5</sup> The degree of popular support for the guerrilla movement, and the causes of this support, are complex and controversial issues. The debate can perhaps be structured between those who see the guerrillas largely as a result of (massive) popular uprising against oppression (Arias 1990, Falla 1992), and those who emphasise that recruitment can be understood largely as a result of the dynamics of the war and the use of force (Le Bot 1995, Stoll 1993). See also the report of the UN Truth Commission (CEH 1999).



nation as united, multiethnic and multi-lingual.

After negotiations throughout 1998 and considerable international pressure, a proposal for constitutional reform (Siglo Veintiuno 1998a) was reached as a compromise between the forces that compose the Congress. A goal of these reforms, according to one Maya, was that 'the constitution should reflect the national reality with all its particularities and differences, and thus be converted into a social contract indicating an agreement and a responsibility of all with no exclusions' (Pop 1997). The proposal listed the indigenous languages that are to be considered 'official', and thus have equal status with Spanish, though with a more limited degree of application. The other significant novelty of the proposal was the incorporation of indigenous 'community law' into the official legal framework, discussed in chapter 4.

The proposal, which received formal support from all major political parties, was rejected by a majority in the 16 May, 1999 referendum in which only 18% of the electorate voted. The proposal was attacked by the political 'right', and the referendum had to be postponed once due to claims that the procedure for the referendum violated the constitution. The referendum was seen by most external observers as being of great importance for the continuation of the peace process and democratic reform.

### **Discrimination, Racism, and the Guatemalan State**

An obstacle to the creation of a democracy in Guatemala which accommodates cultural difference, is the prevailing perception of 'natural hierarchies' of culture and 'race'. The official version of what it is to be Guatemalan has been one of cultural homogeneity (Palma 1996:46, Solares 1997:8), and by equating 'being Guatemalan' with their own cultural characteristics, the Spanish-speaking elite in Guatemala have sought to legitimise their control of the Guatemalan state. A wealthy Ladino minority dominates political life in Guatemala, and this elite has utilised the state and the laws to further its own interests (Palma 1996:46, Sieder

1996:14). Ideas about cultural assimilation of the indigenous into the Spanish-speaking culture have been reflected in the attempts of the Guatemalan state to create a national identity that includes all Guatemalans, through policies aiming at the assimilation of the indigenous by replacing the indigenous cultures with the Europeanised culture of the Spanish-speaking elite (Cojtí 1996a:84). Indigenous cultures have been looked upon as opposed to 'European culture', and the latter has been considered synonymous with 'civilisation' and 'development'. According to Carol Smith,

the general state policy has been to target Indians for work, ignore their 'backward' traditions, allow a few of the more 'civilised' to become Ladinos, and brutally mow down any who pose a direct challenge to Creole or Ladino dominance (Smith 1991:31).

There is an ongoing discussion in Guatemala concerning what it means to be 'Guatemalan', and what role ethnic identities should play in the Guatemalan political system. This is not simply a discussion of who belongs to which groups; it is also a discussion that affects the distribution and legitimisation of political power. Estuardo Zapeta (1997:4) argues that discussing Ladino identity implies 'touching hegemonies, interests, privileges, history-myths, structures, paradigms, ...it means touching and rearranging the State itself'. According to John Watanabe,

to become skilled, educated, influential, or simply part of modern Guatemalan society, it would seem Maya must first cease to be Maya. Even when they do learn Spanish, don Ladino clothes, and enter Ladino trades, however, Ladinos have little reason to accept them as anything other than *déclassé* ex-Indians (Watanabe 1994:31).

Relationships between ethnic groups vary in different parts of the country. For example, according to some of my informants, in the Verapaces region differences in wealth are given far more social emphasis than differences in ethnic iden-

tity. Many of Guatemala's non-indigenous are also marginalised economically and excluded politically, and some Guatemalans therefore argue that racism is not particularly prevalent in Guatemala; discrimination is a result of enormous differences between the rich and the poor.<sup>6</sup> According to Berganza (1997), on the other hand, considering the 'indio' as someone inferior is part of Ladino upbringing, and it is learned by assimilating the prevalent opinions in the Ladino social environment. Of the persons I interviewed, only one argued that neither racism nor cultural prejudice are essential for understanding the exclusion of the indigenous from Guatemala's political institutions.

Marta Casás (1998), in her survey on the attitudes of the Guatemalan elite towards the indigenous, explains that the same family lines have ruled Guatemala for centuries by intermarrying. Casás argues that the 'perpetuation of lineage', an ideology which has been fundamental to avoid procreating with persons of non-European origin, has been an instrument whereby the elite in power has sought to achieve and maintain control over political institutions and economic resources. Intermarriage with the indigenous has occurred frequently among the elite, but this is generally denied or has been considered undesirable. Negative stereotyping of the indigenous, such as labelling them 'lazy', 'submissive' and 'conformist', is in her view part of the elite's strategy to legitimise social inequality (op.cit.:65-74). Another such stereotype, popular among Marxists and 'progressive liberals' is that the indigenous are 'traditional', and thus an impediment to 'progress'. Influential intellectuals of the 'left' have seen indigenous culture as a mere product of Spanish colonial oppression, or have qualified traditional indigenous beliefs as 'false consciousness' that impeded the formation of 'class solidarity' and revolutionary struggle.<sup>7</sup>

<sup>6</sup> Haroldo Quej, a member of the Guatemalan Congress and Maya, is quoted as saying this in *Iximulew* 13 October 1996. This is also an opinion I frequently heard expressed among the non-indigenous.

<sup>7</sup> See discussion in Gálvez and Esquit (1997b).

On the whole, age, gender, occupation, and education seem to be of little relevance when it comes to explaining these attitudes. Several of my informants stressed how continuation of the exclusion of the indigenous from political leadership was justified on the basis of indigenous 'lack of maturity'.<sup>8</sup> Even among some researchers I spoke to in Guatemala, notions of indigenous 'backwardness' linger on, and Casás (op.cit.:139,144) argues that social science in Guatemala generally has served to justify the exclusion of the indigenous from the state. She (op.cit.:78) concludes that 'racial' prejudices, based on physical attributes, are clearly more prevalent than those based on 'class' or income and wealth.

Non-indigenous conceptions of the indigenous have taken on various shapes throughout Guatemalan history, and 'indigenous' has been conflated with disease, alcoholism, and inferior intellectual capacity<sup>9</sup> by the Guatemalan elite. According to Cojtí (1996b, 1996c), discrimination based on skin colour is reinforced by discrimination based on culture in Guatemala: not only are the indigenous considered biologically inferior by many of the non-indigenous, they are also believed to possess a more primitive culture. The beliefs Guatemala's ruling elite has concerning its relation to the indigenous and the poor may to some extent have been reflected in the perception the Maya have of the Ladino as 'those with power, those who take the decisions, those who are above the Maya' (Esquit 97). This tendency is sometimes sought reversed by Mayan activists who argue about Ladino inferiority (Wilson 1995: 279). A result from a recent study (ASIES et al. 1998), which gives some reason for optimism, is that Ladino tolerance towards the Maya seems to be increasing. When it comes to the justice system, on

<sup>8</sup> For example, one of the leaders of a left-wing party under formation, argued when asked why indigenous representation in the organisation's leadership had been *reduced*, that the indigenous lacked 'maturity' and 'were not yet ready' to assume leadership.

<sup>9</sup> Presentations by Greg Grandin, Virginia Garrard Burnett and John Watanabe at the Society of Latin American Studies' Annual Meeting and Conference, 9-11 April 1999, Cambridge, United Kingdom.

the other hand, less than 50% of both Maya and Ladino believed that the indigenous were treated equally with the Ladino in the court system and by the police.

What is the status of indigenous culture and languages in the Guatemalan legal system? *The Guatemalan Constitution of 1985* states that ‘the state recognises, respects and promotes’ indigenous traditions, ways of life, types of social organisation, clothing and languages (Art. 66). Communal and collectively owned lands are entitled to protection and financial assistance from the state, and the state shall provide land to indigenous communities depending on need (Art. 67-68). In areas with a mainly indigenous population, education ‘should preferably’ be bilingual (Art. 76). Spanish is the country’s official language, and the ‘vernacular languages are part of the cultural patrimony of the Nation’ (Art. 143). These articles ‘altered the monolithic tradition begun in 1879 regarding a unitary nation and a centralist State’ (Gálvez and Esquit 1997b:24). However, the constitution clearly does not give indigenous language and culture equal footing with Spanish language and Ladino culture. According to many of my informants, the problem with today’s constitution is that ‘it represents only some of the citizens. Formally or tacitly, it establishes that there is a dominant culture (the Ladino), a single language (Spanish), a single law (Roman law), and it gives the Catholic religion a privileged position’ (Ferrigno 1997). As Marta Casás (1998:35) argues, ‘the Guatemalan indigenous is an “imagined citizen”, in being legally and formally homogenous and equal, but profoundly different in economic, cultural and political terms’.

It was after considerable mobilisation and pressure from the indigenous organisations that *the ILO Convention no. 169* (ILO 1989) was ratified in Guatemala, and it has formally been in operation since 1997. This Convention is a significant step forward in the legal recognition of the differentiated group status of the indigenous. The Convention uses the term ‘people’ for the indigenous, but explicitly states that this should not have the impli-

cations that it has under international law, e.g. the right to self-determination. However, it underlines the indigenous peoples’ right to be consulted, an important improvement for the indigenous compared to the constitution. The convention, in article 7, recognises the right of the indigenous to decide their own priorities for the process of development as it affects their lives, beliefs, institutions, spiritual well-being, and the lands they occupy or otherwise use. It also recognises the rights of the indigenous to exercise control, to the extent possible, over their economic and cultural development. In addition, they shall participate in the formulation, implementation, and evaluation of plans and programmes for national and regional development that may affect them directly.

The convention also requires that the government identify the lands that the indigenous traditionally have occupied. Article 1 of the convention underlines that self-identification as an ‘indigenous people’ shall be an important criterion for defining which groups the convention should be valid for. Though potentially a legal base on which future indigenous claims can be made, it seems that the convention has had few practical consequences so far. The same can be said of the International Covenant on Civic and Political Rights, which states in article 27 that ethnic minorities shall not be denied the right to practice their culture, religion and language.

The above characterisation of the Guatemalan state comes close to an ‘ethnocracy’ or ‘ethnocratic state’,<sup>10</sup> which Nils Butenschøn defines as

Regimes that express the identity and aspirations of one ethnic group in an ethnically divided society. It is a form of government based on the rule of one ethnic group over other ethnic groups (Butenschøn 1993:6).

Smootha and Handf follow the same line of reasoning:

<sup>10</sup> Adams (1996:76-7) also uses this term to characterise the Guatemalan state, and attributes the term ‘ethnocratic state’ to Rodolfo Stavenhagen.

Ethnic democracy differs from other types of democracy in according a structured superior status to the dominant group, keeping the non-dominant groups out of the highest offices of the state and alienating them from the character of the state (its symbols, official language, religion, immigration policy).<sup>11</sup>

Guatemala is, at least to a significant degree, an 'ethnocracy' when it comes to control over the state apparatus, except at the municipal level. It is also a state where cultural assimilation has been an explicit goal of the state, and where those who conformed to this policy may have achieved some improvements in their enjoyment of the rights of citizenship and possibilities for economic improvements. Nevertheless, the above cannot serve as 'evidence' of the importance of racism in relation to other factors, such as education and income, in explaining the current situation of political exclusion for the vast majority of the indigenous in Guatemala. These factors are furthermore interrelated in complex ways. Since the Spanish conquest, the prevalent indigenous strategy towards their exclusion from and suppression by state power has been to seek margins of autonomy by appropriating those institutions and practices deemed useful, rather than confronting them directly. With the arrival of the Mayan movement, this strategy may be changing.

### **The Mayan Movement: Its Aims and Organisation**

The Mayan movement grew out of the cultural and political transformations that Mayan communities went through in the 1950s and 60s. Numerous indigenous community leaders were killed during the war, and the escalation of violence in the early 1980s forced many Mayan organisers to 'go under cover'. Activities soon picked up with the introduction of democratic elections and the reduction of political repression from 1986 and onwards. Freedom of speech and organisation has enjoyed a high degree of respect since then. The campaigns of resistance generated in 1992 around the 500 anniversary

of the arrival Columbus in the Americas gave the movement new impetus, and the growth of the Mayan movement finds its counterpart in increased indigenous organisation globally (Solares 1995). Another important event in 1992 was that the Mayan indigenous woman Rigoberta Menchú Tum was awarded the Nobel Peace Prize. This was widely perceived as recognition of the struggles of the indigenous peoples. Since the late 1980s, there has been a significant growth in indigenous organisations, and indigenous organisational participation today is generally the same as that of the non-indigenous (ASIES et al. 1998:10). In a survey made at the beginning of the 1990s no less than 400 Mayan NGOs were registered (Ekern 1998:69).

The Mayan movement, as this loose conglomeration of indigenous organisations is often called, is very heterogeneous. The size of the organisations varies enormously, as do their organisational structures, ideologies and strategies. Some operate within a very limited geographical scope, such as community-based 'development committees' aimed at solving particular practical needs at the community level. Some emphasise socio-economic issues such as land reform and economic redistribution. These are usually referred to as 'populares'. Others focus on academic activities, research and the revitalisation of Maya culture and languages. These are usually called 'culturales'. According to Carol Smith (1991:39), 'three types of people currently make up the movement, almost all of them literate, self-proclaimed Maya: students and intellectuals; community-based professionals (teachers, agronomists, health workers); and members of local NGOs and co-operatives'. There have been attempts to coordinate the numerous Mayan organisations, and a number of umbrella organisations with this aim exist. However, the great diversity of the Mayan movement has so far made such attempts complicated. The Mayan movement has been extensively studied over the last years, both by Guatemalan and non-Guatemalan researchers, indigenous as well as non-indigenous (Bastos and Camus 1995 and 1996, Cojtí 1997a, de Paz 1993, Ekern 1998, Gálvez

<sup>11</sup> Quoted in Butenschøn (1993:5).

and Esquit 1997b, Gálvez et al. 1997c, Warren 1998, Watanabe 1994).

What are the indigenous in Guatemala demanding? Broadly speaking, they wish to put an end to discrimination. However, ending discrimination may imply two quite different things. First, it can mean that individuals should be treated in an identical or similar manner. For example, both ‘social justice’ and ‘ending racial discrimination’ are usually seen as implying putting an end to differentiated treatment. Secondly, ending discrimination can also imply that differences should be taken into account. For example, ‘cultural justice’ is achieved when people’s cultural differences are given equal consideration. Both of these perceptions of discrimination reflect a desire for justice in the sense of achieving equality, but they concern different issues. The indigenous in Guatemala are claiming both that unjustified differentiated treatment should end and that cultural difference should be taken into account. As Anne Phillips (1995:37) argues, ‘in some circumstances equality means differential treatment; in other circumstances it means treating people the same – there is no logical or political requirement to stand by just one of these options’.

Claims for *social justice* have been high on the agenda of the Mayan movement (Bastos and Camus 1995, Cojtí 1997a, Gálvez et al. 1997c). The vast majority of today’s indigenous in Guatemala live beneath the poverty line. Perhaps as many as 70% of the indigenous are illiterate, compared to 30% for the Ladino, and the average life expectancy of the indigenous is approximately 12 years less than that of the non-indigenous (Cojtí 1997a:26-9). However, there is no total correspondence between being indigenous and being poor. The majority of the non-indigenous also live beneath the poverty line, and there is a substantial number of rather well-off Maya, even if the Guatemalan economic elite has never included a Maya. What should be emphasised is that ethnic identity does not justify economic positions. Issues of social justice are therefore conceptually different from and should be

distinguished from claims for cultural justice, which is my concern here.

A salient issue in today’s political debates in Guatemala is land ownership. Guatemala has become infamous for its inequitable distribution of land, and land conflict is a widespread and recurring problem for many farmers (Black 1998). The land issue is often seen as entailing more than just ensuring an equitable access to the country’s resources, it is sometimes presented as an issue of Mayan cultural survival. Mayan identity and religion, it is often argued, are tied to the ancestral land and to the cultivation of the maize (Wilson 1995, Bastos and Camus 1995). If Mayan culture is to be given the same chance of survival as Ladino culture, then, the argument goes, the Maya must be ensured access to a sufficient amount of land to be able to maintain their cultural practices. This argument, however, essentialises Mayan identity by tying it to particular economic practices.<sup>12</sup> The implication of this would be that persons who are not farmers cannot be Maya. Land distribution therefore, seems to concern theories of distributive justice and not cultural justice (Kymlicka 1995a:110, n. 5). The main challenge is to sort out the current chaos of land titles, which is very slowly being dealt with, and find ways to solve conflicts that arise from different conceptions and practices of land ownership. It should also be noted that land redistribution can only to a limited extent solve today’s problems of poverty and economic inequality, because the demographic growth is already making cultivable land scarce in many communities with a Mayan majority (Stoll 1993, 1997).

A great number of the issues on the agenda of the Mayan movement can be categorised as demands for ‘*cultural justice*’, by which I mean demands for differentiated treatment on the basis of cultural difference. As Ekern argues:

The greatest challenge of the politics of the indigenous is exactly the strong presence and the implicit demand for assimilation coming from the national society that sur-

<sup>12</sup> See discussion in chapter 3 on ‘essentialist’ and other conceptions of ethnic identity.

rounds the indigenous community (Ekern 1998:79).

Indigenous demands for 'cultural justice' can be placed in two groups. Some concern the *content* of specific policies, such as education, language and religion. Others primarily concern giving the indigenous the *means* to influence particular policies, such as guaranteeing the indigenous a fair representation in the country's political institutions, and political autonomy for the indigenous.

Change in the public language policies is one of the principal demands of the Mayan movement. Not only is Spanish the only officially recognised language in Guatemala, but a significant proportion of the population is also monolingual Mayan speakers. Bilingual services in public institutions are still poorly developed. Language also concerns the country's system of education, and the extension of bilingual schools is high on the agenda of the Mayan movement. The Mayan movement seeks to revitalise Maya culture and improve its public and official appraisal. Projects aimed at preserving old religious beliefs and practices, and reconstructing old community practices for conflict-resolution and decision-making are being carried out by different Mayan organisations, often with international support. The Mayan organisations demand easier access to and increased control over the numerous ancient Maya monuments and works of art. I discuss the issues of language and education briefly in relation to 'non-discrimination' and 'recognition' in section 2.5.

As for proposals that aim to increase Mayan political *influence*, some concern reforms in the Guatemalan electoral system, such as increasing the number of deputies that can be elected in areas with a predominantly indigenous population, and to make these areas correspond geographically with the indigenous linguistic groups. Another type of proposal (Gálvez and Esquit 1997b:66) is to give preferential access to public positions, or reserve a quota of seats in public institutions for the indigenous. Other claims concern indigenous political autonomy, which is to be achieved largely through decentralisation

of power to the municipalities. Another important issue at hand is the official recognition of indigenous customary law, mentioned above. These proposals are analysed in chapter 4.

### 1.5 The Relevance of a Discussion on Justice and Cultural Difference in Guatemala

Is a liberal political approach to multicultural justice applicable to Guatemala? Theories of justice that seek to reconcile the specific needs of minority cultures with the basic values of freedom and equality are, in my view, applicable to any democracy where the citizens are divided into different cultural identities. Moreover, Amartya Sen (1998) argues that the merits of democracy are *universal*, its legitimacy does not depend on the particular cultural, economic or social characteristics of a country. Even though democracy has a short and troubled history in Guatemala, it stands uncontested as the right and legitimate model of government among the vast majority of Guatemalans. Even during Guatemala's recent period of dictatorship, from 1954 to 1985, elections were held and democratic institutions formally upheld. Though these elections were fraudulent and the political institutions were largely controlled by the military, this still shows how even a military government needed a tie with 'democracy' to legitimise their rule. Democracy and the values inherent to it are furthermore entrenched in the numerous international human rights conventions signed and ratified by the Guatemalan state, as well as in the Guatemalan Constitution of 1985 (Constitución 1996), as is reflected in article 4: 'In Guatemala, all human beings are free and equal in dignity and rights.' The values of freedom and equality have implications for how the state in a democracy can treat different ethnic groups, in Guatemala as well as elsewhere.

Some might object to this study, arguing that a discussion of rights is futile in a country where attempts at reform, and in particular the demands of the indigenous people have often, if not always, been met with brutal military repression. Following this argument, it could be said that consid-

erations of justice will do little good in a country where political and economic power is concentrated in the hands of a small elite, a small elite which is unwilling to cede any power no matter how good the arguments for doing so are.

One objection to this argument is that it gives an inadequate account of how power is distributed in Guatemala. No state is homogenous and integrated enough to give a single group total dominance (Sieder 1996:33). Even though political and economic power in Guatemala is concentrated and centralised, there have always existed margins of action for those who have been excluded from government and the main political institutions of the state. At the same time, the Guatemalan state has never fully developed the institutions necessary to extend the state apparatus and to exert a high degree of political and ideological control over its citizens. It is probably more accurate to view the Guatemalan state as 'weak and coercive rather than strong and hegemonic' (C. Smith 1991:31). Repression in Guatemala is a complex pattern of local power balances and patron-client relationships, which cannot be reduced to an emphasis on the will and shortsightedness of the Guatemalan elites. Because the state has been weak, and because the indigenous peoples and the Ladino have been separated culturally and linguistically, and to some extent geographically, they have maintained a high degree of separate existence also politically. I return to this issue in chapter 4.

Secondly, the peace process, the reintroduction of democracy, the strengthening of civil society, and the extensive international presence in Guatemala, have done much to reduce the possibility of using violence to thwart attempts at reforms. The most serious test of the Guatemalan democracy came in 1993, when President Serrano tried to usurp power by abolishing the Congress. He was prevented from doing so by massive general protesting as well as lack of support from the military and the country's economic elites. This incident can be interpreted as evidence of the newly gained strength of civil society and the

general acceptance of democracy in Guatemala (McCleary 1997).

Thirdly, the implications of multiculturalism for the state are debated daily in Guatemalan media. Numerous indigenous organisations are particularly active in vocalising demands for the recognition of their cultures. Various commissions have been set up in accordance with the Peace Accords, whereby indigenous representatives are for the first time in history negotiating directly with the government. The purpose of these commissions is to present proposals concerning issues of vital importance for the future of the indigenous cultures, such as multicultural education, indigenous community law, the status of the indigenous languages, political participation and more. Analysing these questions at this particular moment in Guatemalan history is specifically pertinent because, as Rachel Sieder (1996: 13) argues, it is in this phase of democratic transition that questions are raised about who should have which rights and obligations.

The debate on multiculturalism in Guatemala raises complicated conceptual questions, but finding a model of ethnic coexistence that is fair and generally acceptable may be seen as a prerequisite for lasting peace and democratic stability. In this respect, the proposals that abound in Guatemala on how to reform and democratise the state and the society in order to make them more inclusive of different ethnic identities deserve careful examination and analysis. Moreover, as Raino Malnes (1997) argues, even if there are differences between ideals, such as those that follow from considerations of justice in multicultural democracies, and reality, normative analysis may nevertheless be of great value. Such analysis can serve to examine whether the reasons to be sceptic to normative conclusions are warranted.





# Chapter 2: Justice and Cultural Diversity

## **2.1 'Recognition' and 'Non-Discrimination' as Approaches to Justice**

The basic difference between 'non-discrimination' and 'recognition' is the question of whether cultural identities should be of any concern for the state. The two approaches represent opposite views on whether the state should promote cultural diversity by protecting selected cultures or not. 'Non-discrimination' implies that cultures are protected indirectly through guarantees for fundamental individual rights, such as freedom of organisation, freedom of speech and freedom of religion. Thus, individual citizens are free to express their cultural identity in private, but this expression does not concern the state directly, except in the sense that it is the responsibility of the state to protect the rights and freedoms that makes this expression possible. 'Non-discrimination' requires a commitment 'in the strongest possible way to individual rights and, almost as a deduction from this, to a rigorously neutral state, that is, a state without cultural or religious projects or, indeed, any sort of collective goals beyond personal freedom and physical security, welfare, and safety of its citizens' (Walzer 1994:99). 'Non-discrimination' is an approach with 'no legal-institutional distinctions attached to ethnic (race, descent, nationality, language, religion) affiliation of the citizens' (Butenschøn 1993:9).

'Recognition', on the other hand, involves the state in a much more active way, by conferring an obligation on the state to promote and protect different cultural identities. Groups are conceded rights that help guarantee their continued existence as separate cultural entities, such as for example guaranteed representation in public institutions and different types of political autonomy. This approach presupposes that it is possible to identify the relevant groups, and also identify who belongs to which group. Recognition

'allows for a state committed to the survival and flourishing of a particular nation, culture or religion, or of a (limited) set of nations, cultures, and religions – so long as the basic rights of citizens who have different commitments or no such commitments at all are protected' (Walzer 1994:99).

In political systems based on 'recognition', group affiliation determines the legal power distribution to a large degree. In systems based on 'non-discrimination', on the other hand, 'group affiliation is legally-politically irrelevant: Rights and obligations are attached to individual citizens irrespective of group affiliation. Both systems are in principle non-discriminatory, but in the latter case "one man, one vote" is a norm without legal qualifications' (Butenschøn 1993:9). In the remainder of this chapter, I present Kymlicka's and other authors' defence for group-differentiated rights before I go on to discuss whether there is a conflict between these and individual rights. I also look at the question whether a group's size is of any relevance for its claim to group-differentiated rights. I then discuss whether 'non-discrimination' can be maintained despite Kymlicka's objections against it. I illustrate some implications of 'non-discrimination' by discussing a number of multicultural dilemmas in Guatemala.

## **2.2 Justifying 'Recognition'**

'Recognition' and the various types of group-differentiated rights it may entail, is an established policy in many democracies around the world, such as the USA, Canada, Norway, and Australia. This indicates the viability of democracies that incorporate 'recognition'. However, the existence of such rights is in itself insufficient to justify them; positive rights need convincing arguments to prove that they are morally justified (Oskal 1999:142).

### Culture and Freedom

Kymlicka (1995a) gives three basic justifications of group-differentiated rights. The first is the argument that *freedom is dependent on culture*. Kymlicka argues a liberal theory of politics requires rights to protect cultures, because membership in a ‘societal culture’ is a necessary precondition for individual freedom. A ‘societal culture’ is ‘a culture which provides its members with meaningful ways of life across the whole range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language’ (op.cit.:76). Why is membership in a societal culture necessary for freedom? Kymlicka considers access to a societal culture as essential for personal freedom because

freedom of choice is dependent on social practices, cultured meanings, and a shared language. Our capacity to form and revise a conception of the good is intimately tied to our membership in a societal culture, since the context of individual choice is the range of options made available to us by our culture. Deciding how to lead our lives is, in first instance, a matter of exploring the possibilities made available by our culture (Kymlicka 1995a:126).

Not only are the options from which we choose how to lead our lives provided by our culture, according to Kymlicka, our culture also provides the measurements we use to identify something as valuable:

Whether or not a course of action has any significance for us depends on whether, and how, our language renders vivid to us the point of that activity. And the way in which our language renders vivid these activities is shaped by our history, our ‘traditions and conventions’. Understanding these cultural narratives is a precondition for making intelligent judgements about how to lead our lives. In this sense, our culture not only provides options, it also provides the spectacles through which we

identify experiences as valuable (Kymlicka 1995a:83).

Our choices always take place within a certain cultural context: therefore our freedom depends on belonging to a societal culture. Access to a societal culture should therefore be considered a ‘primary good’, it is ‘a good which people need, regardless of their particular chosen way of life’ (op.cit.:84, n. 11).

Is membership in a societal culture so important that it requires special rights to protect it? Group-differentiated rights are, according to Kymlicka, needed to give people the same opportunities to work and live in their own culture. They are ‘...required by the view...that justice requires removing or compensating for undeserved or “morally arbitrary” disadvantages, particularly if these are profound and pervasive and present from birth’ (op.cit.: 126). If a person suffers a disadvantage because of her culture, measures that compensate for this are required because the disadvantage is undeserved. It is undeserved because it is not a consequence of the person’s individual choices but is rather due to circumstances over which the individual has little or no influence.

Can people have their options provided by a culture different from the one they are born in? This question seems particularly relevant for the case of Guatemala, since it has been a goal of the ruling powers in Guatemala to assimilate the indigenous peoples into the Spanish-speaking culture (Adams 1995, Guzman-Böckler and Herbert 1970). It is up until recently a common belief in Guatemala, and also in social science studies (Adams 1995) that the gradual disappearance of the indigenous cultures through the assimilation of the indigenous into Ladino culture is inevitable, and that attempting to preserve these culture is at best futile, at worst an impediment for economic and social development. Could the culture of the Spanish-speaking provide the indigenous people of Guatemala with the ‘context of choice’ they need for personal freedom? Kymlicka argues that leaving one’s culture has very high costs for the individual and it would therefore be an unreasonable burden to require people to do

this. 'Leaving one's culture, while possible, is best seen as renouncing something to which one is reasonably entitled' (1995a:86). Another problem with this argument for assimilation is that it is indeterminate as to which particular culture should be assimilated into another. Why, for instance, should the indigenous assimilate into 'Ladino culture' and not vice versa?

Equality of rights requires that the indigenous peoples of Guatemala, as well as all other Guatemalans are free to leave, maintain or change their culture as they choose, but forcing someone to leave her culture is clearly unjust. Group-differentiated rights are, in Kymlicka's view, justified by the need to ensure this freedom for all, members of minority cultures included. Group-differentiated rights are meant to 'ensure that members of the minority have the same opportunity to live and work in their own culture as members of the majority' (op.cit.:109). Group-differentiated rights can be seen as a means to improve the situation of disadvantaged minorities, thereby helping to rectify a situation in which individuals suffer undeserved disadvantages because of their societal culture.

### Historic Rights

Kymlicka's second argument for 'recognition' is that some groups have an *historic right to define the terms of incorporation into a state*. According to this argument, the incorporation of a particular group into a state provides a legitimate basis for certain claims to group-differentiated rights because such incorporations imply a renunciation of a group's sovereignty, either voluntarily or involuntarily. Kymlicka (1995a) argues that the question of which groups (or individuals) belong to which states is prior to the issue of which rights individuals and groups should have within a state. In some countries there are historical agreements defining the conditions under which a group is incorporated into a state, such as between the Indians and the government in the USA. These agreements may define which groups are members of which states and may specify or serve as a basis for group-differentiated rights. If the conditions laid out in such

agreements are broken by a state, it can be argued that the other party to the agreement is no longer legally bound to remain part of that state.

If, on the other hand, a group did not join a state voluntarily and no agreement exists, then '...the national minority might have a claim of self-determination under international law which can be exercised by renegotiating the terms of federation so as to make it a voluntary federation' (op.cit.:117). In Guatemala, there was never any agreement defining the incorporation of the indigenous into the Spanish colonial regime, which later became today's Ladino-dominated Guatemalan state. The Spaniards conquered the indigenous, and the colonisers settled in their territory and subjugated the indigenous to colonial rule. The independence of Guatemala from Spain changed little in this respect, and the indigenous continue to be subordinated to the successor state of the former Spanish colony. According to the argument of voluntary incorporation, the Maya do have a claim to negotiate the terms under which the Maya as a group are to be part of the Guatemalan state, because 'while they are part of a larger country, this is not a renunciation of their original right to self-government' (op.cit.: 181). Such a negotiation may serve as a justification for a number of group-differentiated rights.

It is less clear, however, what follows from the argument of involuntary incorporation when it comes to specific group-differentiated rights, except the right to negotiate the group's terms of incorporation. The right to negotiate also raises difficult issues about who is to represent the Mayans in such negotiations, what are to be the terms of negotiation, which are to be the issues on the agenda, and so forth. Kymlicka (op.cit.:118) argues that it is probable that arguments based on the value of equality and on the historic right to decide the terms of incorporation yield similar policies. One could therefore stick to arguments on the connection between cultural membership and freedom in the cases where there is no historic agreement that specifies the rights of particular groups, once having established the basis for group-differentiated rights in general

by affirming that the incorporation of a group into the state was involuntary.

A difficulty with historical agreements is that they are often hard to interpret (op. cit.:119). There are also likely to be divergent interpretations on past occurrences, such as to what degree the incorporation was voluntary. Another difficulty with giving history any moral weight is how such claims carry over from one generation to the next. How is a person or a group to be held responsible for actions committed not by them, but by someone in the past, only linked together through bonds of identity or familiarity? In Guatemala, indigenous claims for economic redistribution sometimes take the form of historic claims to compensation between groups. The logic of this argument, which was also expressed by some of my informants, can be put as follows: the indigenous were subject to economic exploitation under the Spanish colonists, and later the Ladino landowners. This exploitation must be compensated for today by descendants of the exploiters to descendants of the exploited. However, normative theories of distributive justice validate historic claims only to the extent that they have consequences for people today. In Kymlicka's opinion,

the idea of compensating historical wrongs, taken to its logical conclusion, implies that all the land which was wrongfully taken from the indigenous peoples... should be returned to them. This would create massive unfairness, given that the original European settlers and later immigrants have now produced hundreds and millions of descendants, and this land is the only home they know. Changing circumstances often make it impossible and undesirable to compensate for certain historical wrongs (Kymlicka 1995a:110, n.5).

In my view, compensation for wrongdoings committed by one's forefathers can only serve as an argument for restitution when an injustice committed in the past gives the descendants of the perpetrators of that injustice some benefit in relation to the descendants of those the injustice was committed against. John Watanabe warns against the danger in

reviling the injustices done to the Maya in the past because, he argues: 'a preoccupation with the injustices of history provides little sense of the future beyond repudiating the present that the past has spawned' (1994:3). Guatemalans today could, however, be held responsible for perpetuating an unjust situation today, which is probably to a significant extent a consequence of past crimes. Generally therefore, the indigenous demands for economic redistribution are universal, equal to such claims from members of other ethnic groups, and they are not culture specific.

### **The Value of Cultural Diversity**

Kymlicka's third justification for group-differentiated rights is that *cultural diversity contributes to the richness of people's lives* (1995a:121-3). It should therefore be in everyone's self-interest to promote and preserve cultural diversity. However, a culture different from one's own is only valuable to the extent it can provide models into which one might realistically choose to integrate, or to the degree to which it can enrich the range of options available to one's culture. Kymlicka therefore argues that it is not clear whether group-differentiated rights, aimed at maintaining distinct cultures, contribute more to diversity of choice for the individuals than cultural assimilation. Through assimilation, the assimilated people may bring with them cultural elements that enrich the culture into which they assimilate, though the degree to which this happens is likely to depend on the terms of assimilation. A culture, whose members are not receptive to incorporated new cultural elements, is likely to benefit less from such mutual enrichment. Attempts at preserving cultures as distinct entities may not have this same effect.

Another problem with this argument is that it seems not to be based on the free choice of individuals, but rather seems to confer an obligation on certain groups to preserve their culture for the sake of its value to others. To the extent that this is so, it is clearly illiberal, since it conflicts with the fundamental liberal value of individual autonomy. Kymlicka therefore suggests that one should consider cultural diversity as a positive by-product of giv-

ing support and recognition to different cultures. Though the benefits of cultural diversity are perhaps something that favour the protection of different cultural groups, they are not the basis for an obligation to do so.

The process of mutual enrichment and interchange between Ladino and Mayan culture in Guatemala is and has been significant. Both Mayan and Ladino cultures could not be what they are today without the existence of the other. But it seems unlikely that the self-interest in maintaining cultural diversity will be perceived as bringing more benefits than costs to the dominant Ladino culture. The intrinsic value of culture is, however, often alluded to in Guatemala. The way Mayan culture and folklore is presented with national pride in Guatemalan tourist commercials testifies the value Mayan culture has for Ladino identity and economy<sup>13</sup> (Hendrickson 1997). What characterises the attitudes of many non-indigenous towards the indigenous is *indigenismo*, which John Watanabe (1994:35) defines as ‘the Ladino glorification and appropriation of the pre-Hispanic Maya past combined with denigration and assimilation of Maya in the present’.

### Identity and Self-Esteem

‘Non-discrimination’ may be deemed insufficient for another reason. An unfair distribution of positions and goods is frequently due to prevailing perceptual and psychological impediments to equality of rights, such as ideas about ‘racial’ or cultural inferiority, which can be internalised in both the victims and the perpetrators of discrimination. Such perceptions, which as I documented in chapter 1 are not uncommon in Guatemala, are related to what can be labelled the ‘expressive and symbolic’ aspect of politics. According to Robert Nozick,

democratic institutions and the liberties coordinate with them are not simply effective means toward controlling the powers of

government and directing these toward matters of joint concern; they themselves express and symbolise, in a pointed and official way, our equal human dignity, our autonomy and powers of self-direction ... Joint goals that the government ignores completely – it is different with private or family goals — tend to appear unworthy of our joint attention and receive little (Nozick 1989:286).

It is on the basis of this ‘symbolic importance’ that Charles Taylor argues that

equal recognition is not just the appropriate mode for a healthy democratic society. Its refusal can inflict damage on those who are denied it...The projection of an inferior or demeaning image on another can actually distort and oppress, to the extent that the image is internalised (Taylor 1994: 36).

Elsewhere he affirms that ‘due recognition is not just a courtesy we owe people. It is a vital human need’ (op.cit.:30). Clifford Geertz (1994:30) has likewise argued that a central motive for ‘nations’ around the world is the public acknowledgement of identity. According to this view, the very symbolism of a public recognition of identity matters, whether or not this recognition has rights attached to it. To have the collective project which one sees oneself as being part of affirmed by the state, could be a psychological need, or the lack of it may inflict serious psychological damage, an argument that Kymlicka (1995a:89-90) also makes. The symbolic affirmation underlines the equal human dignity of all citizens by stating publicly the value of the collective identities of which they share. Culture shapes individual identity, and since it is based on belonging and not accomplishment, it is a source of secure identification. If a culture is discriminated against or is not respected, its members are likely to feel their self-esteem and dignity threatened. Recognition is in this sense a way to underline the equal dignity of all in pluralistic societies.

<sup>13</sup> For an example, see the brochures of Inguat, the public Guatemalan tourist agency. At the World Expo in Lisbon 1998, Mayan culture dominated Guatemala’s pavilion. There were, however, only Ladino working the pavilion.

### Reducing the Risk of False Expectations

Andreas Føllesdal (1996, 1999) argues that individuals may have a legitimate claim to control over social institutions when these affect their possibilities to pursue their life-plans. For considerations of justice and institutional arrangements, we must value not only existing desires and needs, but also future expectations. Føllesdal argues that

Our interest in forming correct expectations requires that we are informed and able to participate, directly or indirectly, in the changes and adaptation of our culture in ways that reduce the risk of false expectations... Given the threats of alternative allocations of such control, it seems plausible for minorities to insist that they should have the means to influence, if not control, the development of their culture insofar as this is possible. Their interest in control over cultural change supports claims to hold institutional powers which influence the maintenance and development of one's culture (Føllesdal 1999:16).

Føllesdal (1996:78-9) underlines how the group autonomy that the interest in controlling cultural change could justify should be subordinated to basic human rights, and he emphasises how this interest does not require that a culture remains unchanged. He (1996:67) suggests that the difficulties in controlling cultural change are what makes 'cultural membership' unsuitable for being considered a 'social primary good'. Even though Kymlicka (1995a:104) also emphasises the need 'for smaller nation to control the direction and rate of change', Føllesdal (1996:65) underlines how this argument avoids what Kymlicka's theory could be criticised for: Føllesdal's argument is not based on the 'sectarian doctrine' of autonomous choice.

### The Insufficiency of the Alternatives

Even if the arguments above are found unconvincing, one may nevertheless consider it necessary to give special status to particular groups with the purpose of rectifying a situation of pervasive discrimination and marginalisation. Group-differentiated rights would, from this

standpoint, be a temporary means to achieve equality and discrimination. Even a state committed to 'non-discrimination' could employ such mechanisms temporarily. Many 'affirmative action' programmes could be interpreted in this sense.

### 2.3 Group Rights Versus Individual Rights?

Many people are sceptical to the idea of giving rights to groups because they fear that such rights can be invoked to justify violations of fundamental individual rights and freedoms. Kymlicka underlines, however, that it is necessary to make a distinction between who exercises a right, and the justifications for having that right (Kymlicka 1995a:45-8). A right given to a group may be exercised by individual members of a group, the group as a whole, or some administrative or political unit of which that group is part. Who should exercise such a right is an issue of what is practical and makes sense for the specific right in question, and should be kept apart from the reasons why members of one group should have rights that are different from those of members of other groups.

Accepting that group-differentiated rights are useful and perhaps necessary to maintain justice between individuals does not mean that such group-differentiated rights can be invoked as reasons to violate basic individual rights. Kymlicka suggests that group-differentiated rights may not be used to impose 'internal restrictions', which are 'the right of a group to limit the liberty of its own individual members in the name of group solidarity or cultural purity' (1995a:7). Group-differentiated rights are only permitted to protect a group from decisions of other groups when these decisions threaten the cultural survival of the group or violate the basic rights of its members. This contrasts with Chandran Kukhatas's (1995) view that 'internal restrictions' are permissible as long as the possibility of leaving one's group is ensured for all members. Kymlicka calls the legitimate use of group-differentiated rights 'external protections'. For example, giving minority groups guarantees for political participation makes it more likely that their voices

will be heeded. Polyethnic rights can help ensure certain cultural and religious practices are protected against discrimination. Self-government rights can protect a group from majority decisions.

The purpose of external protections is essentially to put different groups on a more equal footing. When external protections are used to give a certain group unfair advantages over another, such as during apartheid in South Africa, they are no longer justified. External protections should not protect groups from internal dissent, but are meant as guarantees that enable different ethnic groups to maintain their identity, if they so choose, without any undue restrictions on the basic liberties and rights of individual members of these groups. Group-differentiated rights are not justified if they are used to protect groups from internal dissent. Group-differentiated rights should 'ensure that there is equality *between* groups, and freedom and equality *within* groups' (Kymlicka 1995a:194, emphasis in the original). The distinction between external protections and internal restrictions is important because, as Veena Das argues,

caution suggests that in the very process of investing a community with legal personality there may follow an insufficient recognition of the heterogeneous nature of communities...that alternative visions of a community may often be repressed by violence (Das 1995:14).

In a liberal theory of justice individual liberties and rights take priority over group-differentiated rights. This order of priority rests on the fundamental moral assumption that it is impermissible to sacrifice the well-being of an individual for the benefit of a collectivity. The only exceptions are the kind of restrictions that are necessary to uphold and defend these very individual rights and liberties. Thus, for instance, paying taxes is necessary to uphold the institutions that guarantee the civil rights and liberties of individuals, whereas restrictions on the choice of one's religion is not, even though both represent restrictions on the freedom of the individual in some sense. Group-differentiated rights may never be invoked to

violate basic human rights, because that would be to impose impermissible internal restrictions. To argue that the exclusion of women from politics is a cultural practice, and therefore should be protected as a group-specific right, is according to a liberal theory of rights clearly wrong, since it would violate fundamental human rights.

Female members of Mayan organisations I interviewed complained that there is a significant degree of gender inequality within the Mayan movement, as is the case for Guatemala generally. This was also confirmed by some of their male counterparts. In their view, attitudes of sexual discrimination sometimes prevent Mayan women from participating and in particular from assuming leadership. It is by reference to the value of equality that the current situation of discrimination the Maya are facing requires change, and liberal equality also has implications for the rights of women. Some members of the Maya movement argued that according to Maya philosophy the roles of men and women were complementary. Each role has a predefined set of aims and responsibilities. However, according to a liberal view of politics, it is insufficient to argue that the traditional roles of men and women 'complement' each other because such fixed roles can be repressive on indigenous women (and men), and may violate their inalienable individual rights. As Rodolfo Stavenhagen argues,

group and collective rights are to be considered human rights to the extent that their recognition and exercise in turn sustain the individual rights of members of the group...those collective rights that infringe on the individual rights of members of a community should not be considered human rights (Stavenhagen 1994:19).

Indeed, the subordination of any collective or cultural rights to international human rights norms underlie international conventions such as the ILO Convention no. 169 (article 8), and this is a point frequently emphasised in the proposals of the indigenous organisations in Guatemala.

## 2.4 Numerical and Sociological Minorities

Is the size of a group of any relevance for the issue of group-differentiated rights? Most of the literature on Guatemala states that the majority of the population of approximately 11 million people are Maya. According to the official Guatemalan statistics (Tzian 1994), on the other hand, the Maya ceased to be a majority in the 1950s. However, these figures are controversial and often considered unreliable because the collection of data is considered inefficient and unreliable (Adams 1996, Cojtí 1995, Tzian 1994). In a study on ethnic identity and demography in Guatemala, Richard Adams (1996) found some evidence that the ratio of Maya was stable or increasing in communities with more than 80% Mayan population. In areas close to the capital, or where the Maya were a minority, there was some evidence of a decrease in the Mayan share of the population. Migration caused by the war seems to have had little effect on how people perceive themselves in ethnic terms. A conclusion of Adam's study is that there appears to be a tendency towards ethnic polarisation.

It should be noted that the Maya can only be considered a majority if we accept the understanding that many Mayan organisations have of the diverse Mayan linguistic groups and the numerous Mayan local communities as one group with a set of common interests with a potential for acting cohesively. 11 of the Mayan linguistic groups, as well as the non-Mayan groups Garifuna and Xinca are believed to have less than 50,000 members each, less than 0.5% each of the total Guatemalan population of approximately 11 million people. The four largest Mayan linguistic groups, on the other hand, are each believed to have more than 0.3 million members each (Warren 1998). Assuming, however, that there is an indigenous majority, how can arguments in favour of minority rights be relevant for the indigenous in Guatemala?

Kymlicka's justification for group-differentiated rights rests, in my reading, on the equal right of all to live and work in their culture, and the right to protect the survival of a culture when it is being

threatened by political decisions taken by other groups. Kymlicka argues,

On my view, if a national group is large enough, it may have little need for group-differentiated rights, since it can ensure its survival and development through the usual operation of the economic marketplace and democratic decision-making (Kymlicka 1995a:219).

However, the degree to which an ethnic group suffers discrimination may have little to do with the proportion of the population it represents. A country's dominant ethnic group is not always the numerical majority.<sup>14</sup> Framing the issue of group-differentiated rights exclusively in terms of numerical majorities and minorities is excessively formal, because it fails to address the actual situation a group is facing. Minorities can be conceived of both as numerical and sociological (Stavenhagen 94), the latter referring to a situation of marginalisation and discrimination. Rights guaranteeing a group the possibility to maintain its culture should be granted depending on the degree to which a cultural group faces disadvantages, and the degree to which conceding rights may serve to rectify an unjust situation. A majority group, or groups that reflect a very large proportion of a country's population, are likely to be in less need of group-differentiated rights, but the justification for the rights rests on legitimate claims to protection, and numbers are irrelevant for this purpose.

The indigenous peoples of Guatemala should be considered a 'sociological' minority because they are largely excluded from democratic decision-making processes. The Maya in Guatemala still lack the level of internal organisation and coherence to make them an effective electoral majority. It is the fundamental lack of representation for the indigenous in Guatemala's political institutions, political parties and principal economic institutions, and the cultural, economic and social discrimination they suffer, that make a discussion on the justification of group-

<sup>14</sup> The Malay in Malaysia today and South Africa's 'white' population during apartheid may serve as examples.



differentiated rights necessary in Guatemala. Nevertheless, the large proportion of the Maya population represents a political and economic potential that could in time be utilised to put the indigenous and the non-indigenous on a more equal footing in Guatemala. The size of the Maya population is also of great symbolic importance, and it is often referred to by representatives of Mayan organisations as a sign of strength, and as indicative of the fact that it will be difficult for the Guatemalan political authorities to ignore the claims of the Mayan organisations.

It seems less interesting to discuss group-differentiated rights for the Ladino to the extent that it is possible to talk of them as a group. Ladino polyethnic rights are not only guaranteed in the current Guatemalan legal system, it is moreover the only group that has its polyethnic rights to use of language, education and so forth protected. It is therefore a bit difficult to understand when individual Ladino newspaper columnists argue that the extension of such rights to other groups will make them the victims of discrimination, nor are the Ladino in need of any special representation rights nor self-government rights because they control practically all of Guatemala's public institutions. However, if one focuses on other interests and identities that divide the Ladino, a discussion of group-differentiated rights could be more pertinent. Self-government rights could for example be considered in the sense of increasing regional autonomy to decrease central government domination of politics. Special representation rights or quotas could be discussed for largely excluded groups among the Ladino, such as the poor and women.

## 2.5 Justifying 'Non-Discrimination'

The core issue in Kymlicka's theory is also a classical problem in political theory: how to avoid that the majority (numerical or sociological) dominates over the minorities. For the 'Founding Fathers' of the Constitution of the USA, the principal tension in society was between the wealthy minority and the less well-to-do majority. A great concern was

thus to ensure that the majority did not abuse the powers they attained through the electoral mechanism to dispossess the wealthy. For the *Assemblée constituante* of the French Revolution in 1789-91, the possibility of a 'dictatorship of the majority' was also a much discussed issue (Elster 1993).

Kymlicka (1989, 1995a and b, 1997) focuses on one particular variety of the majority-minority problem in democracies: that of ethnic groups or 'cultures'. He claims that 'non-discrimination', which has had and continues to exert considerable influence on many real-life democracies, cannot provide a solution to the problem of cultural dominance of the majority group. Kymlicka argues that 'non-discrimination' is often impossible to maintain, for instance when it comes to decisions about the official uses of languages. Decisions about where to draw political boundaries is another example, since these will determine which groups form the majority within the administrative units of the state. Such majorities can be used to take decisions that have a great impact on the possibilities of survival of certain cultures, for instance regarding education and immigration. 'Non-discrimination' therefore, in Kymlicka's view (1995b:10), maintains 'neutrality' only 'in the sense that minority groups are not discriminated against within the mainstream institutions of the majority culture, but it is not "neutral" in its relationship to cultural identities'. 'Non-discrimination' is often associated with the USA, but since English language and culture there have a very privileged position, public institutions cannot be said to be neutral when it comes to culture.

The idea of a culturally 'neutral' state is often misinterpreted, also in Guatemala. For example, I frequently heard different varieties of the following argument against giving rights to the indigenous: 'we are all Guatemalans and equal, giving rights to particular groups is the same as discrimination and treating people unequally.' Pablo Duarte (1996:115) for example affirms that: 'I believe that all of us have a little of indigenous and of Maya, all of us have a little of Spanish.' Though probably true in a strict sense,

this leaves no room for the recognition of difference. The problem with this argument is that it is not specified what it is to be Guatemalan, so that with today's situation in Guatemala 'equality' in fact amounts to conformity with non-indigenous culture. Equality of rights is confused with cultural similarity, and Mayan claims to end discrimination are in this way sought silenced. But equality of rights is more than a right to conform to some pre-defined cultural standard; equality must necessarily imply the equal rights to have one's cultural difference respected. Equality is in this sense the opposite of similarity. Justice, on a liberal view, requires the equal right of all to have one's identity respected, and to freely choose to alter that identity as one sees fit.

Kymlicka's proposal for a fair solution to the problem of the majority culture's domination over the minorities, is that the drawing of borders, official use of languages, and distribution of powers should be done in a way that assures all national groups the possibility of maintaining themselves as distinct cultures. It is a proposal that can be said to follow from the principle of equality of rights, in the sense that the value of cultural membership is to be equally protected for members of different groups. In democratic societies, minority cultures should have the same opportunities to have their languages and societal cultures supported as the majority. In Kymlicka's (1995a:108) words: 'the accommodation of difference is the essence of true equality, and group-specific rights are needed to accommodate difference.' 'Non-discrimination' fails to achieve 'true equality' in Kymlicka's understanding, because it gives members of majority cultures privileged positions, and fails to protect the cultures of the minorities. In the cases where it is, according to Kymlicka, impossible to achieve 'non-discrimination', the failure to introduce minority protections implies that the majority culture can discriminate the minority.

Is the 'privileged position' of the majority culture and the assimilationist policies it usually implies necessarily unfair? Mason (1999:265-1) argues that policies of assimilation can be legitimate

when these are 'non-coercive'. 'Non-coercive' assimilationist policies are those that give the customs, language and symbols of the 'dominant culture' a privileged position. 'Non-coercive' measures may also include economic incentives for these policies. Mason (op.cit.:266) defines an assimilationist policy as one 'that aims to produce an outcome in which members of some cultural community abandon at least some of their customs and practices'. A 'moderate assimilationist' policy aims to make members of the non-dominant culture abandon unjust practices (the equivalent of 'internal restrictions') and those practices that 'are in conflict with some of the central public customs and practices of the dominant group' (op.cit.:267). Mason mentions arranged (and not forced) marriages as an example of a practice that would contradict 'central public customs and practices' in Western Europe, and it would therefore be legitimate to seek to change this through non-coercive means in those societies. Mason believes a 'moderate assimilationist' policy need not be oppressive, and that it can be justified on the need to create a shared national identity, the latter which arguably is required for political stability and cohesiveness.<sup>15</sup>

I believe Mason's argument that non-dominant cultural practices that are not at odds with basic liberal moral principles could be assimilated should be rejected. Mason's argument can serve as a justification for discriminatory and illegitimate practices, and could prevent minority groups from voicing their legitimate demands for inclusion, tolerance and equality. Mason's argument makes the continuity of perceptions of racial and cultural inferiority not only likely, but also legitimate. Another problem with Mason's argument is that it is not given which culture ought to be assimilated into which other in places where groups are of comparable size, such as Guatemala. It may also be that the respect for liberal values is greater within the minority culture than the majority. Assimilation could therefore reduce the overall compliance with liberal values. Mason's suggestion,

<sup>15</sup> I discuss this issue in chapter 4.

that the dominant culture should serve as a model into which minority cultures may integrate, makes power and the use of force determine the status of various cultures within society. That is clearly at odds with liberal values of freedom and equality.

I do share Kymlicka's criticism of 'non-discrimination' in the sense it is presented above. Clearly, real-life democracies often give unfair advantages to members of 'majority cultures' by prioritising certain languages or organising the state in a certain manner. Moreover, I believe with Kymlicka that liberal equality requires that cultural differences are accommodated, a conclusion that may presuppose accepting that freedom depends on culture. However, is the solution to this problem necessarily group-differentiated rights? It could be argued that the state in many countries has put members of minority groups at an unfair disadvantage, not because they have failed to give particular groups 'recognition', but rather because they have not been true to 'non-discrimination'. As we recall, 'non-discrimination' requires that the state should not privilege a particular culture. However, many states have been *monocultural*, while their populations have been *multicultural*. As is the case in Guatemala, the state's policies have therefore tended to represent the interest of only a part of the population, the part that identifies with the culture that serves as the basis for the state's policies.

What is needed to accommodate difference need not be special statuses to particular groups, but rather measures ensuring that a state's policies correspond with the cultural diversity of a country. This can be done by *incorporating polyethnic rights, not as group-differentiated rights, but as 'universal' individual rights*. Polyethnic rights are then not given on the basis of group membership, but rather given equally to all citizens, ensuring thus that the use of different languages, dietary restrictions, religious practices, traditional clothing and so forth are fully respected in public life. *Polyethnic rights, perceived this way, are not only compatible with 'non-discrimination'; they are required by that view to*

*ensure state 'neutrality'*. The concern then is not so much the status of particular groups, but rather ensuring that the state remains impeccably liberal.<sup>16</sup>

Thus, according to 'non-discrimination', individual members of minority cultures are protected against discrimination by being guaranteed the enjoyment of public services in accordance with their language and culture, in addition to prohibitions against any type of discrimination generally. The enjoyment of services according to a set of languages and cultural characteristics corresponding with a country's cultural diversity are then to be provided to all citizens generally as options from which to choose. Moreover, this is likely to *enhance individual freedom of choice*, which is a fundamental value within liberal political theory. However, everyone may not see this expansion in the range of choice as very relevant. For example, it is unlikely that many Ladino would choose to have public services provided in the Mayan languages.

Nevertheless, this approach has an advantage compared to 'recognition', namely that the enjoyment of particular languages or cultural practices is not tied to membership in particular groups. This opens for a greater diversity in the individual attachments to the state, which is of great importance in places where group identities are not very clearly defined or tend to overlap. As I seek to illustrate in the next chapter, in Guatemala ethnic identities are both complex and fluctuating, and it therefore seems that *an approach to multicultural justice needs to open up for diversity not only between, but also within the way particular identities are tied to or included in the larger political framework of the state*.

'Non-discrimination', in the sense described here with the necessary inclusion of polyethnic rights, is unlikely to satisfy members of groups who wish to be considered as autonomous or apart from the wider society. Special representation rights (quotas in public institutions) and

<sup>16</sup> Richard Wilson, in a lecture given at the University of Oslo, 1 September, 1999, likewise argued strongly in favour of opting for non-identity marked rights, both generally and for the indigenous in Guatemala in particular.

self-government rights are clearly incompatible with ‘non-discrimination’ (except perhaps as ‘temporary measures’ as mentioned above), because these types of rights do require the protection of (a limited number of) particular groups. However, ‘non-discrimination’ should (in theory at least) protect the groups’ members from discrimination. The group member’s self-perception as distinctive, autonomous units remains, according to this approach, exclusively a private concern.<sup>17</sup>

To sustain my argument that ‘non-discrimination’ is compatible with liberal equality by incorporating polyethnic rights as individual rights, I need to show that Kymlicka’s objection to ‘non-discrimination’ does not hold true. In other words, I need to show how the examples where Kymlicka (1995a:108, 195) argues that ‘political life has an inescapable national dimension’ and that ‘non-discrimination’ therefore must lead to majority domination, in fact need not lead to majority domination at all.

- *National holidays.* One possibility is to give each different culture (in particular each different religion) quota of holidays. Thus, all citizens would have holidays according to the country’s religions. Alternatively, the individual citizen could be free to choose when she wanted her holidays from a number of options in correspondence with the different religions or beliefs.
- *Language.* Kymlicka (1995a:111) suggests that ‘...one of the most important determinants of whether a culture survives is whether its language is the language of government – i.e. the language of public schooling, courts, legislatures, welfare agencies, health services, etc.’ As should be clear by now, ‘non-discrimination’ requires not that the citizens are treated identically by having public services provided to them in the same language, but rather that the individual citizens are treated equally by having these services pro-

vided to them in their own language. The enjoyment of having services provided in one language or the other should depend on choice; it is equal and not based on any group membership. A proposal to make the indigenous languages official in Guatemala was, as mentioned before, turned down in the 15 May 1999 referendum. According to the liberal approach to justice taken here, language policy should not have been decided by majority vote at all. Rather, to receive education and public services is an individual right that the majority cannot strip away. The current language policy of the Guatemalan state remains a core impediment to the achievement of justice, as is confirmed by a recent UN report (1998:8): ‘One of the guarantees of due process is the right to be assisted by an interpreter if a defendant does not understand or speak the language of the court, a right which has special importance in a multilingual country like Guatemala. In that regard, the Mission has once again noted the absence of translators in the courts, which has seriously hampered the right to defence in trials of indigenous persons.’ The right to an interpreter in the court system is entrenched both in the Covenant on Civic and Political Rights (article 14) and in ILO Convention no. 169 (article 12).

- *Education.* Education concerns both the contents of the education and the language in which it is provided. According to ‘non-discrimination’, the state or the market<sup>18</sup> could provide different educational options with a linguistic and cultural content corresponding to the cultural diversity of the country. Either way, it could be up to the individual parents to choose the educational model for their children. ILO Convention no. 169, in its article 28, states that the indigenous have a right to education in their original lan-

<sup>17</sup> This, of course, does not amount to say that individual rights have no bearing on the private sphere.

<sup>18</sup> Note that if education according to one’s culture is to be considered a right, financial means would have to be provided for the part of the population that cannot afford private education.

guage or the language most frequently used by the group, and moreover have a right to education in the 'national languages of the country'. Article 27 of the same convention underlines that education should be adapted to the cultural and other characteristics of these groups, and that this adaptation should take place in consultation with these groups. There are a number of private Mayan schools in Guatemala, which receive funding from abroad. There are also plans to start a Mayan university. Some state bilingual education exists, and there are also privately funded Mayan schools. A survey (ASIES et al. 1998) in 1997 registered positive attitudes also among a majority of the Ladino to the prospect of learning an indigenous language in school. Members of the Mayan movement frequently denounce the difficulties a significant proportion of the indigenous have in getting access to education. They also consider the public education to be insensitive to Mayan cultures, and it is claimed that the curriculum 'perpetuates inequality and racism' (Gálvez and Esquit 1997b:77). One proposal therefore is to involve the communities and the families more in the education, and some research-oriented Mayan organisations are elaborating on a proposal for a curriculum more in accordance with Mayan culture. The content of education also concerns the non-indigenous, as a mechanism to end racist and discriminatory attitudes (Cojtí 1997b:11, Solares 1995).

- *The drawing of boundaries and the distribution of powers.* Clearly, Kymlicka is right in that 'non-discrimination' is problematic when it comes to ensuring fairness between members of different cultures, and the territorial and organisational structure of the state. Whichever way boundaries are drawn, majorities and minorities are created. Kymlicka emphasises the minorities that he calls 'cultures' or 'nations'. As I intend to show in the next chapter, it is not clear exactly what these 'nations' and 'cul-

tures' are in particular empirical contexts, such as Guatemala. Nor is it clear whether giving rights to these particular types of groups is most likely to fulfil the normative ideals of liberal equality. 'Non-discrimination' and 'recognition' have different consequences for territorial organisation and the distribution of powers, discussed in chapter 4. However, none provide a full-fledged solution to the problem raised here, and the choice between these two approaches depends both on the characteristics of ethnic groups in particular places and on the importance of identities based on culture relative to other types of identities.

A number of objections can be made against 'non-discrimination' in the interpretation I have given to it here. First, it is likely that an expansion of the range of choice in the above policy areas and for all citizens will be costly. However, it can be argued that members of minority groups have a reasonable claim to a fair share of state expenditures, and that they are also likely to contribute to the public finances as tax payers. It is therefore doubtful whether such an expansion in the range of choice puts an unreasonable burden on the members of majority cultures. In fact, without such citizens-wide poly-ethnic provisions, it would be the members of the minority cultures who sponsor the culture of the majority.

Secondly, it could be objected that the number of options that the state must provide would be intolerably high if one were to follow 'non-discrimination'. These options could not, therefore, be selected by demand alone; criteria are needed to distinguish illegitimate claims from legitimate. For example, if I were to move to Guatemala and obtain citizenship, I could not reasonably expect to receive government services in Norwegian. This is similar to Kymlicka's (1995a:96) argument that voluntary immigration implies relinquishing 'some rights that go along with their original citizenship'. Both approaches need such criteria for restricting the number of claims, 'recognition' for restricting the number of groups entitled to group-differentiated rights and the

particular rights to which each group is entitled, and 'non-discrimination' for restricting the number of polyethnic citizen-wide options. As I intend to show in the next chapter, the elaboration of such criteria is problematic.

Thirdly, there are likely to be policy areas other than the examples discussed above where 'political life has an inescapable national dimension' and where consequently 'non-discrimination' can be problematic to maintain. Particular institutional arrangements and decision-making practices need to be examined in order to ensure that particular individuals are not unfairly disadvantaged. In order to reach an agreement on what should count as relevant considerations for determining common standards of fairness and equality, inclusive and non-partisan institutional frameworks are needed (Oskal 1999: 157). In Guatemala, this implies ending the cultural monopolisation of the state by the Ladino. What is needed is a way of actualising individual rights, a process whereby cultural changes can be incorporated so that the respect for individual rights is maintained. Jürgen Habermas emphasises the potential of a democratic process for solving the dilemmas raised by multiculturalism:

If a well-functioning public sphere with open communication structures that permit and promote discussions oriented to self-understanding can develop in such multicultural societies against the background of a liberal culture and on the basis of voluntary associations, then the democratic process of actualising equal individual rights will also extend to guaranteeing different ethnic groups and their cultural forms of life equal rights to coexistence (Habermas 1994:128-9).

For this process of actualising rights to work there must be consensus on the institutional structure with its 'rules of the game' for decision-making. Such an institutional framework cannot be ethically neutral. However, it must allow for cultural difference (op.cit.:134), for a coexistence of 'reasonably comprehensive

doctrines',<sup>19</sup> doctrines that may differ on their view of the 'good life', but that are not opposed to or in direct conflict with the institutional rules of the game and the basic liberal principles on which these institutions find their justification. What is essential is that the institutional framework of the state remains neutral in relation to the diversity of reasonably comprehensive doctrines that exist within the state (op.cit.:134-7). I will discuss different institutional arrangements and cultural diversity in Guatemala in chapter 4. Habermas calls a consensus on or a feeling of identification with a set of institutional principles a 'common political culture' or 'constitutional patriotism'. Whether a common political culture, a sense of identification with a set of political institutions is sufficient to maintain a culturally diverse country united, is a question raised in section 4.6.

Lastly, it can still be argued that certain groups have legitimate historic claims to 'recognition', and that 'non-discrimination' fails to provide an adequate answer to the challenge of multiculturalism because the demands of many ethnic groups around the world for 'special statuses' within their countries are rejected. The latter argument is in itself insufficient to reject non-discrimination (Räikkä 1996). I do believe that despite Kymlicka's objection, 'non-discrimination' still stands as an alternative to 'recognition'. Another reason for not rejecting 'non-discrimination' is that, as will be made clear in the following chapter, there are also reasons to be sceptical to 'recognition'.

<sup>19</sup> See Rawls (1993) for a discussion of this concept.

# Chapter 3: Culture, Identity, and Rights in Guatemala

This chapter explores the questions of what ethnic groups are, what the relationship is between a particular ethnic identity and culture, and which types of groups are entitled to which types of rights. The first section examines and criticises the criteria Kymlicka uses to distinguish between different types of groups, and section 3.2 presents different theories of what ethnic groups are. The following three sections (3.3, 3.4, 3.5) examine the relation between ethnic identity and culture in Guatemala, and compares this with different theoretical conceptions of ethnic identity. The last section (3.6) summarises the discussion in this chapter through a critique of ‘recognition’.

## 3.1 Ethnic groups: ‘Colonisers’, ‘Immigrants’, or ‘Nations’?

‘The Accord on the Identity and Rights of the Indigenous Peoples’ (hereafter the ‘Accord on Identity’), one of the Guatemalan Peace Accords, states that

the indigenous peoples include the Mayan people, the Garifuna people and the Xinca people, and that the Mayan people consist of various socio-cultural expressions having a common origin (AIDPI 1995:1).

The Ladinos are omitted because they are not considered indigenous, whereas the Garifuna are included among the indigenous here as well as in a number of other documents.<sup>20</sup> ‘Indigenous’ is therefore not used to indicate that these groups were original to, or were those who first inhabited the area, because the settlement of the Garifuna in today’s Guatemala took place after the arrival of the Spaniards. The Garifuna cannot therefore in any sense be said to be more original to the land than

the Ladino. Rather, ‘indigenous’ is probably used here to indicate the marginal situation of these groups. David Maybury Lewis (1997:8) argues that ‘the salient characteristic of indigenous peoples, then is that they are marginal to or dominated by the states that claim jurisdiction over them’. This use of ‘indigenous’ could also be seen as an attempt to create or reinforce a sense of common identity and purpose among these groups.

Rigoberto Quemé (1997) sees the omission of the Ladino from the Peace Accords as reproducing the relation of subordination between Maya and Ladino. The ‘parties’ in the Accords are the government and the guerrilla; both dominated by the Ladino. Perhaps the Ladino are in less need of recognition, but the juxtaposition of those in need of recognition (the three ‘peoples’) and those who give recognition or respect (the ‘parties’), is ill fit to produce equality in Guatemala, according to Quemé. In the commissions that were set up as part of the Peace Accords there are no Ladino representatives as such, only representatives of the government and of indigenous groups. The symbiotic relation between the state and the Ladino could explain this absence.

It is noteworthy that the Accords state that the Xinca, Garifuna, and Maya are ‘peoples’. Kymlicka (1995a:11) equates the term ‘people’ with ‘nation’ and ‘cultural group’, and defines it as ‘an historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture’. He argues (1995a: 99) that only ‘nations’ are entitled to self-government rights and special representation rights because he believes that only these groups possess the complete societal cultures necessary for freedom. Establishing which groups are ‘peoples’ is therefore of great importance. Are the Peace Accords right in stating that the

<sup>20</sup> The proposal for constitutional reforms, which was rejected in May 1999, likewise mentions three ‘peoples’: the Maya, Xinca, and Garifuna, and omits the Ladino.

Xinca, Maya, and Garifuna (as well as the dominant ethnic group, the Ladino)<sup>21</sup> are 'peoples'? Are there other groups in Guatemala that may have claim to call themselves a 'people'? How can the ethnic groups<sup>22</sup> that are 'peoples' be distinguished from the ones that are not?

Kymlicka gives three criteria for determining whether a group is a 'people' with self-government rights. *The first criterion*, which is necessary but insufficient if the other criteria are not fulfilled, is that a 'people' was self-governing and had a complete societal culture when it became part of the state. The involuntary incorporation of the Maya and the Xinca into the Guatemalan State could thus give an answer to why these groups should have the status of 'people'. Are the Ladino and the Garifuna also 'peoples'?

Kymlicka introduces the concept of 'immigrants', which he defines as individuals that have 'voluntarily uprooted themselves' in agreeing to come to a country, and therefore have accepted to become part of the culture of another 'people'. A voluntary incorporation into a new country equals a renunciation of the right to be a 'people' within that new homeland, and it seems that 'immigrant groups' are left with the option of assimilation into one of the country's 'people'. Immigrants are not entitled to self-government rights that follow from the status of being a people, because Kymlicka (op.cit: 101) believes that immigrant groups in general lack a societal culture, and therefore have no need for rights that protect the survival of their culture. They are, however, entitled to maintain their cultural distinctiveness through 'polyethnic rights', which are meant to ensure that they are not discriminated against.

Are the Garifuna and the Ladino 'immigrant groups' since the ancestors of the members of these groups voluntarily settled in an area already inhabited by

other nations? The settlement of the ancestors of both the Garifuna and the Ladino dates centuries back in time, so it would not make much sense to talk of these groups as 'immigrant',<sup>23</sup> in particular if the label 'immigrant' is to have any consequences for the type of rights they are to enjoy. Kymlicka suggests a distinction between 'immigrants' and 'colonisers', the latter being distinct in that they 'aimed to reproduce their original society in a new land' (op.cit.:14). Just as the French-speaking people came to Quebec with the idea of reproducing their original society in a new land, it is likely that the ancestors of both the Ladino and the Garifuna came to Guatemala with the same intention. In this sense they never renounced their right to be a self-governing 'people', and may be considered 'colonisers'. 'Colonisers', in Kymlicka's view, possess complete societal cultures because they have reproduced their original societies in new places. The status as 'colonisers' give such groups legitimate claims to legal protections of their 'societal culture' not only in the form of polyethnic rights, but also in the form of self-government and special representation rights.

However, the distinction between immigrants and colonisers is problematic, as Kymlicka (1997:33) is aware of. Many immigrant groups aim to 'reproduce their original society in a new land', even when they 'voluntarily uproot themselves'. If, as was argued in the previous chapter, a societal culture is a primary good and thus a necessary precondition for the realisation of liberal justice, what is of relevance is whether or not a particular culture can provide its members with the context of choice necessary for freedom today. Whether a group did possess a complete societal culture in the past when it migrated collectively or individually to a particular area should then be of less relevance. It is therefore difficult to accept that immigrant groups should never gain the same rights to protect their societal culture as other groups (Doppelt 1998:

<sup>21</sup> It is likely that the implicit assumption here is that the non-indigenous in Guatemala are also to be considered to have the same status as the three indigenous 'peoples'.

<sup>22</sup> Kymlicka gives a different meaning to 'ethnic group' than what I do here. In chapter 1 I defined an ethnic group as one based on a perception of common ancestry, while Kymlicka uses ethnic group synonymously with 'immigrant group'.

<sup>23</sup> A long history of settlement is sometimes insufficient, however. The Chinese in Malaysia for example, are denied rights on the basis that they are 'immigrants' even though they have a history of settlement in Malaysia that goes more than 400 years back in time.



223, Mason 1999:270-1). Furthermore, if the assumption underlying the distinction between ‘colonisers’ and ‘immigrants’ is the amount of time that has passed since a group first settled in a country, and not (only) the intention behind the settlement, it would be a rather arbitrary justification for rights because there seems to be no reasonable criteria for deciding how long a group must have resided in a country to be considered ‘colonisers’. Another problem with the distinction between ‘colonisers’ and ‘immigrants’ is that it would not be reasonable if peaceful immigration would make a group less entitled to rights than violent colonisation (Doppelt 1998).

Kymlicka’s *second criterion* for deciding whether a particular group is a ‘people’, is that a ‘people’ wishes to identify itself as a self-governing group. Kymlicka (1995a:67-8 and 95-8) suggests that only ‘nations’/‘people’ present demands for self-government. The ILO convention no. 169 likewise states that ‘indigenous peoples’ are entitled to certain self-government rights. The convention defines ‘indigenous people’ as groups that wish to be considered as such, and which are socially, culturally, and economically distinct groups, or groups that were ‘original’ to a country and subsequently conquered or colonised. According to this convention, claiming self-government rights on this basis equals a renunciation of the right of the group to create its own, independent state. In general, I believe Kymlicka is correct in assuming that groups that have a recent history of settlement in a country and that mostly migrated as individuals and not as groups, seldom consider themselves as a people with rights to self-government within their new homeland. Consequently, it could be argued that a group that presents such demands is likely to be a ‘people’ (either ‘colonisers’ or those ‘original to the land’). In Guatemala, the only groups arguing for some sort of political autonomy are the Maya, and to a much less extent the Garifuna and the Xinca. The issue of deciding which groups are entitled to which kinds of group-differentiated rights could be solved by limiting self-government rights to these groups, since no other groups have

as yet, to my knowledge, vocalised any demands for such rights.

However, there are also a number of other ethnic groups in Guatemala such as for example Arabs, Chinese, Jews, Germans, Indians, and English-speaking blacks.<sup>24</sup> These other groups are very small in numbers, and most of their members are to a large degree part of Ladino society. The reasons why a group is or is not asking for certain rights may depend on a number of factors. The high level of political repression that until recently existed in Guatemala has probably had a great impact on different groups’ willingness to articulate demands, even though this alone cannot explain why some groups, and not all, organise and present demands. Moreover, economic prosperity in Guatemala has to a significant degree depended on being or trying to become Ladino. It is possible that members of smaller groups that are relatively well-inserted into Ladino society have not yet seen it in their interest to claim rights to differentiated treatment, as long as they have not suffered discrimination within the Ladino society to the degree that their economic prosperity has been significantly impeded. It is also possible that a group postpones demands for particular types of rights for a later stage, for example if they consider that they are not yet ready to achieve self-government, or that it is fraught with too much risk to ask for such rights today. Moreover, a group may not be presenting demands because it has not had any opportunities to do so. The Peace Accords, for example, have given members of the Maya, Xinca, and Garifuna the opportunity to interact directly with the government as representatives of their groups. Could this opportunity have been extended to other groups, such as the Guatemalan Chinese? Would that in turn have made it likely that the Chinese community also started presenting demands for group-differentiated rights?

If the discussion of ethnic identity in Guatemala gains impetus, and demands for group-differentiated rights are met, it is possible that other groups will begin to

<sup>24</sup> Suggested by Alfonso Arrivillaga (private communication, March 1998).

vocalise demands. Groups not mentioned in the Accords may start to demand that the state recognises their particularity, and other groups believed to have disappeared, such as the indigenous Pipil, may surface.<sup>25</sup> The recognition of some types of group-differentiated rights may fuel a kind of 'ethnic revival' that will escalate the demands for such rights. This possibility makes it difficult to decide which groups are entitled to recognition, a difficulty that remains somewhat unresolved in Kymlicka's theory. Perhaps the distinction between colonisers/peoples and immigrants makes sense for cases like the Quebecois, but it is much more difficult to apply to less clear-cut cases. In a liberal approach to justice in multicultural democracies a group is certainly free to say no to group-differentiated rights, but whether demands are put forward or not cannot alone serve as a justification for such rights.

Kymlicka's *third and last criterion* for deciding which groups are 'peoples' is that a 'people' possesses a complete societal culture today. Perhaps this ought to be the only relevant criterion, not only because the other two criteria are problematic, but also because what should be of relevance in Kymlicka's theoretical framework is whether a group can provide its members with the necessary cultural preconditions for freedom today.<sup>26</sup> Are the Maya, Ladino, Xinca, and Garifuna 'peoples' according to Kymlicka's definition given earlier, in the sense that they are 'an historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture'? Do they provide their members with separate 'societal cultures' today, in the sense that they possess 'a culture which provides its members with meaningful ways of life across

<sup>25</sup> This was suggested by A. Arrivillaga (private communication, March 1998), and is of course dependent on there being people in Guatemala for whom the notion 'Pipil' refers to a perception of common identity. The Pipil were a group that lived on the pacific coast of today's Guatemala and El Salvador when the Spaniards arrived. They are now, as the Xinca were up until recently, believed to be extinct in Guatemala.

<sup>26</sup> Kymlicka also appears to favour this view (1995a:101).

the whole range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres'?

Kymlicka's argument presupposes that there is a connection between existing identities (what individuals see themselves as and are perceived as by others) and culture (language, customs, values, etc.). It is the membership of individuals in particular groups, their ethnic identity ('nation', 'immigrant group'), that in Kymlicka's view provides the basis for dividing societies into a limited number of 'societal cultures'. However, both the idea that identity equals culture, and that a society can be divided into a limited number of separable 'cultures', are, as I intend to make clearer in the following pages, highly debatable points of view.

### 3.2 'Primordialist', 'Constructivist', and 'Instrumentalist' Approaches to Ethnic Identity

Current studies of ethnic identity provide a quite diverging set of answers to what the basic characteristics of ethnic identity are. A distinction that may bring some clarity, is that between 'primordialism' (or 'essentialism') and 'constructivism'. '*Primordialism*' is the view that

ethnic identity, world-view or behaviour is actually driven or determined by some deep cultural, psychological or even biological human quality (Tilley 1997:499).

For example, some members of the Maya movement espouse a rather primordialist understanding of Maya identity (Warren 1998:77-8). For these, 'Maya languages, calendrics, divination, and the ritual authority of community elders become not anachronisms but 'living proof' of a primordial, non-Hispanic Mayanness doubly authenticated by its long defiance of foreign religion and rule' (Watanabe 1994: 37). '*Constructivism*', on the other hand, sees ethnic identity as

an *idea* or *discourse* rather than as an empirically observable social 'unit' defined by features such as dress, language or customs. In other words, the criteria for ethnic membership are developed by the

participants in the social system, and are not externally given; rather, ethnic 'identities' are 'creatively imagined' to explain a group identity in relation to some Other – whose identity is likewise 'imagined' and often ascribed value, whether to dignify or to debase (Tilley 1997:511) [emphasis in the original].

According to a constructivist approach, particular cultural features do not determine group identities.<sup>27</sup> Ethnic groups exist because of perceived differences between individuals, and it is around selections of such perceived differences group support is mobilised and the rules of inclusion in and exclusion from groups are made and maintained. Even when the categories that define group membership are collectively accepted, the interpretation of these categories might change as social contexts transform (Tilley 1998: 97). *'Instrumentalism'*, which presupposes a constructivist understanding of ethnic identity, is the view that particular individuals often labelled 'ethnic entrepreneurs'<sup>28</sup> may influence or manipulate group identities for specific political purposes. Instrumentalism emphasises the element of choice or arbitrariness in the creation of borders between groups, by defining who belongs and who does not. Instrumentalist approaches

interpret ethnicity as a purely political phenomenon. In this view, culture does not contribute directly to the formation of ethnic identities. Rather, ethnic platforms use selected customs as emblems to legitimise ethnic claims in the public domain (Tilley 1997:502).

Constructivism need not be instrumentalist, however, because it can be argued that ethnic identities are so intimately inter-

woven into complex systems of cultural meaning (Tilley 1997:511-15) that it does not easily lend itself to manipulation by 'ethnic entrepreneurs'. For example, Thomas Hylland Eriksen tends towards this view when he argues

It is true that ethnicity is a social creation and not a fact of nature, and ethnic variation does not correspond to cultural variation. But ethnic identities must seem convincing to their members in order to function – and they must also be acknowledged as legitimate by non-members of the group (Eriksen 1995:69).

Most current studies on ethnic groups in Guatemala support a 'constructivist' understanding of ethnic identity (Ekern 1998, Otzoy 1997, Warren 1997 and 1999, Watanabe 1994, Wilson 1995). Kymlicka argues that the 'character of a national identity can change dramatically' (1995a:184), but he continues: 'the identity itself – the sense of being a distinct national culture – is much more stable' (op.cit.).<sup>29</sup> Attempts at 'eliminating a distinct sense of identity' have failed and often backfired, he argues (1995a:185), as to have attempts to create 'pan-identities' supposed to replace the 'national' or 'ethnic'. He admits, however, that to a limited extent it is possible for new groups to be created (op.cit.:101 n.26). Kymlicka apparently admits that ethnic identity should be seen as separate from 'its underlying characteristics', or, as I understand it, that culture and identity are distinct concepts (op.cit.:185). However, his view on ethnic identity tends towards primordialism. The following quote provides an illustration:

...given the coercive attempts to assimilate many national minorities — particularly

<sup>27</sup> Mason (1999:262-263) calls the proponents of 'primordialism' and 'constructivism' 'objectivists' and 'subjectivists' respectively.

<sup>28</sup> For an example of the use of the concept of 'ethnic entrepreneurs', see Espen Barth Eide (1997): 'Conflict Entrepreneurship': on the Art of Waging Civil War' in Anthony McDermott (ed.): *Humanitarian Force*. PRIO, Oslo, Norway. Eric Hobsbawm (1994) likewise argues that 'nation' and nationalism rest on exercises in social engineering, which are often deliberate and always innovative.

<sup>29</sup> In an earlier book (1989:167) Kymlicka draws a distinction between 'changes in the character of a culture' and 'cultural structures as context of choice', a distinction I believe makes little sense, and that could have been avoided had Kymlicka separated identity (ethnic and other) from culture. He would thus be able to explain how there is continuity in the labels (ethnic identities) different individuals give to each other, while their culture undergoes great transformations. Indeed, it is the latter which Kymlicka emphasises in his justification for group-differentiated rights.

indigenous peoples — it would not be surprising if *there is very little left of some cultures*. Some indigenous peoples have been decimated in size, denied the right to maintain their own institutions, and progressively demoralised. Under these circumstances, would it not be better for the members of a minority nation to integrate into the mainstream, rather than struggle in vain to preserve something that is already lost?...the decision about whether to integrate must be up to the members of the minority themselves. It is not for people outside the group to decide if and when *the societal culture is too thin to warrant maintaining*...weakened and oppressed cultures can regain and enhance their richness, given the appropriate conditions. *It is the potentiality of societal cultures that matters*, not just their current state, and it is even more difficult for outsiders to judge the potentiality of a culture than to judge its current state (Kymlicka 1995a: 100-1) [my emphasis].

From a ‘constructivist’ point of view, ‘cultures’ as such cannot disappear nor ‘weaken’ as Kymlicka suggests; they simply change. ‘Cultures’ are constantly changing due to individual choices taken in interaction with others. Arguing that ‘there is very little left of some cultures’, that cultures have ‘potential’, and that cultures may be ‘too thin’ is meaningful only in one of two different senses, both mistaken on a constructivist view:

a) culture is seen exclusively as ‘difference’ (Eriksen 1998:342). It is a process whereby one culture becomes more similar to another (‘loss of authenticity’) that explains how a culture can become thinner and lose its ‘potentiality’. This, however, ignores that an individual’s culture is just as much what she shares with others of different cultural or ethnic identities, as it is what makes her different from these ‘others’. The question of to which degree one ‘culture’ is different from another, and the degree to which a ‘culture’ possesses the characteristics of a ‘societal culture’, are separate issues. In other words, it is not cultural difference in itself which is of rele-

vance for Kymlicka’s view on the relation between culture and freedom, and hence for the justification of group-differentiated rights.

b) culture is compared to some kind of past or future idealised perception (an ‘essence’) of what the ‘culture’ was or should be. This, however, not only introduces a very difficult problem of defining when a culture has reached its ‘full potential’, but can also be oppressive by imposing criteria of cultural ‘purity’, as Otzoy (1997) stresses. In Kymlicka’s theory, it is likely to be the characteristics of a ‘societal culture’ according to which a particular ‘culture’ can be compared to estimate its ‘potential’.

On a constructivist account, the problem with Kymlicka’s framework lies not in the argument that freedom is dependent on the cultural context in which we live and take part, but rather in the connection between ‘societal culture’ and ethnic (read: ‘national’, ‘immigrant’, etc.) identities. I will develop this point further, first by examining the attempt of the Mayan movement to build a more cohesive identity, thereafter exploring the following claims: that the correspondence between ethnic identities and culture is problematic, that the issue of determining group membership is very complex, and that ethnic identities are in a constant process of change and construction. These are claims that put into question the assumption made by Kymlicka (1995a:101) that ‘there are such things as “separate cultures”’, and that it makes sense to ask whether there is one or two or more of them in a particular country’. If constructivism is right, and groups exist only in virtue of their present role in the imaginations of individuals, and not due to some permanent or unchanging (primordial) characteristic, then Kymlicka’s argument concerning the connection between freedom and equality and the cultures of particular groups needs to be re-examined.

### 3.3 The Pan-Mayan Identity Project

In chapter 1 I described the Mayan movement as a plurality of organisations whose

leadership and majority of members are Maya, and who share the overall purpose of improving the situation of the Maya in Guatemala today. Using the term 'Maya' to refer to all the indigenous in Guatemala who are not Xinka or Garifuna is rather new. Richard Adams traces its introduction to the 1960s. Historically, the indigenous were called 'indio' by the Spanish colonisers, and due to the racist perceptions that characterise much of inter-ethnic relations in Guatemala, calling someone 'indio' came to mean roughly 'stupid' or 'brutish' in Ladino vocabulary. The more neutral terms 'indígena' and 'natural' are also commonly used, particularly by the indigenous when they talk about themselves. 'Maya', on the other hand, has been taken into use by members of the Mayan movement, and it has spread rapidly during the 1990s. Historically, 'Maya' referred to the Mayan languages or the pre-Hispanic cultures.

A goal of many members of this movement is to create a more cohesive Mayan identity by unifying the Maya institutionally and culturally. Such a pan-Mayan identity is today essentially an elite phenomenon, as the majority of my informants argued, but they believed increased Mayan unity would help the Maya achieve political power and thus put them on a more equal footing with the Ladino. Pan-Mayanists go about their project of identity-building in a number of ways. For example, one informant had projects searching for 'common Mayan roots' in the communities he considered to be most untouched by Ladino influence. Another informant argued for what may look like the opposite methodology; his organisation was 'bringing identity back to the communities', for instance by 'providing books about us' to distant communities.

The Mayan movement can be seen as a 'nationalist movement' (Cojtí 1997a:60, Ekern 1998), because a central aim is to achieve a larger degree of autonomy from the Guatemalan state, and that 'political boundaries should be coterminous with ethnic boundaries' (Eriksen 1995:6). For this project to succeed, the Maya need to come to terms with what it actually means to be a Maya, and gain adherence to this

definition among other Maya (Watanabe 1994).

On what can a common Mayan identity be based? Guatemala's Mayan population is culturally and linguistically very heterogeneous, individual Mayas have a diversity of ideological and religious affiliations and there are great socio-economic differences between different Maya. What do they all have in common that makes them Maya? One aim of my fieldwork was to try to understand how members of the Mayan movement see their common identity: what they believe unites them and what they have in common with other Maya that makes them different from non-Maya. Some Guatemalans (Porras 1996:32, Montejo 1997) argue that even though different Mayan groups were never politically united, they share a common origin and many cultural characteristics that distinguish them from other ethnic groups in Guatemala. It is these common cultural elements that make it possible to talk of these groups as Maya. The Accord on Identity, for example, states that a number of elements are fundamental to Mayan identity: descent from the ancient Maya, languages of a common root, a common view of the world, common culture, and a sense of their own identity.<sup>30</sup>

The Maya in Guatemala speak a great variety of languages that share a common linguistic root. The divergence and hence the degree of mutual intelligibility between these languages varies. A challenge to pan-Mayanism is that due to the linguistic differences, pan-Mayanists must often resort to Spanish to communicate between themselves. This makes it difficult to base a common Mayan identity on language. The Accord on Identity mentions 23 different indigenous languages, 21 of which are Mayan. The official proposal for constitutional reform (1998) added one additional Maya language to this list, for a total of 22 Mayan languages. Tzian

<sup>30</sup> Estuardo Zapeta (1997) mentions the same elements, and also emphasises how Mayan identity is tied to their land, in particular the land where they grow maize. A number of my informants gave similar examples of elements they considered fundamental for Maya identity, or else simply referred to the Peace Accords for a 'description' of Mayanness.

(1994) and Warren (1998), on the other hand, list only 20 Mayan languages.

I will argue, with Benedict Anderson (1994:93), that even if language can be a determinant of nationalist or ethnic movements, there is no necessary connection between a particular language and political organisation. The diversity of spoken languages is immense, and Anderson accentuates how it historically was the assembling of this linguistic diversity into print-languages that created a community of fellow readers who subsequently constituted the imagined community of the nation. Political decisions, such as those about the content of treaties, define whether a particular dialect serves as the basis for or is considered part of a language.<sup>31</sup> Such decisions are likely to depend on linguistic criteria (such as degrees of mutual intelligibility), but the potential number of languages that could be politically defined in Guatemala is substantial. Warren argues that

it is...evident that community-specific language loyalties within regions raise tricky issues for the selection of a single oral dialect to be transformed into the standard written form for each language, a necessary precursor in the view of Mayanists to a national language policy and the production of administrative and educational materials in Maya languages (Warren 1998:58).

Kymlicka makes a similar point:

How do we distinguish different languages from different regional dialects of the same language? These judgements are somewhat arbitrary, and affected by political considerations. (Linguists like to say that a language is a dialect with an army) (Kymlicka 1995a:218).

He then concludes (op.cit.) that 'a common language is necessary for a shared culture, but not sufficient'.

The Accord on Identity (AIDPI 1995:I.3), however, goes one step further in stating that the Mayan languages men-

tioned are also 'socio-cultural groups'.<sup>32</sup> Group identities centred on a common language are important for many Maya, and identification with these groups is probably often stronger than with the Mayan 'nation' (Ekern 1998:4). If the Mayan languages also denominate 'socio-cultural groups', it is possible that these are the groups that provide its members with the societal cultures necessary for freedom. Following Kymlicka's argument, these groups would thus be the units according to which group-differentiated rights can be justified. Official documents that list languages would consequently also give recognition to particular socio-cultural groups. It then becomes necessary to ascertain whether the Peace Accords and other documents adequately describe the 'reality' of socio-cultural groups in Guatemala.

Another element that, according to the pan-Mayanists, are fundamental to Mayan identity is a shared philosophy, or a 'world-view'.<sup>33</sup> This 'world-view' is characterised by a belief in respectful relationships within Mayan communities and between the elements of the universe at large, and a belief in the sacredness of the maize and the importance of the cycles of time and the calendar. Some Maya argue that this philosophy transcends other ideological divisions present in Mayan communities, and that it explains the persistence of Maya culture during 3,000 years. According to this view, it is first and foremost the 'cosmovisión' which makes it possible to talk of a Mayan identity today (de Paz 1996). It is not clear, however, to which extent this 'world-view' is shared by all who think of themselves as Maya in Guatemala today, nor is it certain which importance it has for individual Maya (Warren 1998:58), especially if one takes into account today's religious diversity within Mayan communities. For example, approximately 30% of Guatemala's indigenous today are Protestants and the majority are Roman Catholics. The emphasis on 'world-view' or any other common historical characteristics

<sup>31</sup> An example is how Serbo-Croatian, which was formerly considered a single language, has now become two languages: Serbian and Croatian.

<sup>32</sup> However, this was not repeated in the Proposal for Constitutional Reform (Siglo Veintiuno 1998a).

<sup>33</sup> 'Cosmovisión' in Spanish.

furthermore tends towards an 'archaeological' view of identity, in the sense that it is only for present-day Maya to examine history to uncover a Maya 'essence' that defines who they are.

Irma Otzoy (1997) underlines that there has been and is a tendency among Ladino and others to impose images of what it is to be a Maya. For example, for the Guatemalan guerrillas, the Maya were essentially oppressed workers. Maya culture, many of the revolutionaries argued, was little but the product of their oppressed conditions, and would disappear as soon as the Maya were freed from their current conditions (Ekern 1998, Smith 1991, Warren 1998). A similar view was presented by two of my informants, both well-known Ladino social scientists. They saw Maya culture as tied to traditional agricultural communities, and argued that for the Maya to 'modernise' and end their condition of poverty and marginalisation, they had to abandon their culture. This argument essentialises Maya culture by tying it to a particular productive practice, it reifies and reduces Maya culture, and ignores the capacity of Mayan culture for change and adaptation. Seeing the Maya as reactionary, for example, is a way of refusing to see individual Maya as persons who decide and create their own identity. Identity, Otzoy (1997) argues, is a process of constant change. Ethnic identity is in this view not a determinate concept, and a culture cannot be lost, only changed and reinterpreted (Warren 1997). It is moreover likely that it is this individual capacity of invention and reinterpretation that explains the cultural diversity of the Maya today (Warren 1997:77).

Is it possible to talk of a Maya 'nation' or 'people' today? According to John Watanabe,

never before, even in pre-Hispanic times, have the Maya existed as a single, self-defined people or nation. Instead, Maya in Guatemala today speak some 20 mutually unintelligible languages and, at least since colonial times, have placed their allegiances in hundreds of local communities, each with its own style of dress, speech and custom – to say nothing of spiritual

and practical ties to ancestral lands (Watanabe 1994:36).

Maya identity has traditionally centred on local communities that have had little communication between them, and for a majority of the Maya this is probably still true (Ekern 1998, Smith 1991, Watanabe 1994, Wilson 1995). Maya political action has focused on the municipality, because the central institutions of the Guatemalan state have been monopolised by the Ladino (Ekern 1998). Maya culture can in this sense be considered 'plural and localised, rather than generic and monolithic' (Smith 1991:31). This is what pan-Mayanists seek to alter, but it is a process that is likely to induce changes in Mayan culture. For example, one well-known anthropologist has argued that 'the vigour of the supra-community of Mayanism suggests that culture is more pertinent to the community than is ethnicity: in other words, to achieve a more ample Mayanism, the culture can be sacrificed' (Adams 1996: 52).

An example of this is how the traditional dress ceases to be a marker of localised ethnic identity for the urbanised Mayan elite; instead, they often wear ensembles of Maya clothing from different towns (Watanabe 1994:37). One of my informants likewise told me when I asked him why he was wearing jeans from the USA and a Mayan shirt, that he wore the clothing he liked to wear but gradually aimed at adapting new elements of Maya clothes to his outfit. Perhaps this exemplifies how Mayan identity is to a significant degree the product of individual adaptations and choice. What makes a person Maya is self-identification as Maya; it is a sense of identification with a particular type of 'others' which is not predetermined by any particular cultural characteristics.

However, individual choices and adaptations when it comes to identity are not taken in isolation from other Maya or the society at large. According to John Watanabe, 'simply put, Maya is what Maya do, as long as other Maya acknowledge it as such' (1994:31). But, he continues

Mayanness remains far from arbitrary precisely because it must be recognised and affirmed by others, not simply self-asserted...In recognising Maya latitude to fashion their own identity – if not always as they wanted, then neither entirely as others intended – this view also suggests that Maya must constantly demonstrate their Mayanness to one another or risk losing it (Watanabe 1994:31).

It is, in other words, contact and not isolation that engenders social identities, and increased institutionalisation is likely to lead to a growth in ethnic awareness (Eriksen 1993:147-50). Carlos Orantes (1996:93) thus argues that Ladino identities are more accentuated and cohesive in areas with a Maya majority, and likewise for Mayan groups in Ladino majority areas. Ethnic identities in Guatemala, he argues, are created in contrast, and in the absence of the ‘other’, these identities lose their cohesiveness.

The degree of success of the Mayan movement in gaining adherents, is likely to influence how individual Maya think of themselves as members of groups. ‘As pan-Mayanists widen Maya spheres of self-determination, so too will Maya identity change and expand’ (Watanabe 1994: 36). As one of my informants pointedly argued, for most Maya, particularly those in the rural areas, the issue of identity is irrelevant, it is given and unproblematic. Urbanised Pan-Mayanist intellectuals, on the other hand, question identity, and they need to come to terms with what it is to be Maya for their political projects to work. When they negotiate with other Maya on what it is to be Maya, they also seek inclusion by having their own perception of Mayanness accepted, but this acceptance may require changing and expanding the perception other Maya have of what it is to be Maya. As Eriksen (1995: 76) underlines, for a ‘more encompassing group to exist, it must be *socially relevant*. It must have some goods to deliver – material, political or symbolic – and those goods must be perceived as valuable by the target group’ [emphasis in the original]. The degree of success of the Mayan movement in gaining adherents in local Maya communities is indicative of the

extent to which Maya identity lends itself to instrumentalist interpretations.

### 3.4 Ethnicity, Culture, and the Indeterminacy of Group Membership in Guatemala

An assumption in *Multicultural Citizenship* is that the identity which makes us part of a ‘nation’ and which provides us with a societal culture is of particular importance because only it provides us with the cultural framework necessary for freedom of choice. Michel Wievorka sees this assumption as problematic because

if multiculturalism implies sizeable, stable, viable communities which are already constituted, one might object that this only takes into consideration a small number of the challenges posed by the existence of different communities in our societies. As we have seen, not all cultural identities are of the type which seek to maintain distinct identity, and, on examination, those which would appear to be are constantly changing (Wievorka 1998:902-903).

Perhaps the most puzzling issue of my fieldwork was that of the Xinca. This group is mentioned several places in the Peace Accords and in the proposals for constitutional reform as one of Guatemala’s four ‘peoples’, but three of the Guatemalan researchers I spoke to insisted that there are no Xinca left in Guatemala.<sup>34</sup> However, there is a group of perhaps 30-40 individuals who actively vindicate their rights to be Xinca, some of whom were members of the commissions set up by the Peace Accords.

The principle argument of those saying the Xinca are extinct is that the Xinca language exists only in fragments. A representative of the Xinca group I spoke to confirmed this. This, he claimed, is largely a result of the discrimination the Xinca have suffered, which has caused them to shun public use of their language. Cojtí (1997a) estimates that there are perhaps 2,000 Xinca in Guatemala. My informant argued that this number may be much higher, but that many Xinca refuse to confirm their identity publicly due to a

<sup>34</sup> Tzian (1994) also makes this point.



tradition of discretion. According to my informant, there is a process of ongoing change in the way these people see themselves. For the first time, people like my informant are manifesting their Xinca identity in public, thus signalling that they no longer wish to be considered part of Ladino society. My informant underlined, like many of the Maya with whom I spoke, that this process of growing 'ethnic consciousness' is partly a reaction against what they considered to be morally inferior values of the Ladino society.

The Xinka illustrate the difficulty of deciding when a group is a 'people' because some but not all of the characteristics Kymlicka gives of a 'people' may be in place. One informant argued that Xinka identity cannot be reduced to language, what is important is self-identification. 'When there is someone saying "they exist, I am one of them"', then they exist' he argued. If self-identification should be the only relevant criterion of group membership, we would have to discard Kymlicka's definitions of 'people' and 'societal culture' as criteria for the entitlement to group-differentiated rights. Particular characteristics of a group, such as culture, language, and institutions could perhaps help explain the occurrence and continuity of self-identification but would not in themselves be criteria for determining the entitlement to group-differentiated rights.

Perhaps the discrimination the indigenous have suffered in Guatemala is to blame for the state of the Xinka culture today. But if there is so little left, why give recognition to it? Which rights are the Xinka entitled to according to Kymlicka's theory? Rights to protect the Xinka language, for instance, cannot be justified by referring to the value of equality, because it hardly makes sense to argue that someone is discriminated by not including it in school curricula, using it in public institutions, and so forth as it exists only in fragments. The Xinka language is, however, valuable for other reasons, such as for understanding Guatemalan history, or for its contribution to Guatemala's cultural richness. Through the ILO Convention no. 169 (article 28), the Guatemalan state commits itself to

take measures to preserve and promote the indigenous languages of Guatemala. The state and other entities should therefore try to recover and rescue what remains of it, even though neither 'non-discrimination' nor 'recognition' confers an obligation on them to do so.

For the Maya, it is difficult to decide which type of group should be the subject of group-differentiated rights. Should it be linguistic groups, the Mayan people at large, or another type of group? According to Kymlicka's theoretical framework, the answer hinges on making clear which of these identities provides its member with a societal culture. It seems clear that the way societal culture is linked to identity varies for different individuals. Much has been written about how Maya have 'ladinised'; by adopting the language, values and other aspects of Ladino culture they have sought to be assimilated into and accepted among the Ladino (Adams 1995). However, 'despite constant blurring, the presumed opposition between Indian and Ladino persists' (Watanabe 1994:31), even though the content of, and emphasis given to these labels may vary through time and between different places (Warren 1997).

For the majority of the rural Maya the cultural background that serves as a basis for individual choice is probably first and foremost provided by their local community. For the leadership of the Mayan movement, on the other hand, societal culture is strongly linked to the Ladino-dominated urban environment in which they live, while their identity is attached to the pan-Mayan identity project. It is for many of these members of the Mayan movement that the possibility to choose between a Ladino and a Maya identity is really an option (Warren 1998:11,176). Different Maya share a strong sense of distinctiveness and of common destiny as victims of oppression, but it is not clear in many individual cases why Ladino and Maya should be seen as separate cultural entities. On the overall, the Mayan 'people' is today 'little more than a collection of communities, with similar experiences and values, but with little communication between them, so it is difficult to talk of a shared culture. The

Mayan people, understood...as an integrated collectivity, specialised and culturally homogenised, is only an embryo' (Ekern 1998:68).

Ethnic identities, of which national identities is one type, are but one of many identities individuals possess (Doppelt 1997:236). A Guatemalan, for instance, may feel both as a Latin American, Guatemalan, Maya, and a Kachiquel and from the town of Comalapa. In addition to this she is likely to have a number of other identities, for example as a woman, middle-aged, mother, middle-class, wife, atheist, member of a Conservative Party etc. None of these identities need to be mutually exclusive, we may say that they are segmentary in character (Eriksen 1995:76) and it is likely that a person will invoke different identities in different situations. For example, when leaving Comalapa for the neighbouring town of Chimaltenango, that person is likely to think of herself as a 'Comalapense', but when meeting Ladinos in the capital she may think of herself as a Kachiquel or Maya. Other identities are mutually exclusive, it would for instance be impossible for a person to be both K'ichee Maya and Kachiquel Maya. Ethnic identity is in this sense contextual, it is invoked or becomes meaningful depending on the situation one finds oneself in, and there are situations in which it is rather unimportant (Eriksen 1995:62). As is the case of the Maya in Guatemala, the importance of a particular group identity for 'culture' and consequently freedom, varies greatly between individuals.

The justification for group-differentiated rights is that there is a 'subject', a group, that rights can be connected to, either directly to individual members of the group or the group as such, or indirectly to a territorial administrative unit of which the group is part.<sup>35</sup> Primordialist approaches to ethnic identity can be problematic in this sense since 'a search for racial and cultural essences inevitably defines its subject matter out of existence because all peoples and cultures change' (Watanabe 1994:39). Ethnic groups are

perhaps often too multifaceted and heterogeneous, too difficult to define and delineate, and may transform too quickly for any necessary connection to be made between these and legal categories. The connection between ethnic identities and culture is often tenuous (Eriksen 1993). The lack of clarity in the distinction between Ladino and Maya can be used to offset Mayan claims to rights, as in the opinion of Pablo Duarte (1996:114): 'Let us hope that not many Ladino are going to say that they are Maya when there are land-ownership reforms.' Even if Duarte here greatly underestimates the difficulties involved in changing one's ethnic identity in Guatemala, the example nevertheless underlines the necessity of any theory on the rights of groups to come to terms with how groups change and are created.

'Ladino' is the third of the four 'peoples' mentioned in the beginning of this chapter. 'Ladino' refers to a very heterogeneous group of individuals, having in common that they speak Spanish as their first language. Claudia Dary (1994, 1997) argues that in colonial times the term 'Ladino' referred to those indigenous that had learned Spanish. It later came to be confused with 'Mestizo', which means literally mixed-blood, and then came to include also poor and primarily rural people of European descent. Rich Guatemalans of European descent usually called themselves 'criollo' or simply 'white' ('blanco') to signal difference from the poorer Ladino. In the public censuses of the nineteenth and twentieth centuries, Ladino referred to all the non-indigenous. Who is Ladino in Guatemala today? Guatemalan social scientist Mario Roberto Morales wrote an article titled 'Everyone who does not want to be "indio" is a Ladino'.<sup>36</sup> But many Guatemalans find it difficult to think of themselves as either Ladino or Maya (Duarte 96). Some feel more comfortable with the terms 'criollo', 'mestizo', or 'blanco' (Casás 1998), while many others prefer to think of themselves as simply Guatemalans.

<sup>35</sup> Recall Kymlicka's distinction between the justification for a right, and who exercises it (section 2.3).

<sup>36</sup> The article, which appeared in the Guatemalan newspaper *Siglo Veintiuno*, is referred to by Adams (1997).

Marta Casás<sup>37</sup> argues that the Ladino are indeed an ethnic group because they share a culture with particular traditions and habits, a religion, a territory, a common history, and a self-identification as Ladino when they are confronted with the ‘other’, principally the Maya. The characteristics Casás attribute to the Ladino come close to Kymlicka’s definition of a ‘people’. Víctor Gálvez (1997a), on the other hand, points out that the Ladino lack the symbols or markers of identity, such as ancestry, community, history and language that the Maya have. Ladino identity is therefore, he argues, defined and understood as in opposition to the Maya, it reflects a wish to distance oneself from everything ‘indigenous’. According to this view, being ‘Ladino’ essentially becomes what the indigenous are not. Richard Adams (1997) suggests that the Ladino are not an ethnic group, because there is no perception of common ancestry shared by all the non-indigenous. The Ladino moreover have a number of identities: of place, ideology and politics, religion, occupation, and so forth, which, in Adams’s opinion, also play an important role in a democracy. Adams sees the attempts to create a more cohesive Ladino identity as a reaction to the proliferation of Mayan demands for a state that recognises cultural difference. Claudia Dary (1997) also underlines the cultural diversity of the Ladino, and argues that identification with particular regions or geographical locations are of particular importance. Though frequently used, there is little or no agreement on who is, or what it is to be Ladino, except that being Ladino means not being indigenous.

The Peace Accords mention the Garifuna as the fourth of Guatemala’s ‘peoples’. Although a small group, the Garifuna possess a strong self-identification, a language, a history, and institutions and traditions of their own (Arrivillaga 1998, Córdova 1995). The ancestors of the Garifuna are mainly African slaves brought to the Caribbean and Amerindians. However, it is unclear whether notion of the Garifuna people is also meant to include black Guatemalans who are not

Garifuna, mainly English-speaking blacks. Most Guatemalans seldom distinguish between these two groups. The Garifuna have led an existence marginal to Guatemala’s political life, while they have maintained close contacts with other Garifuna in neighbouring countries and the Caribbean area in general. Thus, Garifuna identity extends beyond state borders. Likewise, Cojtí (1997a) argues that the ‘Mayan nation’ also includes those living in Guatemala’s neighbouring countries who speak a Mayan language. A challenge for the Mayan movement, as it may be for proponents of group-differentiated rights, is that the borders between groups are blurred and indeterminate in the case of the Xinca, Maya, Ladino, and Garifuna, and may extend beyond the limits of the state in the case of the Maya and the Garifuna.

It is possible that the Mayan ‘nation’ as it is presented by the pan-Mayanists and the Mayan linguistic groups lack both the institutional resources and the general legitimacy among the Mayan population to serve as the subject of group-differentiated rights. It should be kept in mind, however, that the Guatemalan state enjoys even less support from the indigenous than any of the above-mentioned groups. Even if it is difficult to determine which type of groups are entitled to which types of rights in Guatemala, it should be underlined that individual Guatemalans are stigmatised and discriminated against when they express their non-Ladino identity, and that a liberal theory of justice requires a remedy, be it through ‘recognition’ or ‘non-discrimination’.

### 3.5 Transforming and Constructing Ethnic Groups in Guatemala

Bulmer and Solomos take a constructivist approach to ethnic identity when they argue that

race and ethnicity are not ‘natural’ categories, even though both concepts are often represented as if they were. Their boundaries are not fixed, nor is their membership uncontested. Race and ethnic groups, like nations, are imagined communities. People are socially defined as belonging to particular ethnic or racial

<sup>37</sup> Quoted in Asturias, *Iximulew* 1996.

groups, either in terms of definitions employed by others, or definitions which members of particular ethnic groups employ themselves. They are ideological entities, made and changed in struggle. They are discursive formations, signalling a language through which differences [that] are accorded social significance may be named and explained. But what is of importance for us as social researchers studying race and ethnicity is that such ideas also carry with them material consequences for those who are included within, or excluded from, them (Bulmer and Solomos 1998:822).

Group-differentiated rights are often about such material consequences because they are frequently meant to remedy an unjust distribution of benefits that result from membership in distinct groups. However, conceding such rights not only requires assigning members to different groups, it can also affect the processes whereby groups are created and changed. Feelings of group identity can be strengthened through political decisions, such as decisions about giving rights to groups, or opening up spaces for political participation on a group basis. When rights are connected to group membership, the option of identifying with a group is not only made more attractive, it is also made more vivid to the individual, and therefore more real. It is possible that the more rights members of a group have, the more members it will get (Räikkä 1996:10). According to this view, the perception of who constitutes 'we' and the 'other' may change as a consequence of how institutions, legal documents or group leaders talk about and define groups.

The Xinca in Guatemala indicate how the political significance given to ethnic identity changes when there is a shift in focus towards ethnic groups and cultural difference in public debates or when the status of groups changes in law or political practice. It seems that the opportunities for participation that were opened up by the Peace Process and the inclusion of the Xinca in public discourse on rights and identities have given incentives for the Xinca to organise. It is likely that political processes, such as those where rights

are conceded to groups, do more than distribute benefits or cause misfortune to groups; group identities may also be created or recreated through such processes precisely by offering opportunities and constraints. Fredrik Barth argues:

Valued resources are arbitrarily allocated, or denied, by bureaucratic action, thereby creating communities of fate – which will next tend to emerge as social, self-aware groups – from formal legal categories. In this way, modern states often generate categorical distinctions within the field of continuous cultural variation, and thus the very kind of groups which according to narrower theory are supposed to be inimical to such state structures (Barth 1994: 19).

Several persons with whom I spoke argued that the Xinca are an example of opportunism created by the Peace Accords. This argument seems largely unwarranted, as there are risks attached to the public expression of identity, and few or no benefits from doing so. The practice of group formation to which the peace process has given impetus is perhaps best seen as helping a disintegrated group to integrate. The situation of the Xinca furthermore indicates how many Guatemalans feel excluded from Ladino society, or find the Ladino society and culture inadequate for their needs of cultural expression and identification.

Giving recognition to ethnic identities is thus not only about deciding which groups are entitled to rights; recognition may in itself define what groups are and which groups exist. For example, self-government rights presuppose a set of institutions necessary for the exercise of these rights. Few, if any, of Guatemala's linguistic groups possess such institutions, and self-government rights would therefore imply or require creating such institutions. Self-government rights could therefore make these groups more like 'nations' in the sense of being more 'institutionally complete'. In this sense, self-government rights are not only given to a pre-defined set of groups; the very concession of these rights helps 'create' groups, and the more comprehensive

these concessions are, the more it is likely that group identities will be consolidated and strengthened. A liberal theory of minority rights should not only need to take this into account, it moreover has to emphasise individual choice when it comes to ethnic identity due to its commitment to individual autonomy. A liberal theory of justice has to ensure that concession of rights maintains freedom of choice also when it comes to ethnic identity (Eriksen 1995), just as a liberal approach must be committed to the individual's right to change or maintain her culture as she chooses (Habermas 1994:131-2). A liberal approach to justice should not only reinforce a selection of existing identities, but also emphasise the possibility for an individual to choose freely between different identities, and how and when particular identities are to be important. The remaining question is which of the two models of cultural accommodation, 'non-discrimination' and 'recognition', best maintains this freedom.

### 3.6 Some Arguments against 'Recognition'

The above analysis suggests a number of reasons for scepticism to group-differentiated rights, and hence reasons to reconsider 'recognition' as an approach to justice in multicultural democracies. One argument against 'recognition' is that it *interferes in processes of group creation and change*, an issue I believe is not properly dealt with in Kymlicka's theory. He (1995a:186) believes that national identities and the claims to self-government that come with these are here to stay, and must therefore be accommodated. But Kymlicka does not sufficiently take into account the possibility that group-differentiated rights can change and even help 'produce' group identities. Nathan Glazer argues that

it is inconceivable to me that benefits given in law on the basis of group membership will not strengthen groups, will not make necessary the policing of their boundaries, and will not become permanent in a democratic society, where benefits once given cannot be withdrawn (Glazer 1995: 137).

Decisions about group-differentiated rights not only define which rights each group is entitled to; they also influence which groups will exist in a society and the priority given to them by individual members. Thus, one of my informants was completely opposed to the idea of giving legal recognition to particular ethnic or linguistic groups. The state should, he argued 'recognise plurality as such without mentioning particular groups, because other groups could be born'. The complex and dynamic nature of identity furthermore makes it difficult to categorise and structure into law. Wieworka pointedly states this:

cultural identities...are in a constant state of flux, which means that any attempt to represent them all in statistical or administrative categories is problematic and even absurd (Wieworka 1998:903).

This creates a serious problem for group-differentiated rights, namely that there seems to be no precise general criteria for determining which groups are entitled to group-differentiated rights, nor are there any precise criteria for limiting the number of claims groups may present for such rights. The distinction between permissible external protections and impermissible internal restrictions is in itself insufficient to separate all legitimate and illegitimate claims to group-differentiated rights. Moreover, the other criteria suggested by Kymlicka for distinguishing between legitimate and illegitimate claims to group-differentiated rights are inadequate if applied generally. As the examples from Guatemala indicate, the empirical complexity of group identities is difficult to fit into mutually exclusive categories such as 'immigrant', 'nation' and 'coloniser'. The criteria themselves rest on socially invented categories that are malleable and open to interpretation, such as common history, cultural and linguistic distinctiveness, etc., and therefore yield few precise answers to the problem of defining groups. Imposing such criteria are likely to create an unfair distribution of 'goods' (rights, position, etc.) and make non-favoured groups feel that they are being discriminated against, and there-

fore do not correspond with basic liberal ideals. In the next chapter I will discuss an alternative method for determining which groups are entitled to group-differentiated rights based on individual choice, but which nevertheless does not give a fully satisfactory answer to the criticism raised above.

A related argument against recognition is that it may *restrict individual freedom*. Recognition may furthermore *impede integration and lead to a polarisation of society*. Framing a political discourse in the language of groups has the consequence of excluding and omitting individual variation. Many individuals will often find fitting into the formally determined categories difficult, and not everyone wishes to ascertain a group identity. This is seen in the Peace Accords where the ethnic groups mentioned hardly encompass everyone living in Guatemala. It is also shown in the difficulty many Guatemalans have in defining themselves in ethnic terms, and many find it difficult to fit into the categories most similar to Kymlicka's concept of 'nation'. Different individuals are likely to diverge in their perceptions of the group(s) with which they identify (Vermuelen and Govers 1994:5-7).

The attachment of rights to ethnic categories is perhaps particularly problematic for the so-called *ethnic anomalies*, which are those individuals who do not fit into these categories (Eriksen 1995:62-5). Moreover, some groups may prefer integration instead of differentiated treatment, and for a number of individuals, ethnic identity may be of little or no importance. The implementation of Kymlicka's framework is likely to make it difficult to maintain that ethnic identity is of little or no relevance, because benefits and disadvantages will then become attached to membership in ethnic groups, and the issue of ethnic identity is likely to become more politicised. The issue of exclusion becomes an issue of fairness when ethnic identity is tied to political rights, because individuals who fall outside of the categories may be discriminated against to the extent that the concession of rights on a group-differentiated basis will be perceived as conceding privileges to the

members of a particular group. By structuring group membership into law, the possibility each individual has to redefine and reinterpret his or her culture is likely to become restricted (Eriksen 1997). Glazer argues that

groups that are ordered in a hierarchy, that are considered 'higher' or 'lower', reflecting real and substantial economic and political inferiority, may nevertheless set as their ideal and ultimately expect integration into the common society (Glazer 1995: 135-5).

Recognition may have the consequence of foreclosing this possibility because it implies a structuring of a country's population into groups and easily leads to a 'logic of the other' (Young 1995), whereby individuals are seen as belonging to mutually exclusive categories, barriers are created between ethnic groups, and minority groups are relegated to an inferior status. There is a tension between cultural homogenisation that leads to similarity on the one hand, and the recognition of difference on the other. Zapeta (1997) underlines the danger in arguing that what identifies the Ladino is what makes them different from the indigenous. A likely consequence of this is polarisation of society and decreased political stability.<sup>38</sup> Butenschön (1993:8) likewise argues that political systems based on group identities or 'cleavages' are likely to be unstable, since they are 'extremely vulnerable to changes in the character of the cleavage system, as exemplified in the case of Lebanon. Changes in relative strength of the groups (demographically or economically) might easily create demands for changes in the power-sharing system agreed upon'.

*Recognition can also be counter-productive.* Cojtí (1996b) emphasises that the injustices that result from racial, cultural and socio-economic discrimination are solved in different manners. Assimilation

<sup>38</sup> Against this it can be argued that the failure to give recognition can also increase tension and escalate into conflict (Kymlicka 1995a:185). In section 4.6 I discuss whether 'recognition' is likely to increase integration and stability in Guatemala or lead to increased social tension and conflict.

and integration is the remedy for both socio-economic and racial discrimination because the aim is the removal of difference. When it comes to discrimination on the basis of culture, on the other hand, he argues that autonomy is the answer because what is desired is maintenance and respect for difference, not its disappearance. In Guatemala, these three types of discriminations often overlap, and self-government rights and special representation rights could therefore cement and perpetuate a situation of segregation based on 'racial' and cultural stereotypes and economic injustice.

The purpose of recognition is to put groups on more equal footing and end the injustices that individuals suffer due to the situation their culture is facing in a society. But instead of helping members of minority cultures to achieve equality, it may 'ghettoise' them by restricting the possibility of leaving their own culture and become part of the majority culture, in situations when 'the dominant culture racialises, marginalises, and excludes them – effectively coercing minorities into enclaves of separateness on the periphery of society' (Doppelt 1998:240). This separateness may not only be forced upon groups from the outside, but can also be maintained from within, thus curtailing creativity, change, and freedom. As is the case for the indigenous in Guatemala, 'they confront a dominant culture which stigmatises them as racial or ethnic inferiors, alien "others" who are inherently unfit to belong to the mainstream culture, except in marginal and subordinate positions' (Doppelt 1998:241). In this situation, group rights may serve to 'mask and rationalise their unfreedom and inequality as individuals in the society as a whole' (Doppelt 1998:241). Cultural difference, which may require recognition, is only part of the reason for their marginalised situation and lack of equality. Thus, Kymlicka (1995a:109-10) rightly emphasises that 'special rights for national minorities' should only be endorsed 'if there actually is a disadvantage with respect to cultural membership, and if the rights actually serve to rectify the disadvantage'.

Lastly, it can be argued *that recognition can protect illiberal minorities*. The prohibition of any internal restrictions effectively excludes any illiberal group-differentiated *rights*, but, as Gerald Doppelt (1998:234) argues, 'Kymlicka's group rights may protect groups whose established cultures and identities have powerful illiberal characteristics'. For example,

in some cases ethnic identity is gendered and inseparable from harsh relations of domination between the sexes. In these cases polyethnic rights which strengthen ethnic identity also strengthen patriarchy and the terrible inequalities of options, freedom, and dignity such domination implies (Doppelt 1998:237).

It seems paradoxical 'how any appeal to liberal values can justify special protections for national or ethnic minorities which violate or weaken these very values' (Doppelt 1998:234). Kymlicka (1995a:163-72) argues against coercive intervention by the state to ensure that an ethnic group respects liberal values. According to Doppelt, Kymlicka's unwillingness to use force to protect liberal values questions the compatibility of group-differentiated rights with the protection of fundamental individual rights.<sup>39</sup>

Moreover, Doppelt (1998:235-9) argues that it is unlikely that an illiberal culture, a culture that imposes restrictions on its members' free enjoyment of their basic rights, can provide its members with the cultural framework necessary for *freedom* of choice. According to Doppelt, for

disadvantaged or oppressed sub-groups within a national or ethnic minority, the path to freedom and equality is not through group rights; rather it is through policies

<sup>39</sup> The issue of such interventions is too complex to be discussed within the scope of this thesis. It should be noted, however, that within the framework of *Multicultural Citizenship*, one reason to be sceptical about such interventions is that the incorporation of groups into a state is considered prior to the legitimacy of the state's jurisdictions over these groups, and such interventions could therefore be considered an illegitimate violation of a group's right to self-government. See also Kymlicka's discussion in that book (1995a:chapter 8).

which enhance their rights and opportunities as individuals in the majority culture and thus increase their freedom – both their freedom to abandon a defective, restrictive cultural identity, and their freedom within the majority culture (Doppelt 1998:236).

In addition to restricting certain types of group-differentiated rights (internal restrictions), Doppelt's suggestion is to

not provide any such rights to minority cultures which practice and rationalise serious violations of the freedom and equality of sub-groups within them (Doppelt 1998:235).

He further suggests that such rights should be given according to need, not just depending on a group's historic origin and present aspirations (1998:244). A problem with Doppelt's suggestion, however, is that it is not clear who should define and how to define 'serious violations of freedom and equality'. These uncertainties are likely to cause controversy, and even though 'serious violations of freedom and equality' can be defined according to international law and human rights conventions, there still remains the issue of interpretation and application of these standards. Such uncertainties could become an arm of the majority in the face of minorities. Another problem with Doppelt's suggestion is that it tends towards essentialising groups as either 'oppressive' or 'non-oppressive'.

The arguments above can generally be read as favouring an approach to justice in multicultural democracies that does not focus on particular types of 'groups', thus favouring 'non-discrimination'. However, before attempting to answer which of these two approaches or policies is the most adequate approach to justice in Guatemala, I will examine a topic which is a central concern in both the works of Kymlicka, and debates in Guatemala on multiculturalism: what are the implications for the state of cultural diversity when it comes to the distribution and organisation of political power?



# Chapter 4: Participation and Indigenous Self-Government in Guatemala

As previously argued, a central concern for considerations of justice in multicultural democracies is that members of minority groups often lack the means to influence decisions that have an impact on their culture. The organisation and distribution of the formal political powers and competencies of the state is therefore of great importance. Section 4.1 examines what implications 'recognition' and 'non-discrimination' have for the distribution of formal political power, and section 4.2 discusses a mechanism for determining which of the two is most adequate for Guatemala. In *Multicultural Citizenship*, Kymlicka presents two ways in which formal political power can be conceded to groups: either through a common set of institutions where some (or all) groups are guaranteed a certain degree of participation, or by giving each group degrees of autonomy. The three following sections therefore discuss participation (4.3) and autonomy (4.4 and 4.5) in relation to Guatemala. The last section analyses the implication of multiculturalism for political unity in Guatemala.

## 4.1 'Recognition' and 'Non-discrimination' as Approaches to Power-Sharing

The two approaches to cultural accommodation have different implications for the territorial and administrative organisation of the state. According to 'recognition', a basic organisational principle of the state is ethnic identity of the type that provides its members with the 'societal culture' necessary for freedom. 'Recognition' means 'power-sharing without socio-cultural integration; a principle that not only *preserves* existing cleavages, but which takes these cleavages as the *basic norm for legal-institutional power-distribution* in the society' (Butenschøn 1993:8,

emphasis in the original).<sup>40</sup> According to 'non-discrimination' on the other hand, these 'cleavages' are irrelevant for the organisation of the state.

Let us now compare these two approaches with another central issue in democratic theory, that of sovereignty.<sup>41</sup> In a *unitary* state there is one single sovereign power. A unitary state can be *centralised*, which means that all formal power is vested in one set of institutions, or it can *decentralise* by transferring some of its formal competence to smaller organisational units. The autonomy the smaller component units gain through decentralisation is not permanent because the sovereign can withdraw it. By autonomy I understand that an organisational unit (a group, a territory, an organisation) possesses a certain degree of formal decision-making powers. In a *federal* state, on the other hand, the formal power of the smaller component units is permanent and usually reflected in and protected by the constitution. The *federation* is often a result of the transfer of power from a number of sovereign units to the central government, whereas in the unitary decentralised state it is the other way around: power is transferred from the central sovereign power to smaller component units. In a state organised according to 'recognition', the component units of the federation or of a decentralised unitary state are ethnic groups. These component units will be strictly territorial in a state organised according to 'non-discrimination'. In the latter case, the different group identities of the citizens are irrelevant.

It should be marked that according to 'recognition' the autonomy of the component units in a federation or in a decentral-

<sup>40</sup> 'Cleavage' refers to the fundamental ways in which a society is divided, into ethnic groups, for example.

<sup>41</sup> The discussion above owes much to Butenschøn (1993) and a lecture given by Juan Linz at the University of Oslo 8 April 1999.

ised state does not need to be territorial. Members of the groups that compose the autonomous component units need not share the same territory. This is in fact implied by Arend Lijphart's (1995) well-known concept of 'consociationalism'. In the Netherlands, which is one of Lijphart's real-life examples of 'consociationalism', members of each 'cleavage' do not necessarily live geographically concentrated, but they belong to separate institutional structures. Likewise, one could imagine the Guatemalan state organised according to 'ethnic groups', each with its own institutions, but the members of these living intermingled with members of other groups (as they do to some extent today). For example, one of my informants suggested that there should be two ministries of education in Guatemala, one for the indigenous and one for the non-indigenous. Each ministry should run its own system of education for separate groups of citizens, but the territorial competencies of these two ministries should overlap. Non-territorial forms of auto-

nomy are useful because, as Lijphart argues (1995:285-6), 'even when ethnic groups are geographically concentrated, the boundaries between different ethnic groups never perfectly divide these groups from each other. This means that territorial federalism can never be a perfect answer to the requirements of ethnic and cultural autonomy'.

In a unitary centralised state, 'recognition' implies that formal power within the single set of institutions would be divided according to groups on the basis of quotas. This could either be done proportionally, or particular groups could be over-represented. A common argument for non-proportionality is that particularly small groups need overrepresentation to ensure that they have a say in issues that greatly affect these groups. 'Non-discrimination' in a unitary centralised state generally implies simple majority rule. On the basis of the above discussion, we get the following six types of multicultural democratic regimes:

	<b>Unitary Centralised</b>	<b>Unitary Decentralised</b>	<b>Federal</b>
'Recognition'	special representation rights	self-government/ special representation	self-government/ special representation
'Non-discrimination'	majoritarianism	majoritarianism	federalism

**Figure 1**

Above I have indicated with which type of group-differentiated rights the different models correspond.<sup>42</sup> Self-government rights and special representation rights can be combined in the case of a unitary decentralised state: the relevant ethnic groups could have quotas within the shared institutions while maintaining degrees of self-government. For example, Lijphart's (1995) consociationalism combines both quotas and degrees of self-government, in addition to proportional representation and elite co-operation between the cleavages. Generally, the greater the formal powers of the autonomous units are, the less power the shared institutions have. It is therefore likely that

the greater the formal powers of self-government become, the less relevant is the issue of quotas, and vice versa. 'Recognition' also opens up for the possibility of asymmetric distributions of power, whereby the particular types of self-government rights vary between different groups. For example, in Spain, the Autonomous Regions of Catalonia and the Basque Country have more extensive rights of self-government than La Rioja or Extremadura. 'Non-discrimination' precludes a justification for such asymmetries based on cultural differences between groups. Lastly, it should be noted that in a federal state, 'non-discrimination' and 'recognition' could be combined at different levels. For example, the federal component units could be organised internally according to 'non-discrimination', whereas the

<sup>42</sup> These rights were presented in chapters 1 and 3.

shared institutions could be organised according to 'recognition'.

#### 4.2 To What Extent is Guatemala an Ethnically Divided Society?

Is 'recognition' or 'non-discrimination' the right approach for Guatemala? A possible way to answer this question is to examine one of the central premises of 'recognition'. Kymlicka argues that

on the individualistic view, all that matters is that individuals have an equal vote within equal constituencies. This is all that is required to meet the principle that each individual has an equal right to vote, and it should be a matter of indifference how these boundaries are drawn, as long as constituencies are of equal size. But this ignores the reality that people vote as members of communities of interest, and wish to be represented on this basis (Kymlicka 1995a:136).

Kymlicka's defence for group-differentiated rights actually implies more than that people vote as members of 'communities of interest'. Kymlicka's argument in fact implies that people vote fundamentally as members of a *single* community of interest of a particular type, namely ethnic communities ('nations' or 'immigrant groups'). Kymlicka's theory presupposes that these groups can be identified and suggests that we must distinguish between different groups ('nations' versus 'immigrants') because these are also entitled to different types of rights. Thus, whether 'recognition' or 'non-discrimination' is the most adequate approach for a particular country depends on whether people in that country vote and wish to be represented as members of such communities. If the answer is affirmative, then it is likely that assigning rights to particular groups is possible, and consequently 'recognition' may be the adequate approach.

However, it is also possible that citizens give priority to other factors when they define their interests, vote, and wish to be represented, such as their level of income, the region they live in, religion, and so forth. The more other such 'factors' coincide with ethnicity, the more it seems likely that citizens will vote as

members of ethnic groups. In Guatemala, the diverse linguistic groups live rather concentrated geographically and the majority of the Maya are poor rural farmers. On the other hand, some Maya are well off, and many are urbanised. The indigenous communities are furthermore ideologically and religiously diverse (Ekern 1998, Mydske 1998, Stoll 1993), and the differences between different generations in terms of values and life styles are sometimes very significant (Warren 1998), so it is not obvious that ethnicity would be the primary community of interest for the Maya. Rather, as argued in chapter 3, it is likely that different types of identities will become relevant depending on the issues concerned.

Kymlicka is right in underlining that various forms of group-differentiated rights are common in western democracies, but as was pointed out in the last chapter, the criteria Kymlicka suggests for distinguishing between 'nations' and 'immigrant groups' are problematic. Arend Lijphart (1995) argues that instead of pre-determining the groups entitled to recognition according to some criterion or other, groups should be 'self-determined'. Under conditions of free association and competition, he argues, 'proportional representation is the optimal electoral system for allowing the segments to manifest themselves in the form of political parties' (op.cit.:281). If a number of individuals wish for their particular cultural identity to be given public recognition, they can simply organise a political party. In a system of proportional representation, any such group could potentially have its representatives elected. This approach seems furthermore to correspond with the desires of many indigenous representatives, who in the United Nations have insisted that self-definition should be the only criterion for being indigenous, thus resisting attempts by others to define them (Plant 1997). 'Self-determination' is moreover a test whether a society is genuinely plural, because 'the proof of segmental identity is electoral success' (Lijphart 1995:281). Individuals who prefer not to identify with a particular ethnic segment or group can choose to vote for a party that is not ethnically aligned (or they

can organise one). Among the advantages of 'self-determination' is that it gives all types of associations the same chance to elect representatives, and thereby avoids 'fixing the shares of representation and other privileges' (op.cit.:285).

An argument against 'self-determination' is that if it is seen as a test of whether a group is entitled to particular rights or privileges, it could create expectations that parties should organise according to ethnic identities. According to a constructivist approach to ethnic identity, such expectations may in fact shape and determine these very identities. 'Self-determination' may thus not only be a mechanism whereby the basic structure of the society is identified; it may also create or at least reinforce a particular type of structure.

Another objection to 'self-determination' is that not all groups are likely to possess sufficient resources to organise in a political party. A group may lack these resources because of injustices committed against it in the past, injustices that require some form of compensation. 'Self-determination' alone cannot deal with the 'corrosive consequences of marginalisation or powerlessness, and the way these can inhibit the self-organisation of groups' (Phillips 1995:15). If the state seeks to remedy this by giving marginalised or excluded groups financial support to organise, the issue of predetermination could be reintroduced because it may be necessary to define who should be given this support and on which criteria. Many of the Mayan linguistic groups are very insular; they lack the economic resources needed to organise a political party and are too small to have much of a chance of electing any representatives at the national level. Moreover, Guatemala's electoral system is based on proportional representation, so it would seem that according to Lijphart's argument Guatemala cannot be a truly segmented country because no ethnic identity-based political parties have had any great success so far.<sup>43</sup> However,

<sup>43</sup> However, it could also be argued that the present political parties are 'ethnic', because they are dominated by the Ladino. On the other hand, there have been indigenous political parties, but these have not received many votes. I return to this issue below.

such a conclusion is unwarranted because it ignores the conditions under which political organisation has taken place in Guatemala.

A third problem with 'self-determination' is that though it may determine how the society is structured, it cannot answer the question of which types of group-differentiated rights particular groups should have. It should also be noted that self-definition precludes overrepresentation (op.cit.:286), which may be required by Kymlicka's argument that certain groups have a right to protect the survival of their cultures. Even if these objections are taken into account, self-determination is perhaps better than any other approach to the selection of groups.

Future elections may be indicative of the social structure of Guatemala to the extent that ethnically based parties appear and gain adherents, or fail to do so. However, given that 'self-determination' in itself is insufficient to answer the question of which of the two approaches to cultural accommodation is the most adequate for Guatemala, the choice between 'non-discrimination' and 'recognition' for Guatemala needs further examination; we need to look at the actual situation in Guatemala today, and see whether the existing arrangements favour particular groups (Phillips 1995:38). What is the current level of indigenous participation and self-government and how do the indigenous perceive these issues? What characterises indigenous experiences with participation and self-government? Answering these questions may give indications as to whether 'non-discrimination' or 'recognition' is most adequate for Guatemala, and I will discuss these throughout this chapter.

### 4.3 Participation, 'Presence', and the Indigenous in Guatemala

Kymlicka's (1995a:141) concept of special representation rights includes both 'public funds for advocacy groups, guaranteed representation in political bodies, and veto rights over specific policies that affect a group directly'. Both the ILO Convention no. 169 (article 6) and the Peace Accords commit the Guatemalan government to promote the participation

of the indigenous in policy-making. The ILO convention furthermore underlines that the indigenous have a right to be consulted on issues that affect them directly. The Mayan intellectual Demetrio Cojtí (1997a:70) argues in favour of proportionality between different ethnic groups in the distribution of the Guatemalan state's finances, and in the contracting of persons in the state's institutions. He also suggests that minority groups should have veto rights. I will return to the issue of public funding for such groups in the next chapter, while guaranteed representation and veto rights will be discussed below.

Cojtí (1996c:86) stresses that because there is no participation at the regional, departmental and central level, it is 'probable that the indigenous ignore the existence of these intermediary governments and the central government, except those that see it as the ...cause of their problems, as the place where decisions are taken against the indigenous'. Sieder (1996:14) probably expresses a commonly held opinion when she argues that the Guatemalan political system (the state) has been irrelevant for most Maya.

What is the current level of participation of the indigenous in Guatemala? I will return to the local level of politics in the next section, and concentrate on the central levels of the state's institutions here. Many Guatemalans, among them several of my informants, argue that the *Accord on Identity* was created without due consultations with the indigenous people (Castro 1996, Cojtí 1996a). However, it seems clear that some indigenous did give substantial input to this part of the negotiations through their participation in the Assembly of the Civil Society (Asamblea de la Sociedad Civil), a consultative body set up as part of the Peace Process. In the joint commissions set up as part of the Peace Accords, on the other hand, it was the first time in this century that indigenous representatives interacted and negotiated directly with the government. Among these were a commission on the political participation of the indigenous, a commission on the official status of the indigenous languages and a commission on land rights. The indigenous participation was co-ordinated through the umbrella

organisation COPMAGUA, though some critics argued that this organisation was not representative of the indigenous at large (Vásquez 1996).

The 80<sup>44</sup> members of the *Guatemalan Congress* are elected in proportional elections every four years. 64 of the representatives were elected on the basis of the 22 departments, the remaining 16 on the basis of the country as a whole. The president is elected directly by simple majority for a four-year term, cannot be re-elected, and appoints the government. If no single candidate obtains the simple majority during the first round, a second round is held between the two candidates who obtained most votes during the first round. There are presently six Mayan Congress members who openly manifest their Mayan identity,<sup>45</sup> half of whom are women, in addition to a few deputy members. All other members of the Congress are Ladino. This results in a Mayan presence in Congress of less than 8%, which makes it hard to argue that the Congress is representative of the Guatemalan population.

Noticeably, this underrepresentation exists despite both an electoral system based on proportionality and the Maya being (most likely) the majority; although these are frequently mentioned as factors that prevent under-representation in other countries (Kymlicka 1995a:141). Kymlicka (1995a:150) argues that '...legislatures have a special symbolic role in representing the citizens of the country. Citizens who do not see themselves reflected in the legislature may become alienated from the political process and question its legitimacy'. Since the reintroduction of democracy in 1986, there has only been one Mayan minister: Celestino Tay Coyoy was Minister of education in the government of Ramiro de León

<sup>44</sup> For the 7 November, 1999 elections these numbers changed: 91 members were elected on the basis of the departments, and 22 were elected on the nation-wide list. It should also be noted that for electoral purposes the municipality of the capital counts as a separate electoral district, for a total of 23. I do not have at present the data on the number of indigenous elected to the Congress.

<sup>45</sup> My informants told me that there are perhaps six more members of Congress from largely Maya background who prefer to pass for Ladino.

Carpio (1993-95). There are no indigenous Supreme Court judges, and at the lower levels of the justice system very few Maya are employed.

There are no statistics on the number of indigenous in the public administration, but my informants and the written sources (Cojtí 1997a, 1997b:12) agree that the indigenous are largely underrepresented. Moreover, the higher up in the administrative hierarchy, the fewer indigenous bureaucrats. The right to compete on fair conditions for public positions is a primary concern in liberal theories of justice (Rawls 1971, 1993), and can moreover be considered a means to combat corruption and unfair preferential treatment. It may also be argued that the quality and accessibility of public services is to some degree dependent on the extent to which the public and the civil servants share the culture and language. Public administrations often possess significant discretionary powers, and with the presence of different societal groups there is also a way to ensure that the interests of these different groups are taken into account when administrative decisions are taken. Thus, Roger Plant (1997:12) argues that ending discrimination in Guatemala in addition to changes in law also require 'commitment by the Government and clear directives to both state and private-sector organisations regarding their employment policies and attitudes'.

The first step to get more indigenous into the Congress and the government is to increase the number of indigenous on the electoral lists of the *political parties*. Most Guatemalan parties include Maya on their electoral lists. One of the parties, the left-wing Frente Democrático Nueva Guatemala had a Maya as candidate for vice-president during the last elections, and so did the left-wing alliance Alianza Nueva Nación for the November 1999 elections. Non-party aligned Mayan leaders were approached before the last elections by different parties who wished to have their support, and the Mayan leaders use this as a negotiating tool to pressure the parties for commitments on indigenous issues.<sup>46</sup> However, on the overall, the

<sup>46</sup> Personal communication with Otilia Lux de Cotí, July 1999.

number of Maya in the parties is low, particularly considering the relative size of the indigenous population in Guatemala. Some of my informants related that when a party wins the elections and the organisation of government takes place, the issue of indigenous presence is ignored. A common opinion was that the Maya are included on the party lists exclusively for the purpose of winning votes among the Mayan electorate, and that their points of view on issues of particular interest for the indigenous are not taken into account (Cojtí 1997a:30). Some therefore concluded that it is better to keep away from party politics. René Poitevin,<sup>47</sup> director of the Guatemalan research institute FLACSO, characterises the processes for electing candidates within the parties as very undemocratic. The candidates are usually appointed by the leadership rather than being elected. Poitevin argues that this lack of democratic processes within the parties is again reflected in the attitudes of party members when they are in government positions.

In the 1970s, the indigenous party 'Frente Indígena Nacional' was created, but quickly lost electoral support because it jumped from one party alliance to another (Arias 1990, de Paz 1993). In the 1990s, new indigenous organisations with political ambitions have appeared, such as the 'K'amal B'e' and 'Nukuj Ajpop' (Cojtí 1997a, Ekern 1998). Nukuj Ajpop was allied with the FDNG during the legislative elections in 1995. Both of these organisations are active in courting the so-called Civic Committees ('Comités Cívicos'), which are non-party aligned municipal electoral platforms. The Civic Committees are usually created on initiative from local non-governmental organisations, and their growth since 1985 has paralleled that of the Mayan Movement (Gálvez et al. 1997c:31-32). Today, these committees run numerous municipalities, but because they lack the legal status as political parties, they cannot participate in presidential or legislative elections. Another initiative worth mentioning in this context is the organisation of forums with the candidates for presidency by members

<sup>47</sup> Interview in *Prensa Libre*, 12 October, 1997

of the Mayan Movement. On these occasions, the candidates have presented and discussed their policies towards the indigenous with a dominantly Mayan audience (CEDIM 1992, Comité para el Decenio 1996).

Should the lack of Maya presence be taken as 'evidence' of the necessity for special representation rights? As Anne Phillips (1995:39) argues: 'establishing an empirical underrepresentation of certain groups does not in itself add up to a normative case for their equal or proportionate presence'. For example, according to Edmund Burke's theory of 'virtual' political representation (Pitkin 1967), a person's or a group's interests are given objectively and are easily identifiable. These interests are given independently of the opinions these persons may express, and are best represented by those who possess knowledge and reason who in rational deliberation determine what is best for their constituencies and the nation at large. In contrast, contemporary political theory usually focuses on accountability; it is the correspondence between the expressed will of the electorate and the representative that determines the degree of representation. However, for both the Burkean and the contemporary theory what matters is that the actual interests of the indigenous in Guatemala, for example, are taken into consideration, not who is present in the institutions which represent these groups. Anne Phillips (1995) labels this a 'politics of ideas' and contrasts it with a 'politics of presence', the latter according to which the characteristics and the identity of the representatives matter. Phillips underlines the following dilemma with a 'politics of presence':

The legitimacy of group representation depends on some mechanism for establishing what the group in question wants or thinks or needs, and there are only two serious candidates for this. One is the implausible essentialism that sees shared experience as enough of a guarantee of shared belief; the other is the organisation of some sufficiently representative segment to establish group opinions and goals (Phillips 1995:55).

Essentialism, or the idea of 'mirror representation' (Kymlicka 1995a), in fact undermines the whole idea of group representation. The idea that a people must share the same experiences in order to represent each other is problematic because excluded groups can be divided further into subgroups, which may be marginalised within the excluded group. It is therefore difficult to determine exactly which group should be guaranteed 'presence'. Moreover, common experience is never a guarantee for shared beliefs (Phillips op. cit.:171), and taken to its logical conclusion, 'mirror representation' implies that no person can speak for another. There is also a danger that if the idea is accepted that a person from one group cannot speak for the member of another, that a Ladino cannot speak for a Maya, for example, it would liberate the members of one group from even trying to speak for or understand the interests of another. However, according to Kymlicka:

Group representation rights are often defended as a response to some systemic disadvantage or barrier on the political process which makes it impossible for a group's views and interests to be effectively represented...The point here is not that the legislature should mirror society, but rather that the historical domination of some groups by others has left a trail of barriers and prejudices that makes it difficult for historically disadvantaged groups to participate effectively in the political process (Kymlicka 1995a:141).

The second mechanism for determining a group's interest suggested by Phillips, is to strengthen group organisations, through funding for advocacy groups, for example (Kymlicka 1995a:141), or otherwise 'help provide means of communication, places to get together, opportunities for meeting and deciding group goals' (Phillips 1995: 54). In other words, the claim to represent a group and the degree of accountability to the group depends on the degree of self-organisation of the group. The larger the group, the less conceivable it is to organise a process for determining the interest of the group (op.cit.:55). Phillips is therefore cautious in basing the justifi-

cation for presence on an idea of group representation. She (op.cit.:171) argues that guaranteed representation, in addition 'a mismatch between voters and those who represent them', must be based on analysing the existing structures of exclusion, such as (op.cit.:171) 'the historical foundation of particular nations, which built themselves on denying racial equality'. Guatemala seems to fit this latter case rather well.

A way to deal with the exclusion or underrepresentation of particular groups in elected bodies is 'redistricting', which is usually associated with the USA. This means that borders of electoral districts are redrawn so that there will be a majority of members from the excluded group in a number of districts. Some of my informants argued that the borders of the departments should be redrawn so that they correspond with the Mayan linguistic groups. However, 7 of the 22 Departments have a Mayan majority, and 7 more have approximately equal numbers of Maya and Ladino (Cojtí 1997a:29), and these are all multi-member electoral districts, so it is uncertain whether this redrawing would actually change the possibilities to any significant extent. Moreover, this proposal can only be a limited solution, because many of the Mayan groups are too small in numbers to have a reasonable claim to their own electoral district, at least considering the size of the Congress today. For these, a possibility could be to establish alternative mechanisms of consultation. Another problem is to determine the number of seats that should be reserved for the Maya. Proportionality is problematic because it seems to presuppose the idea of 'mirror representation' or 'essentialism'. Kymlicka (1995a:146) suggests giving the relevant groups a 'threshold number of representatives', which means that each of the relevant groups is given the number of seats needed to reflect its interests effectively. Generally, the more deliberative and consensus-based the decision-making procedure, the fewer seats needed. It is difficult to determine what this would imply in the Guatemalan case, but the members of Congress I spoke with underlined that the

decision-making practices there were not very consensus-based.

Phillips (1995) provides four arguments why presence and not just the representation of interest matters. *The first* is the argument of the necessity of recognition for individual self-esteem, which I presented in chapter 2. In Guatemala, the state's policy towards the indigenous has been paternalistic, and the exclusion of the indigenous has been legitimised by referring to them as intellectually inferior and incapable of knowing their own best. 'Presence' may therefore be necessary to 'reverse previous histories of exclusion and the way these constituted certain kinds of people as less suited to govern than the rest' (op.cit.:40), even if the inclusion of previously excluded groups does not change the actual content of policy.

*The second* reason why presence matters is that elected representatives only 'represent their constituents on the issues that were explicitly debated in the course of the election campaign. On everything else, the representatives have to fall back on their own judgement or their own prejudice' (op.cit.:43). Since the electorate cannot possibly know the opinions of their candidates on all issues the electorate needs a more 'general notion of the way they are being represented' (op.cit.:43). Many issues of interest for excluded groups are almost never included in the party electoral programmes or on the legislative agenda. If the representatives share some important characteristics with their constituency, such as ethnic identity, then it is more likely that the opinions of the representatives will cohere with that of their constituency. Shared identity then serves as a kind of safeguard.

*The third* reason is that excluded or disadvantaged groups need more efficient advocates in the political arena. Many issues only arise after elections, and are weighted against others in the deliberations and negotiations of policy-making in the legislative assemblies and the government. The discretionary powers of judiciaries and political administrations also affect outcomes. In these cases, it 'matters immensely who the representatives are' (op.cit.:44).



*Lastly*, people tend to adapt their expectations to the opportunities they perceive. Such perceptions are often the product of unjust conditions. Phillips (op.cit.: 44-45) therefore argues that ‘if we take the preferences that are expressed through the mechanism of the vote as the final word on what governments should or should not do, we may be just condemning large sections of the community to persistently unjust conditions...It is only when people are more consistently present in the process of working out alternatives that they have much chance of challenging the dominant conventions’. There is a significant element of social construction in political options, and presence may help ensure that other options than those already dominant emerge. In short, Phillips (op.cit.:182) underlines that the main argument for presence is that ‘existing structures of power and representation have denied the pertinence of excluded perspectives and concerns’. Several of my informants justified quotas of representation for the Maya by underlining how Mayan culture represents ethical values different from Ladino culture. Presence, according to this argument, may transform current policies and political agendas by bringing in new perspectives.

As argued in chapter 3, it can be difficult to determine which groups are excluded, in other words which groups are entitled to guaranteed ‘presence’ or quotas. Iris Marion Young (1989:265) lists a number of excluded groups that leaves out only able-bodied white men (Kymlicka 1995a). However, as Phillips (1995:46) notes, ‘equality does not require proportionality according to each and every characteristic’. Phillips (op.cit.:167-8) emphasises that policy recommendations should depend on the nature of the excluded group. Concerning ethnic groups, she is particularly sceptic to quotas, because she argues that no society can be clearly divided into a finite number of ethnic groups, and new groups are ‘continually being created’. Ethnic groups can always be divided into new subgroups, thus creating new minorities and majorities, so that ‘ethnic quotas will always fail to capture the diversity of ethnic identities’ (op.cit.: 168). Her suggestion is therefore to focus

on targets and proportionality in stead of quotas, though she underlines that this may be insufficient to deal with current situations of exclusion. Applied to Guatemala, this would imply maintaining today’s electoral system, while establishing voluntary targets of indigenous presence for the parties, the government, and the administration.

Three frequently used arguments against presence (Phillips op.cit.) are first that the focus on presence may politicise group difference and disrupt political cohesion and stability, second, that it may weaken accountability, and third, that the focus on group interest may undermine the common good. The first of these will be discussed in section 4.6. The second depends on how group interest is determined. If groups are organised in such a way that a reasonable consensus on what the interests of the group are can be reached, then presence may in fact increase accountability. As to the last argument, it is possible, as Phillips underlines that as long as the perspectives of marginalised groups remain excluded, public discussion of the ‘common good’ are likely to represent the interests and perceptions of only a limited part of the population.

What then about veto rights? Veto clearly presupposes that a group’s interests can be defined, and the two ways to define it were mentioned above: the rejected ‘essentialist subject’, or a reasonable way to organise the determination of a group’s interest. Another problem with veto is that of determining its scope. The ILO Convention no. 169 states that the indigenous have a right to be consulted on all issues that affect them. This could hardly be the basis for veto, because, as one of my informants argued, the size and diversity of the Mayan population make it difficult to find *any* issue which does not affect them. What seems to follow from Kymlicka’s framework is that veto should be limited to those issues that directly affect the survival of Maya culture. Phillips’s main argument for presence, that of including previously excluded perspectives, is irrelevant in this case, unless veto also includes the right to decide which issues are to be included on the

political agenda (and not just veto on the issues already included).

Where does the above discussion leave us in the choice between 'presence' and 'non-discrimination' in Guatemala? The arguments for special representation rights in the form of quotas of 'presence' or vetoes are problematic. On the other hand, is 'non-discrimination' sufficient to remedy the current racism and exclusion of the indigenous in Guatemala? Discrimination is not the only explanation for the indigenous people's political marginalisation. Another cause lies in Guatemala's general political problems such as the complexity of the voter registration process,<sup>48</sup> inaccessibility or geographical distance from the voting localities (IRELA 1995), and an illiteracy rate of perhaps 70% among the indigenous (Cojtí 1997a). Unrepresentative candidates, authoritarian and poorly organised political parties, corruption and broken electoral promises, authoritarianism and abuse of power in the public institutions contribute to creating distrust in the political system. Fear of participation that lingers on from the war, cultural and linguistic differences that hinder communication, and the existence of a parallel system of political authority in many communities, are other factors that are likely to contribute to one of the lowest electoral turnouts in the Americas.<sup>49</sup> It is possible, indeed likely, that the effective implementation of laws against discrimination, as well as effective measures against the above problems will increase Mayan presence in the institutions of the Guatemalan state. Measures that are required by or in correspondence with 'non-discrimination' thus in themselves imply great changes in Guatemala, though it is uncertain whether these will be sufficient in themselves.

<sup>48</sup> I had the privilege of being an observer at the 7 November, 1999 elections with the Organisation of American States and could observe and discuss some of the difficulties mentioned above.

<sup>49</sup> The proportion of registered voters participating in the most recent electoral events was: referendum 1994: 15.9%, general elections 1995: 46.8%, presidential round-up 1995: 36.9%, municipal election 1998: 39.1%, referendum 1999: 18.6%, general elections 1999: 53.3% (TSE 1999).

#### 4.4 Local Government, Community Law, and Local Autonomy in Guatemala

*We are generating little by little the spaces that correspond to us, but that they never have given us.*  
Mayan mayor, 2 December 1997.

The municipality is a central concern when discussing multicultural democracy in Guatemala today. Mayan identity is probably first and foremost linked to the municipality (Ekern 1998:69), and it is also believed that public trust, among both indigenous and non-indigenous is greater in local government than in central government and the political parties (ASIES et al. 1998). The Guatemalan state is divided into 22 departments and 330 municipalities. The President appoints the governors of the departments, whereas the municipal mayors are elected in proportional majoritarian elections on four-year terms. About 70 municipalities, or approximately half the municipalities with a large proportion of Maya, have Mayan mayors (de Paz 1993). When making recommendations on the design of institutions, we need to consider local conditions, historic background, and possible future consequences (Dahl 1989:192, Phillips 1995:170). I will therefore examine the relevance of cultural difference for local institutions and local participation in mainly Mayan areas in Guatemala.

The indigenous 'customary law', which is a whole system of traditional and consensus-based norms and mechanisms for conflict resolution, continues to regulate many Mayan communities despite centuries of existence of the official system of justice. These customary norms are generally not codified or written down, and they may vary between and within particular communities. Most Mayan communities have had institutions that have been linked indirectly to the Ladino-dominated state, such as the 'Cofradía'<sup>50</sup> or the 'Consejo de los Princi-

<sup>50</sup> The 'Cofradías' were religious brotherhoods which centred on the worship of a particular saint. Though primarily a religious institution, the 'Cofradías' had great political and cultural impact on many Mayan communities (Rojas Lima 1988). The 'Councils of the Elders' were institutions composed of older male dignitaries,

pales' (Council of the Elders). These have exercised authority within the Mayan communities according to Mayan traditional norms and values. The indigenous institutions have channelled information and contact between the local indigenous communities and the official authorities, and may be seen both as a form of indirect rule of the indigenous communities by the state, and as a way for these communities to amplify their margins of autonomy.

The legal status of the 'Consejos de los Principales' ended in 1944 in all municipalities with more than 10,000 inhabitants, but they continued as 'Alcaldías Auxiliares', i.e. municipal authorities regulating the indigenous communities internally. In 1980, during the counter-insurgency, they were converted into 'Development Committees' (Comités de desarrollo), and many of them were usurped by military commissioners and by local military patrols: i.e. the 'Patrullas de Autodefensa Civil' of the army and to a smaller extent by the 'Fuerzas Irregulares Locales' of the guerrillas. These institutions continue in existence in many Mayan communities despite being officially abolished, and in some communities they are the principal institution for conflict-resolution (Sieder 1996:82-4).

The Guatemalan state's policy from the nineteenth century of introducing a uniform system of law and authority has only to a limited degree succeeded. The inability of the state to exercise significant influence over many Mayan communities is largely due to the inefficiency of the state, cultural difference and distrust in the public institutions, geographical distance, and of 400 years of existence of a system of parallel government. Sieder (1996:45-7) argues that the relation between customary law and the national justice system is dynamic, and the two systems influence each other. The national system limits the autonomy of the local legal practice, and individuals utilise and internalise both types of law. Though customary law is subordinated to the official legal system, it can be understood as an attempt by the local communities to

adapt the legal norms of the state to their own needs, values, and structures. However, the state 'generally defines the limits of what the communities may or may not define as local practice' (op.cit.:104).

The recognition of customary law is salient among the demands of the indigenous organisations in Guatemala today. It entails that formal law should reflect local customs of conflict resolution and decision-making that are in vigour in the indigenous communities. Official recognition of customary law implies self-government rights because it implies that the communities in question would be ruled according to their own decision-making procedures. The incorporation of customary law into the legal system of the state was included in the proposals for constitutional reforms that were rejected in the May 1999 Referendum. The proposal stated that the state should 'recognise, respect and protect the traditional authorities of the indigenous communities', and that customary law should apply only for internal matters of the indigenous communities. Its application should be voluntary and restricted by 'fundamental rights as they are defined in national law and international human rights conventions ratified in Guatemala' and by effects on 'third party interests'. This proposal was controversial, and critics argued that it implied the introduction of a dual legal system in Guatemala and hence legal chaos. However, as one of my informants argued, the official institutionalisation of community law does not necessarily imply change, but rather recognition of what is already there. The United Nations are clear about the requirements concerning community law in Guatemala:

The agreement on Indigenous Rights, convention No. 169 and article 58 of the Constitution are the foundations for institutional recognition of the law practised by the indigenous peoples. The procedure and mechanisms for this recognition were analysed and discussed in the framework of the peace process, and it is for the Congress to issue the rules for co-ordination to ensure that indigenous communities are recognised as being entitled to manage their internal affairs in accordance with

---

appointed because of the services they had provided for the community. A main function of these was to resolve local conflicts.

customary law. The indigenous peoples must participate in this process. Indigenous law will continue to be an effective tool for conflict resolution, especially when the authorities and procedures are clearly identified (United Nations 1998:8).

One of the difficulties in incorporating customary law into formal law is that customary law might vary throughout the Guatemalan territory. Given the great diversity of local norms and practices, the task of harmonising different varieties of customary law may prove impossible. A solution to this is to decentralise so that law can vary regionally according to local customs. This is common in federal systems, such as the USA, where both state and federal powers have the right to legislate, but in different areas.

A second problem with customary law is that, at least theoretically, it may not conform to the Guatemalan Constitution or to international human rights. Customary law could theoretically in certain cases be invoked to defend illiberal practices.<sup>51</sup> Examples here are the expulsion of groups or individuals from the community or imposing sanctions on someone accused of performing witchcraft (Sieder 1996: 113). An issue that is sometimes connected to customary law in Guatemala is the lynchings (extrajudicial executions) of presumed criminals throughout the Guatemalan countryside. This phenomenon has increased rapidly since the signing of the Peace Accords, and a Guatemalan newspaper (Siglo Veintiuno 1998b) reported a total of 123 lynchings in 1997 and 1998 together. Many of my informants denied that the lynchings had anything to do with customary law, and this view is corroborated by the United Nations (1995:5). They argued that the lynchings in general were due to the current climate of insecurity; the corruption and inefficiency of the

justice system were mentioned as another cause.

Nevertheless, community law is more than what members of these communities argue it ought to be; it includes the actual practices in these communities. Opinions on what constitutes community law may also vary between different members of a community. Thus, in a male-dominated society, relations between the sexes may be seen as harmonious by men, while women in the same society may experience them as unequal and exploitative. Sieder (1996:52) underlines that 'within as well as outside the indigenous communities the laws and costumes, as well as the rights and traditions, are constitutive aspects of the relations of power and the negotiation of justice'.<sup>52</sup> Compliance with international human rights norms is therefore explicitly asked for in the ILO Convention no. 169 and is also supported by members of the Mayan movement. Bhikhu Parekh (1993:171) likewise underlines the need for a common normative framework in states which have plural legal systems when he suggests that any state 'should be free to allow its constituent communities to retain their different laws and practices, so long as these conform to clearly laid down and nationally accepted principles of justice and fairness'.

It could also be difficult to draw the line between community law and law that is to be valid in the country as a whole. For example, which crimes are to be punished according to community law and which are to be punished according to country-wide law? Institutions that are given powers to mediate between the two systems of law, and make decisions on contentious issues would have to be created. Such institutions would need equitable representation of both the indigenous and the non-indigenous. Sieder (1996: 116-7) underlines the flexibility of community law, a flexibility that can be lost if community norms are formalised and institutionalised through incorporation

<sup>51</sup> Kymlicka (1995a:38-40) discusses the tension between Indian self-government and the respect for federal Bill/Charter of Rights in the USA and Canada. Bordewitch (1997) likewise discusses examples where it has been impossible to pursue cases of homicide because of the complexities in the relationship between indigenous self-government rights and state/federal legislation in the USA.

<sup>52</sup> Thus, Richard Wilson (1999) in a lecture at the University of Oslo associated community law with 'armed middle-aged men', i.e. that armed groups which originated during the war constitute the *de facto* authorities within many communities.

into the official legal system. Community customs and norms, she argues, change constantly, and it is therefore better to emphasise the procedural norms (the mechanisms for decision-making and conflict resolution) than the substantive norms (for example, what constitutes a criminal offence).

Another complexity in incorporating community law into the official legal system derives from the traditional Maya conception of authority (Ekern 1998, Sieder 1996). Authority is gained by providing service to the community, by conforming to the norms of a morally correct behaviour, and by possessing an accumulated experience in life (which explains the high regard for the elderly in many Mayan communities). This notion of authority thus differs from democratic concepts, where authority is intrinsic to and equal for each individual, and is vested in individual persons through elections where the right to run for office is equal for all. How can these be combined? Some of my informants suggested the phenomenon of 'double elections', which occurs in the province of Totonicapán, for example. In these communities, which are completely indigenous, local authorities are first elected according to traditional Mayan consensus-based norms and depending on the services they have provided to the community. The elected individuals are then voted into municipal office through official elections. The same individuals are thus elected twice, the second time only to conform to the formal requirements of the official democratic procedure.

Community-based forms of decision-making are often consensus-based, or they have at least consensus as a goal. Public discussion is one frequently used mechanism to reach decisions and can be both a 'corrective space, a form of mediation, and sometimes a moral sanction in themselves' (Sieder *op.cit.*:91). Women are often excluded from participating in these discussions (Mydske 1998, Sieder *op.cit.*:92-3). Mayan rituals and religious beliefs, which have experienced a process of revitalisation in the 1990s, are based on and reaffirm notions of mutual obligation and reciprocity (Ekern 1998, Sieder 1996,

Wilson 1995). Whereas Mayan community law focuses on the cause of an offence or conflict and seeks restoration through the participation of the conflicting parties, official Guatemalan law leaves decisions to the judge or the jury and classifies offences strictly according to a predetermined set of criteria. In the Guatemalan national legal system, a confession is an indication of culpability, whereas for the Maya the acceptance of blame or responsibility is a first step towards restitution and reconciliation (Sieder 1996:113-6). When procedural mechanisms are consensus-based and non-excluding they may be compatible with a democratic processes.

The municipalities I studied<sup>53</sup> suggest the perceptual roles assigned to indigenous and non-indigenous in Guatemalan politics. For many Ladino it seems that achieving political positions of power and being indigenous is incompatible (Cojtí 1997b:10). In their perception, politics at the national level, and locally in the areas with a large proportion of Ladino, is the exclusive domain of the non-indigenous. When this boundary is challenged and the indigenous fail to conform to these perceptions, resistance is generated. In 1995, for the first time ever, a Maya won the elections in Quetzaltenango, Guatemala's second largest city. The victory of the civil committee Xel-Jú had great symbolic importance in a town with approximately 50% Ladino population. Soon after taking power, the Mayor Rigoberto Quemé, a K'ichee Maya, was confronted with an anonymous campaign aimed at destabilising his city council. The campaign was explicitly racist, and soon reached such proportions that both international and Guatemalan organisations intervened in support of Quemé. For example, a Guatemalan general publicly demanded that the local Ladino that were believed to be behind the campaign should stop it, or a war between ethnic groups could be provoked.<sup>54</sup> It seems clear that for many Ladino in Quetzaltenango the idea of being ruled by an indigenous was unac-

<sup>53</sup> I conducted various interviews and revised documents in the municipalities of Totonicapán, Sololá and Quetzaltenango in Guatemala, during November and December of 1997.

<sup>54</sup> Various informants.

ceptable, despite the fact that Quemé's city council and the Xel-Jú committee had various Ladino members.

In Sololá, the victory of the civil committee in the elections in 1995 was not well received among Sololá's Ladino population. Even if Ladino rejection was not organised in the way it had been in Quetzaltenango, distrust and antipathy were widely expressed, also in conversation with local Maya. Clearly racist expressions like 'how is it possible that "a child" (a Maya) won the election', were frequent. Another frequently used statement was that 'now the guerrilla has won',<sup>55</sup> signalling how the guerrilla insurrection is perceived in ethnic terms among the local Ladino. The idea of being ruled by Mayans was as hard to accept as in Quetzaltenango. Another example is the Guatemalan winner of the Nobel's Peace Prize Rigoberta Menchú Tum. As an indigenous woman from a rural background, she was (and still is) not acceptable as a prize-winner according to many Ladino because she challenges the established concepts of what an indigenous (and a woman) ought to be and do. Thus, when Menchú was launched as a candidate for the prize a group of Ladino proposed a Ladino woman as an alternative candidate. Menchú is also the subject of much mockery with a racist content. The only Mayan minister since the reintroduction of democracy, Celestino Tay Coyoy, was also confronted with a campaign against him with a clear racist content (Bastos and Camus 1995:139-3).<sup>56</sup>

There are, however, other ways to achieve power for the indigenous which do not generate the same amount of resistance. CDRO (La Cooperación para el Desarrollo Integral Rural del Occidente) is a large indigenous organisation in the department of Totonicapán. By building on traditional Mayan community practices and by maintaining distance from the municipal administration, CDRO is aiming to 'substitute the state'.<sup>57</sup> The idea is

to provide the citizens with basic services such as education and health, particularly in the rural areas where the state has largely failed to provide them. This 'substitution of the state' is already taking place with funds both from the Guatemalan state and from international donors, but according to an organisational model which diverges from that of the state by including traditional Mayan forms of authority and decision-making (Ekern 1998). Carol Smith (1991:33) may therefore be mistaken when she expresses scepticism as to whether a focus on local politics as a potential for 'transforming the oppressive conditions suffered by the vast majority of the Maya'.

Summarising, the municipality is the main reference for indigenous participation in and interaction with the Guatemalan state; it also serves to give many Mayan communities a certain margin of autonomy. It should be noted that when the indigenous gain power locally, new excluded minorities could be created, such as what happened to the Ladino in Sololá when the civil committee gained the election in 1995. Throughout the last years there have been numerous reports in Guatemalan newspapers of inter- and intra-municipal conflicts that have led to violence. This indicates that the current mechanisms for deliberation and the resolution of conflicts sometimes are insufficient. The challenges facing municipal governments in Guatemala today are great. Municipal finances are limited, and though decentralisation has been a priority of the current government (Gálvez et al. 1999), this process has yielded few results.<sup>58</sup>

'Recognition' is coherent with the introduction of parallel legal systems for members of different ethnic groups, and this can be seen as a type of self-government right. Legal pluralism is much more problematic when it comes to 'non-discrimination'. According to the latter, if legal pluralism is introduced, the application of these norms must be at the very least based on individual choice. Thus, whether

<sup>55</sup> Various informants, Sololá, December 1997.

<sup>56</sup> Based on the revision of various newspaper articles from *Prensa Libre*, *Siglo Veintiuno*, *El Periódico* and *La Prensa Gráfica*, 1993-95.

<sup>57</sup> In addition to the interviews, this position was also explained by CDRO's former Director Benjamín Son Turnil during his intervention at

the 'Guatemala - Dilemmas in Democratisation' seminar held in Oslo, 7-8 May 1999.

<sup>58</sup> Conversation with Víctor Gálvez Borrell at the research institute FLACSO, November 1999.

a particular individual wishes to be judged according to Maya tradition or the current legal norms of the Guatemalan state, must be for that person to decide. Individual choice avoids essentialising identity, thereby reducing the chance that community-based norms can be used locally to exclude particular individuals who do not conform to the established criteria for group membership.

#### 4.5 Indigenous Self-Government in Guatemala

The leading Mayan intellectual Demetrio Cojtí (1997a:67-72) argues that the Maya and Ladino are two distinct peoples, both of which have the right to self-government. Cojtí (1997a) characterises today's situation in Guatemala as one of 'internal colonialism', which means that one self-governing people is annexed and oppressed by another. The relationship between these two peoples should instead be based on voluntary contract. Cojtí (op.cit. and 1996c:89) concludes on the basis of these assumptions that the current territorial organisation of the Guatemalan state is oppressive; the organisation of political-administrative borders of the state according to ethnic and linguistic groups is a right that follows from the status of the Maya as a self-governing people. The Accord on Identity similarly proposes that education, health services and cultural-policies should be decentralised according to linguistic criteria. Plant (1997), on the other hand, argues that the geographical distinctions of the linguistic communities are breaking down due to rural colonisation initiatives and postwar resettlement, and hence such a redrawing of the borders would be difficult or impossible. Moreover, more than 15% of all Maya live in multi-lingual areas in Guatemala City.<sup>59</sup>

What support for these claims to self-government for the Maya can be found in the discussion in this and the previous chapters? My discussion of the implication of the two approaches has so far been inconclusive. Robert Dahl (1989) proposes that the optimal equilibrium of two conditions should be the justification of a democratic process. These two condi-

tions are: the greatest possible weight of each citizen in the decision-making together with the greatest possible influence of each citizen over issues that are of particular importance to him or her. 'The result may well be a complex system with several or many layers of democratic government' (op.cit.:205). Dahl (op.cit:207-9) suggests seven criteria for deciding when a democratic process is justified in the sense of approximating the equilibrium of the two conditions above. These criteria may help determine whether a certain group is entitled to its own democratic autonomous organisation or unit. Can the Mayan claims to autonomy be said to satisfy these criteria?

1. *The domain and scope can be clearly identified.* The domain refers to who a democratic process includes, whereas the scope refers to the number or comprehensiveness of the issues concerned by a particular process. There seems to me to be no single preferable answer to the question of which type of units should possess self-government: the Maya and Ladino 'people', the linguistic groups, the departments, or the municipalities. The domain could be limited to those Guatemalans who voluntarily define themselves as Maya, which is feasible if self-government is organised on a non-territorial basis (separate institutions for each group within the same geographic area). That would still leave out the question of what the ideal distribution of power and competencies between different levels of government would be. The identification of the scope is also problematic. For example, the argument that it should be limited to issues that have an implication on the survival of particular cultures is rather vague. It could for instance be argued that most or all social and economic issues have implications for the survival of cultures. It therefore seems that for the case of the indigenous in Guatemala, the satisfaction of this criterion is problematic.

2. *The people in the proposed domain strongly desire political autonomy with respect to matters falling within the proposed scope.* If self-government was orga-

<sup>59</sup> Richard Wilson, lecture given at the University of Oslo, 1 September 1999.

nised on a territorial basis, the Ladino residing within these territories would most certainly object to being part of an indigenous self-governing unit. On the other hand, if self-government is non-territorial (separate institutions for each group), and voluntary (individuals may choose which set of institutions they belong to), then the issue of Ladino minorities is less relevant. There exist no opinion polls indicating the strength of the wish for autonomy among the Maya, and the demands for autonomy are being articulated by a small fraction of the Mayan population that does not resemble the majority of the Maya very much. The Mayan organisations' popular base is often weak, as the very leaders of these organisations often willingly admit, even if this does not mean that the Mayan organisational leadership is incapable of expressing the interests of the Mayan majorities. Moreover, there has yet to emerge an indigenous political alternative at the national level which could, if it reached a significant amount of indigenous support, express some claim to represent an indigenous point of view. However, given the current situation of exclusion, Guatemala's long history of oppressive dictatorship, and Mayan autonomous traditions at the local level, it could be assumed that increased self-government would correspond with the wishes of at least a significant proportion of the indigenous in Guatemala today.

*3. The people in the proposed domain strongly desire to govern themselves according to the democratic process and*  
*4. The proposed scope is within justifiable limits, in the sense that it does not violate primary political rights (a restatement of the third criterion) or other fundamental rights and values.* Both the Peace Accords and the leaders of the Mayan movement strongly emphasise that Mayan self-government should be subject to international human rights doctrines. This would of course not guarantee that the power of self-government would never be abused, particularly taking into account Guatemala's weak democratic traditions. The practices of 'community law' may also in certain cases be in conflict with

liberal democratic ideals. However, reinforcing the accountability of government through decentralisation and increased possibilities for participation may improve the actual situation.

*5. Within the proposed scope, the interests of the persons in the proposed unit are strongly affected by decisions over which they have no significant control.* Dahl (1989:208) argues that '...claims to the right to participate in important decisions might best be satisfied in some cases by including those who are now excluded from an existing unit...' One of the strongest bases for Mayan claims for political reform is the Mayan de facto exclusion from political influence over decisions that significantly affect them, and there can be little doubt that the Maya are affected by the decisions in those areas which the Mayan organisations argue should fall under the scope of local autonomy.

*6. Consensus among the persons whose interests are significantly affected will be higher than it would be with any other feasible boundaries.* Dahl (op.cit.) argues that consensus enhances freedom because it permits more persons to do what they want to do. A condition for reaching consensus is communication. Communication and mutual understanding are enhanced by sharing a language and cultural elements, which may favour the organisation of the territory according to linguistic group and decentralisation. However, as noted earlier, many Mayan communities today are characterised both by conflict and consensus. Moreover, the divergence of interest between an urbanised, intellectual elite and the poor highland peasants is arguably as great as between the rural poor Ladino and Maya.

*7. Measured by all the relevant criteria, the gains must outweigh the cost.* This criterion is largely the product of the six previous ones in addition to considerations of economic efficiency and the cost and gains for communication, negotiation, and administration. For example, it can be argued that establishing separate institutions for different groups is economically



costly and inefficient. In federal systems, the co-ordination between the different levels of government is often problematic.<sup>60</sup> Of the above criteria, that of identifying the scope and the domain of self-government seems the most problematic to fulfil. Evidently, many of the costs and gains are difficult to quantify, such as gains in a person's self-esteem and changes in racist attitudes. Dahl (op. cit.: 209) underlines that 'for the most part the criteria will require qualitative judgements...it will rarely if ever be possible to demonstrate conclusively that one solution is definitely the best...Every specific, concrete and feasible alternative solution to the problem of the best unit will ...almost certainly, on balance benefit the interests of some citizens more than others'. The choice between 'recognition' and 'non-discrimination' is thus no more conclusive on the basis of Dahl's criteria, and I will seek to strike a balance between the two in the conclusion. Before that, however, I will examine a common concern in debates about multiculturalism and justice: how Mayan claims and the two approaches to justice in multicultural democracies affect political cohesion and unity in Guatemala.

#### 4.6 Multiculturalism, Justice, and Unity in Guatemala

*The unity of the state is something that is achieved if the members of the state see that the state respects their particularities. Guatemala today is not a state.*

Mayan leader, 16 October 1997.

A prominent concern among those who theorise about coexistence and justice in multicultural states is that the particularist claims of ethnic groups will have negative repercussions on political and social unity and stability. The realisation of liberal values, it is sometimes argued, requires that the citizens share a strong sense of belonging together, preferably or necessarily a shared 'national identity'. Andrew Mason (1999:263-4) summarises this concern in the four following arguments: First, the citizens of a country need a

shared national identity to avoid alienation from their political institutions. Only if there is a shared identity will the citizens appreciate being part of the same political framework. Second, these institutions will be unstable unless the citizens share a national identity. Third, it will be impossible or at least difficult to reach a compromise in the face of existing interests without the kind of trust between citizens that can only be achieved with the existence of a shared national identity. Fourth, a shared identity is a precondition for widespread support for redistributive politics on the grounds of social justice and a politics of the common good. These arguments are interrelated in various ways, and can reinforce each other. For example, redistribution and a politics of the common good requires a certain amount of trust and willingness to compromise, while the achievement of the common good and redistributive policies may again strengthen trust.

It is sometimes argued in Guatemala that the claims of the indigenous will split and divide the country.<sup>61</sup> A common Guatemalan identity, centred on loyalty to the Guatemalan state, will never be created: on the contrary, whatever exists of a feeling of Guatemalanness will be destroyed, it is argued. The Guatemalan state is fragile, and the realisation of the claims of the Maya will be its deathblow. Some even believe that the Mayan demands are but a first step in a strategy to split Guatemala in half according to ethnic identity, creating two separate countries. Certainly this will lead to resumed conflict and bloodshed. The focus on ethnic groups and group autonomy will lead to increased tensions and a polarisation of the society, and perhaps even war. This fear is spurred by what is perceived to be a proliferation of ethnic conflicts around the world.

Are these fears well founded? Will the creation of a multicultural Guatemalan state make it impossible to achieve social unity? I will argue that these concerns are not only largely unjustified in the case of Guatemala; the realisation of the indigen-

<sup>60</sup> Juan Linz, lecture given at the University of Oslo, 8 April 1999.

<sup>61</sup> See discussion on the critics of the Mayan movement in Warren (1998:chapter 2), and Zapeta (1998).

ous claims may in fact lead to increased unity and solidarity. Even some degree of indigenous self-government may strengthen unity and integration, for reasons returned to below.

First, it should be kept in mind that a very substantial part (probably the vast majority) of the indigenous demands is for increased participation and respect for difference *within* the state's institutions. For example, the issues that concern poly-ethnic rights clearly reflect a wish to become included in the state, and not the opposite (Kymlicka 1995a, 1997). Moreover, the concept of indigenous rights within the unity of the Guatemalan state underlies both the Peace Accords and the current proposal for constitutional reforms. Cojtí (1997b:1) argues that there exists a certain degree of consensus between Maya and Ladino that they should remain united within the state. A growth in the number of indigenous in public institutions, both elected and non-elected positions, at regional and local as well as national level, is likely to increase indigenous identification with these institutions. The indigenous will then get a visual manifestation that their faces, clothing, language, and so forth are respected by and are part of the public institutions. Moreover, when the indigenous experience that their identity and culture do not prevent them from competing for public positions, it is very likely that their loyalty to these institutions will grow. Another possible consequence of increased indigenous presence in public institutions is that the responsiveness of these institutions to indigenous demands will increase, thereby strengthening national unity and solidarity.

Second, satisfying the indigenous demands is a step towards ending the discrimination the indigenous are facing. Iris Young (1990:164-5) argues that members of assimilated groups are unfairly disadvantaged because they are forced to learn the rules of a game which they had no part in devising. Moreover, the members of the dominant culture are likely to see their culture as universally valid or objectively superior, and devalue minority cultures as less valuable. Members of minority cultures may also internalise a sense of

inferiority. Young's arguments recapture the argument of the 'symbolic' importance of politics that I discussed in chapter 2. In Guatemala, public recognition of the equal status of indigenous and non-indigenous identities, of the equal value of the cultures of these groups, and of the value of cultural diversity in general may help foster a climate of mutual respect and tolerance. Particularly relevant are attempts to reform the education system by introducing a more multicultural curriculum and rewriting official versions of history so as to include the visions of the indigenous. Educational reform is not only about providing services that correspond with the interests, languages, and cultures of individual citizens. It is also a tool whereby attitudes and mentalities are sought changed, although this is a process that is likely to take a long time and require a huge educational effort. In this context, it should be noted that the Guatemalan state, through the ratification of the ILO Convention no. 169, has committed itself to the following:

Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples (ILO Convention no. 169, article 31).

The maintenance of current patterns of political as well as other types of interaction between Maya and Ladino is likely to maintain current inter-ethnic attitudes of racism and discrimination. Political change may in this sense be a step towards cultural change.

Third, it can be argued that the questions need reformulation. Unity and solidarity are very limited in Guatemala today and are perhaps better seen as something to be achieved through future political and social reforms. Loyalty to a political order can be expected when that order is per-

ceived as corresponding with the moral perceptions of the citizens and when policy outcomes are perceived to be in the self-interest of the citizens through a fair distribution of burdens and benefits. Moreover, the continuation of today's exclusion of and discrimination against the indigenous is likely to increase the alienation of the Maya from the Guatemalan political system. In 1991, Carol Smith (1991:31) argued that 'the political program promoted by the Maya nationalists has grown more radical'. This tendency does not seem to have continued, but some of the Mayan leaders I interviewed expressed considerable impatience with the lack of progress in ending exclusion and discrimination. A continued failure on the part of the Guatemalan state and the Guatemalan society in general to meet the legitimate and reasonable demands of the Mayan movement is, if anything likely to radicalise the movement and decrease unity.

Lastly, even the issue that seems to be directly at odds with social unity, increased autonomy for the indigenous, may produce integration. Kymlicka (1995a: 176-86) draws a distinction between poly-ethnic and special representation rights on the one hand, and self-government rights on the other. While the former generally reflects a wish to be integrated into the state's institutions, it is less clear if self-government will serve that purpose. Kymlicka (op.cit.:181-186) argues that self-government rights for national minorities are unlikely serve an integrative function, and he (op.cit.:186) underlines how '...accepting self-government rights is likely to lead to a desire for ever-increasing autonomy, even independence'. Glazer (1995:66) likewise underlines how the satisfaction of some minority demands can lead to an escalation of demands. Moreover, on the constructivist account, autonomy may serve a disintegrative function to the extent that it contributes to the creation or reinforcement of group identities, or the manipulation of these by 'ethnic entrepreneurs'.

How can it be that despite these arguments, increased autonomy for the indigenous may strengthen unity in Guate-

mala? The Guatemalan state is not only frequently criticised for being excessively centralised, many Guatemalans also consider it to be inefficient and weak, demonstrated by its incapacity to provide even basic education and health services to all its citizens. Self-government therefore not only implies formal transfers of power from the central government to the municipalities and regional authorities, it also requires building institutions where there previously have been none.<sup>62</sup> In other words, decentralisation, even a federalisation of the Guatemalan state requires an extension of the state apparatus. This building up of institutions will draw indigenous communities more closely into nation-wide political processes and may open up for new possibilities for participation for the indigenous population in general, and for indigenous politicians and administrative personnel in particular. Participation is likely to increase knowledge about political rights, and may force individuals to think about politics in a larger context by increasing the awareness of the consequences of personal and local actions for the welfare of the members of the larger political unit. Participation can thus induce people to transcend traditional and localist based ethics, and replace it with a more universalist way of seeing things.<sup>63</sup>

Another consequence is that assuming new political responsibilities through decentralisation requires building up new indigenous organisational capacity. Transfers of new powers and competencies to municipalities, local communities or different types of ethnic groups are moreover likely to require the adoption of organisational models and administrative practices that in many ways are similar to those of the state. Increased participation is also likely to draw official decision-making mechanisms and administrative practices

<sup>62</sup> This was suggested by Stener Ekern.

<sup>63</sup> However, Mydske's (1998) study of political socialisation in different types of non-governmental organisations in Patzún, Guatemala, indicates that organisational participation need not lead to a socialisation of liberal democratic values and practices. Participation may also lead to a reproduction of clientelistic and authoritarian political practices, or to the strengthening of 'community law' practices which sometimes are at odds with basic liberal principles.

and values more tightly into indigenous culture. Autonomy, particularly through decentralisation or the creation of a federation, is likely to imply at least some degree of cultural homogenisation. In short, self-government may imply institutional integration, greater satisfaction and identification with the public institutions, increased participation, and socialisation into a certain mode of doing and thinking politics.

Demands for an independent Mayan state are extremely rare, and are often a consequence of feelings of frustration over the current lack of progress to improve the actual situation.<sup>64</sup> Secession is neither a viable nor a realistic alternative in Guatemala, and it is no solution to the challenge of multiculturalism because 'secession rarely if ever creates homogenous nation-states, it simply rearranges the pattern and size of groups' (Kymlicka 1995a: 19). Cojtí (1997a:41) nevertheless underlines that the reason for a secession of the Maya from Guatemala would be that the 'Ladino state does not adapt or respond to the need of existence and development of the Mayan nationalities'. Even if peaceful secession may cohere with liberal political theory, as long as the rights and liberties of individuals are protected, it seems clear that many ethnic groups would be unable to form viable independent states, and competing claims for resources will frequently make peaceful secessions impossible (Kymlicka 1995a:186).

Kymlicka's 'historic argument' for group-differentiated rights indicated how certain groups might have claims to be a sovereign 'people'. The adherence of these groups to the state's institutions is conditional on the group's willingness to do so. Juan Linz<sup>65</sup> underlines that for a federation to work and maintain unity,

<sup>64</sup> Donald Horowitz (1994) suggests that the groups most likely to secede are those that live in an economically backward region within their country, and are 'backward groups' (in terms of possessing relatively fewer university graduates, professionals, bureaucrats, salaried employment generally and per capita income than other groups). Though the Maya are backward in both senses, they seem to disconfirm Horowitz' suggestion since they do not particularly emphasise a separate autonomous region within Guatemala, much less a separate state.

<sup>65</sup> Lecture given at the University of Oslo, 8 April 1999.

there must be some sense of identity between the component units: the members of the component units must feel loyalty to the federation. There must also be a dual identity among the citizens, and one identity must not exclude another, but there can be a variety of emphases on the different identities. Federalism need not be a slippery slope towards disintegration, but if politicians want to use it to destroy political unity, it gives them good opportunities. Federalism can also be required, particularly as a way of keeping larger political units together.

To summarise: unity and solidarity will increase in Guatemala when the organisation, institutional practices, and symbols of the state reflect the interests and cultures of the whole and not just part of the Guatemalan population. The citizens' willingness to sacrifice for the community, for example through paying taxes, will grow when the state ceases to be perceived as an instrument for the benefit of the few and a vehicle of oppression against the many. Solidarity with fellow citizens will increase when individual attitudes shift towards tolerance and respect for cultural difference. Christine Inglis draws the following conclusion from her study of the experiences with multiculturalism as a policy in Sweden, Canada and Australia:

From the perspectives of members of ethnic minorities, the opportunities which have existed for them to participate fully in society without needing to reject their ethnic identity has clearly been a factor encouraging a high level of commitment to the Australian, Canadian or Swedish society and State. From the perspective of the dominant ethnic group there has clearly been a high level of tolerance and acceptance not only of diversity but, also, of the advantages which all members of the society can gain from it (Inglis 1998:18).

What are the likely consequences of the two approaches for political and social unity in Guatemala? Both 'recognition' and 'non-discrimination' require ending discrimination and the cultural monopoly of the Ladino over the Guatemalan State, and achieving that is likely to increase

unity and solidarity in Guatemala. Group-differentiated rights, generally required by 'recognition', are also likely to increase unity, partly because they reflect a wish to integrate, partly because they will have integrative consequences.

On what should unity in multicultural democracies be based? Mason (1999) distinguishes between a sense of belonging to a polity versus a sense of belonging together. When a person has a sense of belonging to a polity, she sees the principal political institutions and most of their practices as valuable and that they reflect her interests. A sense of belonging together, on the other hand, means that the citizens believe there is a reason why they should associate together, which is something more than sharing a set of political institutions. A sense of belonging together usually implies that the citizens share a 'national identity'. Mason mentions the USA and Switzerland as countries where people share a strong sense of belonging to a polity and a weak sense of belonging together.

Kymlicka (1995a:188-9) argues that unity in multicultural states requires a shared identity and denies the possibility of an identity with the state that is not related to 'national identity'. But, as Gerald Doppelt (1998:247) points out, this assertion is problematic because 'on [Kymlicka's] conception of identity, the *only* plausible basis for a shared identity is nationality. From this conception...it follows that there is no basis for a shared identity among all the citizens of the modern multinational state'. Ethnic identities, understood as a community based on a belief in common ancestry, are bound to search for their sources and justifications for group-based identities and feelings of belonging in the past. An identity centred on the state, on the other hand, is focused on the future, on the common projects of its citizens (Adams 1996:49).

Mason (1999) believes that a liberal polity can be viable even if the citizens lack a sense of belonging together, as long as they have a sense of belonging to it. He also (op.cit.:273) underlines that the creation of a sense of belonging to a polity can create or reinforce the sense of belonging together. All that is required is

that different groups share a common fate, which can be achieved by belonging to the same polity and not being excluded or marginalised by its institutions and practices. When the citizens share a sense of belonging to a polity 'they are more likely to accept the authority of those institutions to resolve any conflicts of interest that arise between them and to trust the institutions to do so' (op.cit.:278). Similarly, Habermas (1994:135) argues that a sense of belonging to a polity, a sense of 'constitutional patriotism' is the only possible basis for unity in multicultural societies. Mason moreover believes that it is not unlikely that there can be a widespread consensus on the need for redistributive social policies, even if the citizens do not converge on principles of social justice. Self-interest, humanitarian considerations, and the belief that the enjoyment of the goods of citizenship requires the fulfilment of basic needs can be reasons why redistributive policies enjoy widespread support even in the absence of a strong national identity.

Mason (1999:277) argues that a sense of belonging to a polity is difficult to achieve when the members of a particular group feel that certain institutions or practices are based on their discrimination and exploitation. It may nevertheless be possible that a sense of belonging to a polity can be achieved if the institutions are changed so as to be perceived as beneficial. Self-determination within a state, in Mason's view, need not run contrary to the creation of a sense of belonging to a polity because: 'if members of the community possess the degree of legal and political autonomy they desire, they will identify with the constitutional framework which provides for it' (op.cit.:283). This contrasts with Kymlicka's (1995a:181) view that: 'demands for self-government...reflect a desire to weaken the bonds with the larger political community, and indeed question its very authority and permanence.'

According to Mason (op.cit.:285), there are two factors which may make it hard to achieve or sustain a widespread sense of belonging to a polity: 'First, when one or more of the culturally defined groups within it has suffered a

history of oppression or unfair treatment in which the state is implicated...Second, when the particular character of the public institutions reflects the dominant culture.' On this background, the Ladino opposition to the claims of the Maya on the grounds of unity seems rather self-contradictory. If unity is the aim, they should work towards the eradication of discrimination and ending the monopoly of Ladino culture and language in the Guatemalan state. In short, unity in Guatemala requires the accommodation of difference.

# Chapter 5: Conclusion

## 5.1 'Non-Discrimination' or 'Recognition' for Guatemala?

Based on my discussion so far, I shall conclude by attempting to answer the initial question of this thesis: is 'recognition' or 'non-discrimination' most likely to correspond with liberal equality and political unity in Guatemala? From chapter 4 we recall that the answer to this question in part depends on determining the importance of particular ethnic identities in a society. 'Recognition' is typically associated with countries that are multiethnic, not because different groups have chosen to move to a new land, but because 'their homeland has been incorporated into a larger state' (Kymlicka 1995b:11). These groups are likely to demand political autonomy or self-government and may favour a federalisation of or even secession from the state in order to ensure continued development of their distinctive cultures (Kymlicka 1995a:10, Inglis 1998:22). Equal treatment is sought through some degree of independence from the state's institutions. Glazer (1995:134) argues that this approach is appropriate if 'the model that a society has for itself, today and in the future, is that of a confederation of groups, that group membership is central and permanent, and that the divisions between groups are such that it is unrealistic or unjust to envisage these group identities weakening in time to be replaced by common citizenship'.

'Non-discrimination', on the other hand, is 'appropriate whenever the government aims at integrating disparate groups into a single national culture' (Kymlicka 1995b:11). It is associated with groups that have migrated to a new country, and that are likely to seek a state that to the largest extent possible is neutral concerning culture. It would seem then that since the Maya, Garifuna and Xinca were involuntarily incorporated into the Guatemalan state, these groups

would seek an organisation of the state according to 'recognition'. However, the claims of the Mayan movement point in several directions: some concern social and redistributive justice, others concern ending discrimination and establishing equal opportunities to compete for public positions and increased presence in the institutions of the Guatemalan state. Only a few of their claims concern self-government. The claims of the indigenous are moreover voiced by a small minority of indigenous intellectuals, so it is not clear what the majority of the indigenous desire in terms of multicultural politics. Moreover, the four so-called 'peoples' of Guatemala (Maya, Ladino, Garifuna, and Xinca) are very diverse and fragmented, so it is an open question whether the 'basic structure' of the Guatemalan society would consist of these four or some other identity based on language, socio-economic position, religion, etc. In short, the choice between 'recognition' and 'discrimination' cannot be determined simply by looking at the ethnic composition of Guatemala, nor do the two approaches find their justification on this background. We need to weigh the normative arguments supporting either of the approaches with the characteristics of today's situation in Guatemala. I shall therefore briefly summarise the arguments raised for and against 'non-discrimination' and 'recognition' in the previous discussion and relate these to the situation in Guatemala.

Kymlicka's principal argument for group-differentiated rights, and hence for 'recognition', is that individual freedom depends on membership in societal cultures, and that this membership should therefore be considered a 'primary good'. I agree with Kymlicka in that our personal freedom, our values and beliefs, and our capacity to revise these are dependent on the cultural context in which we live and take part. Due to the importance of culture for freedom, Kymlicka argues that certain groups are entitled to group-differentiated

rights to protect the survival of their cultures. But cultures do not die; they just change, and do so constantly.<sup>66</sup> Indeed, particular traditions, rituals, products, music and other aspects of culture may disappear when people cease to practice or produce them. The state may give incentives for the preservation of these particular traditions, folklore, and so forth, though when the context into which they are practised changes, these practices are likely to change also. If basic liberal values of freedom and equality are respected, such cultural changes ought to be the consequence of individual choices. These changes are therefore not unjust, nor do they require any form of compensation.

Seeing the cultural context of particular individuals as inevitably tied to particular ethnic identities runs the risk of treating cultures as static and self-contained units. As Marco Martinello argues,

when the political philosopher Kymlicka seems to state that the individual must generally belong to one culture only and display one ethno-national identity, he is actually adopting a highly debatable essentialist and primordialist view of culture and identity (Martinello 1998:912-3).

Much research on ethnic identity and culture generally as well as in Guatemala in particular indicates how the perceptual categories which are used to classify individuals into 'people', 'linguistic groups', and other type of ethnic categories are often strenuously linked to culture understood as what 'provides its members with meaningful ways of life across the whole range of human activities' (Kymlicka 1995a:76). Moreover, Kymlicka's (1995a: 101) claim that it is possible to divide a society into a finite number of groups is, as argued in chapter three, problematic concerning Guatemala. The language of rights requires clearly delineated and static categories, and it is doubtful at best if these can be provided by actual ethnic identities in Guatemala. Kymlicka's defence for group-differentiated rights on the basis of how individual freedom de-

pends on culture is therefore, on my account, problematic.

Minority groups around the world frequently face discrimination. In some places their cultures, customs and religions are restricted or prohibited. Such restrictions and prohibitions are impermissible according to a liberal theory of politics, unless the cultural practices in question violate fundamental human rights or some other superior good. In numerous other cases, the state privileges the majority culture, language, and religion in various ways, a domination that finds scarce support in basic liberal values, and is frequently the source of injustice. Ending the discrimination often implied by majority domination of the state is in my understanding required by 'non-discrimination'. It is therefore not necessarily the case that justice in multi-cultural societies would require 'recognition'.

This, however, does not fully answer the issue at hand. Individuals may experience a situation of disempowerment, exclusion, and political marginalisation due to their ethnic identity, irrespective of whether it is possible to talk of 'cultural debasement or decay' as a consequence. Individual autonomy, essential for both political liberalism (Kymlicka 1989, 1990, 1995a) and democracy (Midgaard 1996), may thus be impaired. Hence, it might be by direct reference to the value of autonomy that rectifying measures, such as group-differentiated rights, ought to be justified, and not by reference to the problematic connection between culture, autonomy, and ethnic identity.

Kymlicka's second principal justification of group-differentiated rights is that some groups have an historic right to define the terms of incorporation into the state. Certain groups are sovereign, they have rights to self-government that follow either from historic treaties that define their terms of incorporation, or from being involuntarily incorporated into a larger political unit. On the historic account, the incorporation of the Maya, Xinca, and Garifuna into the Guatemalan state was involuntary. It is less clear whether it would be possible to talk of the Maya as a 'people': the Mayan 'people' is best seen

<sup>66</sup> Alternatively it could be argued that cultures are in a constant process of death and rebirth.



as a political aim of the Mayan movement, the outcome of which is yet to be seen. As John Watanabe argues,

pan-Mayanists appeals to a more generalised, abstract Mayanness could...easily prove too arbitrary – or too politically self-serving – for local Maya to accept, especially where so-called primordial Maya customs no longer hold sway. Should pan-Mayanists insist on some singular exoticised Maya identity, unreconstructed Maya may simply begin to take them for another Ladinised, if now Indianist, elite doing what the Ladinos have always done — dictating to the Maya what they are and how they should behave (Watanabe 1994:38).

An argument sometimes raised against the historic right to self-government is that many groups have undergone dramatic changes, to the point where they are practically indistinguishable from the larger society in which they live. These changes also make the connection between those who claim descendancy from historic self-governing groups and their presumed forefathers tenuous. However, this critique of the historic argument can be rejected because it essentialises ethnic identity by defining its ‘authenticity’ in accordance with some historical standard. It may nevertheless be problematic defining who the self-governing ‘people’ should be, and to which particular rights they may be entitled.

What matters on the liberal account is that the state respects basic liberal values and sticks to its legal commitments, and this can in theory be achieved in a unitary state, in a federation of separate self-governing groups, or through the creation of several independent states. Through the ILO Convention no. 169, the indigenous in Guatemala have a legal right to be consulted on matters that affect them. The existence of a number of stable liberal democracies that have adopted group-differentiated rights indicates the viability of many of the demands of the indigenous in Guatemala, also those that concern self-government. However, since nearly all political matters in Guatemala affect the Maya, the fulfilment of this commitment may just as well imply increased partici-

pation in the actual political institutions, as some kind of self-government.

In chapter two I discussed ‘the intrinsic value of culture’. Though this argument cannot serve as a justification for neither ‘recognition’ nor ‘non-discrimination’, this does not imply that it should not be given any consideration. The interrelatedness and mutual enrichment of different cultural practices and historic traditions are frequently stressed by indigenous as well as non-indigenous in Guatemala.

Another justification for ‘recognition’ is the importance of the state’s policies for individual self-esteem. Several authors (Geertz 1994, Phillips 1995, Taylor 1994 and 1998, Young 1990) underline the power of the state to impose or reinforce images of inferiority and superiority on perceived members of different groups. What is less clear is that the individual need for public recognition of the equal dignity and worth of different identities is more properly dealt with through ‘recognition’ than ‘non-discrimination’. Indeed, ‘recognition’ gives some collective projects the public acknowledgement some individuals search for. It is, however, less likely that public acknowledgement can be given to all the possible groups and within-groups which compose society. Perhaps some identities are given more weight than others by most citizens, or are suffering from a larger degree of marginalisation and discrimination, but it still remains likely that a great number of the expressive needs of individual members of society cannot be addressed by the state.

‘Non-discrimination’ avoids the problem of selecting a (limited) number of groups entitled to recognition. According to ‘non-discrimination’, the negative stereotypes and internalised images of inferiority are sought changed by ending the cultural monopoly of the dominant group(s) on the state. Is this enough to change prevailing images of ‘racial’ and cultural inferiority? Or is ‘non-discrimination’ insufficient to deal with situations of pervasive injustice and discrimination? Even though I do not have the answer to these question, it should be noted that both approaches require ending discrimination, and this alone is a vast mandate

for change in Guatemala. Moreover, most of the demands of the Mayan movement, for example those concerning education, the official uses of language, and equal access to public positions are required by both ‘recognition’ and ‘non-discrimination’. Whether group-differentiated rights would be required in addition to this to achieve liberal justice in Guatemala is uncertain.

Andreas Føllesdal (1999) has suggested that a group may have a reasonable claim to control the velocity of cultural change, which would imply giving minorities access to institutional powers. One question then is who within the group should define what the actual content of ‘a culture’ is that needs protection, or according to which standard should change be measured? Føllesdal’s argument seems to run the risk of empowering and giving legitimacy to the least change-oriented within a group. The argument nevertheless indicates the limitations of ‘non-discrimination’ to address future issues of relevance for ‘cultural justice’ where contentions may arise over the implications of ‘non-discrimination’ for cultural difference.

It may also be argued that liberal political theory in general is insufficient to achieve justice in multicultural societies. Doppelt argues that

Kymlicka’s emphasis on group rights to resolve national and ethnic tensions shares liberalism’s excessive reliance on law, rights and the state to accomplish aims which require a broader cultural transformation of other institutions and practices central to the way people represent, identify and treat one another (Doppelt 1998:247).

He therefore concludes:

Kymlicka’s reliance on the existing cultural identities of minorities and majorities, and group rights, can exacerbate the very problems of freedom and equality he hopes to alleviate...a genuinely liberal-democratic societal culture, or a set of such cultures, must foster a *universal identity* among its members based upon respect for common human dignity, and for all

persons’ individuality as people with more particular cultures and identities (Doppelt 1998:246) [emphasis in the original].

However, few people would deny that the state, through its laws and regulations, is a powerful agent for achieving such cultural changes and perhaps creating the ‘universal identity’ Doppelt calls for, and there are few alternatives for achieving such changes. Moreover, unless the state gets involved in ending discrimination, it is unlikely that such changes will occur. Laws that prohibit discrimination, which regulate the use of languages in public administration and protect basic individual rights of association, freedom of expression, and religious liberties are indispensable conditions for the achievement of justice in multicultural societies. The state’s aims, laws and regulations also have wider cultural implications: they affect or determine the content of education and often determine the conditions for a wide variety of cultural activities. The state’s use of symbols and the ideas and values expressed by government, legislative assemblies and other institutions can also have a great impact on perceptions and values more generally.

What is the relevance for Guatemala of the arguments against ‘recognition’ raised in chapter three? Generally speaking, the static categories required by law may to some extent interfere in processes of group creation and change. Recognition of for example a Maya and a Xinca ‘people’ is likely to strengthen the cohesiveness of these groups. Decisions about which groups to give group-differentiated rights are thus likely to affect and perhaps determine the social structure of Guatemala in the future. Of relevance for both ‘non-discrimination’ and ‘recognition’ is the fact that the incorporation of indigenous languages into the institutional structure of the Guatemalan state is likely to imply a certain degree of standardisation, thus affecting the development of these languages.

Another critique raised against ‘recognition’ in chapter 3 was that the criteria suggested by Kymlicka for distinguishing between different types of groups are problematic. In Guatemala, the application of

these could imply the exclusion of some ethnic groups, such as the Guatemalan Chinese. Moreover, members of the smaller Mayan linguistic groups are often sceptic to the concept of a 'Mayan nation' because they fear domination by the larger Mayan groups. Generally, the proposed criteria are likely to lead to the creation of new minorities and majorities. However, both approaches require some sort of criteria; 'recognition' for selecting and distinguishing different types of groups, 'non-discrimination' for selecting the languages, national holidays, and so forth to be incorporated into a country's shared institutions.

A further concern was that 'recognition' could restrict individual freedom. This is perhaps most clearly seen in Kymlicka's definition of polyethnic rights, because he ties the enjoyment of these rights to membership in particular groups, thereby essentialising identity. Individual citizens who do not conform to the pre-established standard of group membership will thus be denied the enjoyment of these rights. On the other hand, as argued in section 4.6, it seems less likely that 'recognition' in Guatemala would impede integration and lead to a polarisation of the society. On my account, both 'non-discrimination' and 'recognition' are likely to have a positive effect on political unity and social cohesion in Guatemala. Political unity will be strengthened by ending discrimination, which is required by both approaches. Group-differentiated rights will probably have the same effect, partly because many of these rights reflect a wish to integrate, partly because such rights, even self-government, are likely to have integrative consequences in Guatemala.

However, indigenous self-government in Guatemala could prove to be counter-productive by cementing their current situation of marginalisation and exclusion, and it is unlikely to achieve much in terms of changing the racist attitudes the indigenous are confronted with. The concern that 'recognition' may protect illiberal minorities seems less relevant. Political practices are probably on the average no more illiberal in mainly indigenous areas than they are in areas where the Ladino

dominate. Nevertheless, attention should be paid to the paternalistic traditions in many indigenous (and non-indigenous) communities, and to the aspects of community law that can be at variance with basic liberal values and democracy.

The role ethnic identity plays in people's lives varies greatly, in Guatemala as elsewhere. Groups are likely to differ in their characteristics and degree of cohesiveness. A multicultural state need not be seen as a federation or a conglomeration of groups that are separate and perhaps self-governing, and that possess a strong internal identity and an identical attachment to the state. The construction of Maya, Ladino, Garifuna, and Xinca 'nations' is not a prerequisite for the creation of a multicultural state (Adams 1997), and attempts to reinforce these identities through group-differentiated rights can, as just argued, run contrary to a liberal theory of politics. Kymlicka suggests that

in countries that are both polyethnic and multinational, cultural groups are not only diverse, but they have diverse images of the country as a whole. People not only belong to separate political communities, but they also belong in different ways. This means that the members of a polyethnic and multinational state must not only respect diversity, but also respect a diversity of approaches to diversity (Kymlicka 1995a:190).

A liberal approach to justice in multicultural democracies should not only ensure equal treatment for members of different groups through the accommodation of cultural difference, and tolerate differences in the attachments of these groups to the state, as Kymlicka argues above. Such an approach must also ensure that respect for diversity within these groups is maintained, and keep the possibility of not identifying with any such group open. If, when and how ethnic (and other) identities are important should then to the greatest extent possible be a matter of individual choice. 'Recognition' seems to require at least some homogeneity in the latter sense, by presupposing that individual citizens identify with a finite and

clearly delineated set of groups. As Christine Inglis concludes from her study on multicultural policies:

As an examination of the [multicultural] policies makes plain, its aim is to provide meaningful 'choice' for individuals from diverse ethnic backgrounds so that they are neither excluded in separatist sectors of the society nor forced to assimilate to the mainstream society. Both strategies may marginalise individuals and thus create pre-conditions for the emergence of ethnic conflict and violence (Inglis 1998:18).

In this sense, 'non-discrimination' seems to be a more adequate approach to diversity.

This discussion has obvious limitations. Others may disagree with my interpretations of the arguments on multiculturalism and justice or my characterisation of the situation in Guatemala. Many of the conclusions above presuppose a constructivist approach to ethnic identity, which, though dominating the current studies on Guatemala, is somewhat controversial.<sup>67</sup> Moreover, there are likely to be other relevant arguments that are not taken into account here, so this can at best be a modest contribution to a large and complex debate. However, with these limitations in mind it seems that Kymlicka's unequivocal preference for 'recognition' and his rejection of 'non-discrimination' need to be reconsidered, at least for the case of Guatemala. Indeed, on the above account 'non-discrimination' may seem preferable to 'recognition' as an approach to justice (as defined by political liberalism), in Guatemala.

Nevertheless, I am not at ease in drawing this conclusion, in part because 'non-discrimination', if taken to its logical conclusion, implies that it would be very difficult to justify the support by the state for any cultural projects at all (Bell 1993: 229-230). This is a conclusion I assume very few persons would adhere to. For example, state support for cultural activities such as operas, theatres and so forth

would arguably be impossible according to 'non-discrimination'. What we need then is an approach to justice that, in addition to conforming to basic liberal values and the requirements of unity, combines the advantages of both approaches: it must, in accordance with 'non-discrimination', avoid favouring particular groups and the exclusive emphasis on ethnic identities, while, in accordance with 'recognition', making the maintenance of and support for particular cultural projects possible.

## 5.2 'Associational Democracy': A Middle Ground?

The complex issue of identifying the groups entitled to recognition could perhaps be avoided by providing support for citizens associations at large. For example, the state could give economic and non-intervening support to all private non-profit organisations, regardless of their origins, be it 'ethnic groups', or environmentalist groups, or orchestras, and so forth. These associations could 'take upon themselves many of the responsibilities now claimed by central government' (Phillips 1995:179). The heterogeneous needs, aspirations and interests of the population could thus be attended to through these associations. A strengthening of local government and diverse civil organisations through a decentralisation of the polity may increase the autonomy of groups (Midgaard 1996: 35).<sup>68</sup> According to Robert Dahl,

in a democratic order on the large scale of a country, associational pluralism, combined with a good deal of decentralisation of decisions to local governments, would help to ensure that the interests of citizens in different publics would be given more or less equal consideration. In that sense, the public good would be achieved in a pluralist democracy (Dahl 1989:295).

The more power is decentralised, for example to local Mayan communities, the more local groups would be ensured a say

<sup>67</sup> For example, Mason (1999:263) argues that no overall best account can be given on the choice between 'constructivism' (subjectivism) and 'primordialism' (objectivism).

<sup>68</sup> A question is how far such a decentralisation should go. It may make it more difficult to attend issues of the 'common good' (Dahl 1989, Midgaard 1989:35-6).

in politics. An emphasis on 'associational democracy' would thus appear to solve the dilemma of combining the advantages of 'non-discrimination' and 'recognition'.<sup>69</sup> Moreover, Sieder (1996:21) presents the argument that 'an efficient decentralisation of power and solid forms of local government are essential for guaranteeing democratic stability' in ethnically divided societies.

A number of objections can be made against this approach, however. *First*, economic support is insufficient for some groups. What they often want and argue they have a legitimate claim to is recognition of their special status within society, a claim not to be put on an equal footing with any other type of association.

*Second*, associational democracy cannot be a substitute for participation in the central decision-making institutions of the state (Phillips 1995:181-2). Excluded groups may still need to be present to affect the agendas and the decisions of these institutions. Moreover, Phillips's arguments for presence are valid at all levels of government, central as well as local, and may be extended to include non-governmental associations as well, because the minority-majority issue tends to get reproduced at different levels.

*Third*, some criteria would be needed to select which organisations and associations are entitled to support. This should at least be the prohibition against any internal restrictions; the requirement to maintain an internal democratic process and respect for basic liberal values within these associations.

*Fourth*, there are likely to be differences in the resources different associations have access to, and not all individuals are likely (to be able) to organise (Dahl 1989: 296-7). An emphasis on associations may therefore result in inequalities, in particular if economic support is not provided equitably by the state. Economic support

is, however, likely to be costly, and may place an unreasonable and unjustifiable burden on the citizens. It would probably also be limited to rather affluent countries, and exceed the financial capacity of the Guatemalan state. In Guatemala today the funding of the indigenous associations takes place largely through international donors. This means that the funding is likely to be rather selective and limited, and less stable and predictable than in a similar scheme provided by the state. It may also liberate the Guatemalan state from its responsibilities in this regard, thus reinforcing current patterns of exclusion. Nevertheless, the emphasis on 'associational democracy' is a powerful argument for the continued funding of these organisations as a step towards the achievement of liberal justice and democracy in Guatemala.

*Lastly*, it should be underlined that practical solutions to the challenge of multiculturalism should be adopted to local conditions and applied with pragmatism. For example, the legitimacy of particular measures may depend upon timing (Kymlicka 1995a:110) and may be seen as temporary means to combat discrimination, not permanent rights pertaining to groups. More importantly, it should be made clear that any liberal approach to justice in multicultural societies would be an agenda for profound change in Guatemala. Ending discrimination, exclusion, and the cultural monopolisation of the state by a limited segment of the population is a *sine qua non* for any democracy.

<sup>69</sup> For a survey of theories on 'associational democracy', see Phillips (1995). A lengthy discussion on this topic falls outside the scope of this thesis. The point is rather to indicate the potential of 'associational democracy' for solving the above dilemma. Dahl (1989) discusses these issues at more length. Note also the parallel between associational democracy and Lijphart's (chapter 4, above) emphasis on self-definition of ethnic groups.



# Literature

- AIDPI (Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas) (1995) in *Recopilación de los acuerdos de paz*. Editorial Saq'be, Guatemala. Chapter 5.
- Adams, Richard (1995): *Etnias en evolución social. Estudios de Guatemala y Centroamérica*. Universidad Autónoma Metropolitana, México.
- (1996): 'Comunidad y cultura en el proceso étnico-estado' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 47-72.
- (1997): 'Identidad Ladina y democracia multicultural' in *Iximulew*. CECMA/Siglo Veintiuno/Cholsamaj, Guatemala. 23 July.
- Anderson, Benedict (1994): 'Imagined Communities' in John Hutchinson and Anthony D. Smith (eds.): *Nationalism*. Oxford University Press, Oxford. pp. 89-96.
- Arias, Arturo (1990): 'Changing Indian Identity: Guatemala's Violent Transition to Modernity' in Carol A. Smith (ed.): *Guatemalan Indians and the State*. Austin: University of Texas Press. pp. 230-57.
- Arrivillaga Cortés, Alfonso (1998): 'Respecto de las ideas políticas en el Caribe centro americano – el caso garinagu.' Unpublished document.
- ASIES (Asociación de Investigación y Estudios Sociales) and Development Associates, Inc., University of Pittsburgh (1998): *La cultura democrática de los guatemaltecos*. ASIES, Guatemala. Tercer Estudio 1997. Summary.
- Asturias, Linda (1996): 'Etnia Ladina: es o no es?' in *Iximulew*. CECMA/Siglo Veintiuno/Cholsamaj. 13 October.
- Barth, Frederik (1994): 'Enduring and Emerging Issues in the Analysis of Ethnicity' in Hans Vermeulen and Cora Govers (eds.): *The Anthropology of Ethnicity. Beyond 'Ethnic Groups and Boundaries'*. Het Spinhuis Publishers, the Netherlands. pp. 11-32.
- Barth Eide, Espen (1997): "'Conflict Entrepreneurship': On the Art of Waging Civil War' in Anthony McDermott (ed.): *Humanitarian Force*. PRIO, Oslo, Norway.
- Bastos, Santiago and Manuela Camus (1995): *Abriendo Caminos. Las organizaciones mayas desde el Nobel hasta el Acuerdo de Derechos Indígenas*. FLACSO, Guatemala.
- (1996): *Quebrando el silencio. Organizaciones del pueblo maya y sus demandas*. FLACSO, Guatemala. 3<sup>rd</sup> edition.
- Bell, Daniel (1993): *Communitarianism and its Critics*. Clarendon Press, Oxford.
- Berganza, Gustavo (1997): 'Opiniones de un Ladino' in *Iximulew*. CECMA/ Siglo Veintiuno/Cholsamaj, Guatemala. 16 November.
- Black, James (1998). 'Scorched Earth in a Time of Peace' in *NACLA — Report on the Americas*. Vol. 27, No. 1. pp. 11-5.
- Bordewich, Fergus M. (1996): *Killing the White Man's Indian. Reinventing Native Americans at the End of the Twentieth Century*. Doubleday, New York.
- Bulmer, Martin and John Solomos (1998): 'Introduction: re-Thinking Ethnic and Racial Studies' in *Ethnic and Racial Studies*. Vol.21. pp. 819-37.
- Burawoy, Michael (1991): 'Introduction' in Burawoy et al.: *Ethnography Unbound. Power and Resistance in the Modern Metropolis*. University of California Press, Berkeley. pp. 1-7.
- Butenschøn, Nils A. (1980) *Sionistisk ideologi, isrealske konfliktforestillinger og jødisk identitet. En historisk-empirisk tilnærming til studiet av sionistisk selvforståelse og det palestinske problem*. Department of Political Science, University of Oslo. 'Magistergradsavhandling'.
- (1993): *The Politics of Ethnocracies. Strategies and Dilemmas of Ethnic Domination*. Department of Political Science, University of Oslo, Oslo. Working Paper no. 1.
- Casás Arzú, Marta (1998): *La Metamorfosis del Racismo en Guatemala*. Cholsamaj, Guatemala.
- Castro de Comparini, Arabella (1996): 'Foro' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 109-12.
- CEDIM (1992): *Foro del pueblo maya y los candidatos a la presidencia*. Cholsamaj, Guatemala.
- CEH (Comisión para el Esclarecimiento Histórico): (1999): *Guatemala – memoria del silencio. Conclusiones y recomendaciones del Informe de la Comisión para el Esclarecimiento Histórico*. CEH, Guatemala.
- At:<http://hrdata.aaas.org/ceh/report/spanish/toc.html>
- Coe, Michael D. (1993): *The Maya*. Thames and Hudson, New York. 5<sup>th</sup> edition.
- Cojtí Cuxil, Demetrio (1995): *Configuración del pensamiento político del pueblo maya. 2da. parte*. Cholsamaj, Guatemala.
- (1996a): 'Ficha del Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas' in

- Iximulew*. CECMA/Siglo Veintiuno/Cholsamaj, Guatemala. 31 March.
- (1996b): 'Identidades de y discriminaciones entre Mayas y Ladinos' in *Iximulew*. CECMA/Siglo Veintiuno/ Cholsamaj, Guatemala. 13 October.
- (1996c): 'Identidad étnica/identidad nacional' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 73-90.
- (1997a): *Ri Maya' Moloj pa Iximulew – El movimineto Maya en Guatemala*. Cholsamaj, Guatemala.
- (1997b): 'Gobernabilidad democrática y derechos indígenas en Guatemala'. Paper prepared for the conference 'Guatemala after the Peace Accords', Institute of Latin American Studies, University of London, 6-7 November 1997.
- Comité para el Decenio del Pueblo Maya (1996): *Foro: El pueblo maya y los candidatos a la presidencia 1996-2000*. Rutzijol, Guatemala.
- Constitución Política de la República de Guatemala, Decretada por la Asamblea Nacional Constituyente el 31 de mayo de 1985. (1993) Editorial Piedra Santa, Guatemala.
- Córdova, Irma V. (1995): 'Los Garífunas: una didáctica propia' in *Ethnos*. San Carlos University, Guatemala. No.7 (1995). Bulletin.
- Dahl, Ottar (1973): *Grunntrekk i historieforskningens metodelære*. Universitetsforlaget, Oslo. 2<sup>nd</sup> ed.
- Dahl, Robert (1989): *Democracy and its Critics*. Yale University Press, New Haven and London.
- Dary, Caludia: (1994): 'Ladino: apuntes para la historia de un término' in *Ethnos*. San Carlos University, Guatemala. No.2 (1994). Bulletin.
- (1997): *El derecho internacional humanitario y el orden jurídico maya: una perspectiva histórico cultural*. FLACSO, Guatemala.
- (1997): 'Repensando al Ladino' in *Iximulew*. CECMA/Siglo Veintiuno/ Cholsamaj, Guatemala. 23 July.
- Das, Veena (1995): *Critical Events*. Oxford University Press, Delhi.
- de Paz, Marco Antonio (1993): *Pueblo maya y democracia*. SPEM/CEDIM, Guatemala.
- (1996): 'Mayas y Ladinos descubren su identidad' in *Iximulew*. CECMA/ Siglo Veintiuno/ Cholsamaj, Guatemala. 13 October.
- Doppelt, Gerald (1998): 'Is There a Multicultural Liberalism?' in *Inquiry*. Vol. 41. pp. 223-48.
- Duarte, Pablo (1996): 'Foro' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 113-5.
- Ekern, Stener (1998): 'Las organizaciones mayas de Guatemala: Panorama y retos institucionales' in *Mayab – Sociedad española de estudios mayas*. No. 11. pp. 68-83.
- Elster, Jon (1993): 'Majority Rule and Individual Rights'. *Amnesty Lecture*. Oxford University, Oxford. Unpublished document.
- Eriksen, Thomas Hylland (1993): *Ethnicity and Nationalism. Anthropological Perspectives*. Pluto Press, London.
- (1997): 'Multiculturalism, Individualism and Human Rights: Romanticism, the Enlightenment and Lessons from Mauritius' in Richard A. Wilson (ed.): *Human Rights, Culture and Context. Anthropological Perspectives*. Pluto Press, London. pp. 49-69.
- (1998): 'UNESCO's kulturbegrep under lupen' in *Mennesker og rettigheter*. Year 16. pp. 338-48.
- Esquit, Edgar (1997): 'La diversidad del Ladino' in *Iximulew*. CECMA/Siglo Veintiuno/Cholsamaj, Guatemala. 23 July.
- Falla, Ricardo (1992): *Masacres de la selva. Ixcán, Guatemala (1974-1982)*. Editorial universitaria, Guatemala.
- Ferrigno, Víctor (1997): 'La Nación a debate' in *Iximulew*. CECMA/Siglo Veintiuno, Guatemala. 15 October.
- Føllesdal, Andreas (1996): 'Minority Rights: A Liberal Contractualist Case' in Juha Räikkä (ed.): *Do We Need Minority Rights? Conceptual Issues*. Martinus Nijhoff Publishers, The Hague. pp. 59-83.
- (1999): 'Global Ethics, Culture and Ethics' in *Forum for Development Studies*. No.1. pp. 5-21.
- Gálvez Borrell, Víctor (1997a): 'Ladinos en Guatemala: unidad o diversidad?' in *Iximulew*. CECMA/SigloVeintiuno/ Cholsamaj, Guatemala. 16 November.
- and Alberto Esquit Choy (1997b): *The Mayan Movement Today. Issues of Indigenous Culture and Development in Guatemala*. FLACSO, Guatemala.
- , Claudia Dary Fuentes, Edgar Esquit Choy and Isabel Rodas (1997c): *Qué sociedad queremos?: una mirada desde el movimiento y las organizaciones mayas*. FLACSO, Guatemala.
- and Luis Fernando Mack (1999): *Guatemala: Descentralización y Asociacionismo Municipal. La Descentralización desde la Perspectiva de las Municipalidades*. CASC-UCA and FLACSO-Guatemala, Managua, Nicaragua.
- Garrard-Burnett, Virginia (1999): 'All Indians are Drunks and all Drunks are Indians: Alcohol and



- Indigenismo in Guatemala, 1900-1935' at the Society of Latin American Studies' Annual Meeting and Conference, 9-11 April 1999, Cambridge, United Kingdom. Lecture.
- Geertz, Clifford (1994): 'Primordial and Civic Ties' in John Hutchinson and Anthony D. Smith (eds.): *Nationalism*. Oxford University Press, Oxford. pp. 29-33.
- Glazer, Nathan (1995): 'Individual Rights against Group Rights' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford University Press, Oxford. pp. 123-38.
- Grandin, Greg (1999): 'A Pestilent Nationalism': Guatemala's 1937 Cholera Epidemic Revisited' at the Society of Latin American Studies' Annual Meeting and Conference, 9-11 April 1999, Cambridge, United Kingdom. Lecture.
- Gutmann, Amy (1993): 'The Challenge of Multiculturalism in Political Ethics' in *Philosophy and Public Affairs*. Vol. 22, No.3. pp. 3-24.
- (1994): 'Introduction' in Amy Gutmann (ed.): *Multiculturalism — Examining the Politics of Recognition*. Princeton University Press, Princeton. pp. 3-24.
- Guzmán Böckler, Carlos and Jean-Loup Herbert (1995): *Guatemala: Una interpretación histórico-social*. Cholsamaj, Guatemala.
- Habermas, Jürgen (1994): 'Struggles for Recognition in the Democratic Constitutional State' in Amy Gutmann (ed.) *Multiculturalism — Examining the Politics of Recognition*. Princeton University Press, Princeton. pp. 107-48.
- Hendrickson, Carol (1997): 'Imágenes del maya en Guatemala: el papel del traje indígena en las construcciones del indígena y del ladino' in *Mesoamérica*. Year 18, no. 33. pp.15-40.
- Hobsbawn, Eric (1994): 'The Nation as Invented Tradition' in John Hutchinson and Anthony D. Smith (eds.): *Nationalism*. Oxford University Press, Oxford. pp. 76-82.
- Horowitz, Donald (1994): 'The Logic of Secessions' in John Hutchinson and Anthony D. Smith (eds.): *Nationalism*. Oxford University Press, Oxford. pp. 261-9.
- IRELA (Instituto de Relaciones Europeo-Latino-americanas) (1995): *Guatemala: Elecciones y Pacificación*. Madrid, Spain. 3 November 1995. Informe de IRELA.
- ILO Convention no. 169 (adopted 27 June 1989): *Convention Concerning Indigenous and Tribal Peoples in Independent Countries*. 11 pages  
At: [www.mastiffoundation.org/docs/inter/ilo/169](http://www.mastiffoundation.org/docs/inter/ilo/169).
- Inglis, Christine (1996): *Multiculturalism: New Policy Responses to Diversity*. Management of Social Transformations (Most), UNESCO. Policy Paper no. 4.
- Jay, David and Julia Jay (eds.) (1995): *The Harper Collins Dictionary of Sociology*. Harper Collins, Glasgow.
- Kukhatas, Chandran (1995): 'Are There Any Cultural Rights' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford University Press, Oxford. pp. 228-255.
- Kymlicka, Will (1989): *Liberalism, Community and Culture*. Clarendon Press, Oxford.
- (1990): *Contemporary Political Philosophy*. Clarendon Press, Oxford.
- (1995a): *Multicultural Citizenship — A Liberal Theory of Minority Rights*. Clarendon Press, Oxford.
- (1995b): 'Introduction' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford University Press, Oxford. pp. 1-27.
- (1997): *States, Nations and Cultures*. Van Gorcum, Amsterdam. Spinoza Lectures.
- Le Bot, Yvon (1995): *La guerra en tierras mayas. Comunidad, violencia y modernidad en Guatemala (1970-1992)*. Fondo de cultura económica, México.
- Lijphart, Arend (1995): 'Self-Determination versus Pre-Determination of Ethnic Minorities in Power-Sharing Systems' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford University Press, Oxford. pp. 275-87.
- Linz, Juan (1999): Lecture given at the University of Oslo, Oslo. 8 April 1999.
- Malnes, Raino (1997): *Filosofi for statsvitere*. Tano Aschehoug, Oslo.
- Martinello, Marco (1998): 'Wieviorka's multiculturalism: a critique' in *Ethnic and Racial Studies*. Vol.21. pp. 911-6.
- Mason, Andrew (1999): 'Political Community, Liberal Nationalism, and the Ethics of Assimilation' in *Ethics*. Vol. 109. pp. 261-86.
- Maybury-Lewis, David (1998): *Indigenous Peoples, Ethnic Groups and the State*. Allyn and Bacon, Massachusetts.
- McCleary, Rachel M. (1997): 'Guatemala's Post-war Prospects' in *Journal of Democracy*. Vol. 8, No. 2. pp. 129-43.
- Midgaard, Knut (1996): *Mot en bedre organisert verden. Momenter til en teori om legitime og gode styreformer*. ARENA, Oslo, Norway. Working Paper no. 7.
- Mydske, Kjell Reidar (1998): *Sivilsamfunn og lokaldemokrati. En studie av organisasjonslivet i Patzún, Guatemala*. Institute of Sociology and Social Geography, University of Oslo, Oslo. Thesis for the Degree of Cand. Polit.

- Nozick, Robert (1989): *The Examined Life*. Touchstone, New York.
- Orantes, Carlos (1996): 'Identidad ladina e identidad nacional' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 91-97.
- Oskal, Nils (1999): 'Kultur og rettigheter' in Harald Eidheim (ed.): *Samer og Nordmenn*. Cappelen Akademisk Forlag, Oslo, Norway. pp. 141-63.
- Otzooy, Irma (1997): 'Fantasía y desdén. Imágenes y contestación' in *Mesoamérica*. Year 18, no. 33. pp. 1-14.
- Palma Murga, Gustavo (1996): 'Los proyectos de nación en Guatemala' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 39-46.
- Parekh, Bhikhu (1993): 'The Cultural Particularity of Liberal Democracy' in David Held (ed.): *Prospects for Democracy. North, South, East, West*. Polity Press, Cambridge. pp. 156-75.
- Payeras, Mario (1980): *Los días de la selva*. Casa de las Américas, La Habana, Cuba.
- Phillips, Anne (1995): *The Politics of Presence*. Oxford University Press, Oxford.
- Pitkin, Hanna F. (1967): *The Concept of Representation*. University of California Press, Berkeley.
- Plant, Roger (1997): 'Ethnicity and the Guatemalan Peace Process: Conceptual and Practical Challenges'. Paper prepared for the conference: 'Guatemala after the Peace Accords', Institute of Latin American Studies, University of London, 6-7 November 1997.
- Poitevin, René (1997): Interview in *Prensa Libre*. 12 October.
- Pop, Alvaro (1997): 'Muchas necesidades, una aspiración, una propuesta de cambio' in *Iximulew*. CECMA/ Siglo Veintiuno/Cholsamaj, Guatemala. 15 October.
- Porras, Gustavo (1996): 'Panorama de los pueblos prehispánicos' in AVANCSO: *De la Etnia a la Nación*. AVANCSO, Guatemala. pp. 31-7.
- Quemé Chay, Rigoberto (1997): 'Identidad Ladina: mito, tabú o realidad?' in *Iximulew*. CECMA/ Siglo Veintiuno/ Cholsamaj, Guatemala. July 24.
- Quej, Haroldo (1996): Interview in *Iximulew*. 13 October.
- Räikkä, Juha (1996): 'Is a Membership-Blind Model False by Definition?' in Räikkä (ed.): *Do we Need Minority Rights? Conceptual Issues*. Martinus Nijhoff Publishers, The Hague. pp. 3-19.
- Rawls, John (1971): *A Theory of Justice*. Harvard University Press, Cambridge, Massachusetts.
- (1993): *Political Liberalism*. Columbia University Press, New York.
- Rodas, Isabel (1997): 'Historias paralelas, historias excluyentes' in *Iximulew*. Siglo Veintiuno/ Cholsamaj/CECMA, Guatemala. 16 November.
- Rojas Lima, Flavio (1988): *La Cofradía. Reducto Cultural Indígena*. Seminario de Integración Social, Guatemala.
- Sayre-McCord, Geoffery (1996): 'Coherentist Epistemology and Moral Theory' in Walter Sinnott-Armstrong and Mark Timmons (eds.): *Moral Knowledge?* Oxford University Press. pp. 137-89.
- Sen, Amartya (1999): 'Democracy as a Universal Value' in *Journal of Democracy*. Vol. 10, no. 3. pp. 3-17.
- Sieder, Rachel (1996): *Derecho consuetudinario y transición democrática en Guatemala*. Guatemala: FLACSO.
- Siglo Veintiuno (1998a): 'Enmiendas a la Carta Magna aprobadas por el Congreso de la República' 17 October. 10 pages.
- In: Siglo21 [online] at <http://www.sigloxxi.com/cgi-bin/s22/creator?file=hjqen01>
- (1998b) 'Más de cien linchamientos en dos años'. 9 November.
- Smith, Carol A. (1991) 'Maya Nationalism' in *NACLA — Report on the Americas*. Vol. 25, No. 3. pp. 29-33.
- Solares, Jorge (1994): 'El contexto político del conflicto étnico' in *Ethnos*. San Carlos University, Guatemala. No. 2 (1994). Bulletin.
- (1995): 'Reflexiones en torno al Acuerdo sobre identidad y derechos de los pueblos indígenas' in *Ethnos*. San Carlos University, Guatemala. No. 7 1995. Bulletin.
- Son Turnil, Benjamín (1999): 'Consecuencias socio-económicas de la guerra en Guatemala'. Paper presented at the seminar 'Guatemala — Dilemmas in Democratisation' Oslo, 7-8 May 1999.
- Stavenhagen, Rodolfo (1994): 'Indigenous Rights: Some Conceptual Problems' in W.J. Assies and A. J. Hoekema (eds.): *Indigenous Peoples' Experiences With Self-Government*. IWGIA Document no. 76. IWGIA, Copenhagen. pp. 9-29.
- Stoll, David (1993): *Between Two Armies in the Ixil Towns of Guatemala*. Columbia University Press, New York.
- (1997): *Prospects for Democratization in Northern Quiche*. Paper prepared for the conference 'Guatemala after the Peace Accords', Institute

- of Latin American Studies, University of London, 6-7 November 1997.
- Taylor, Charles (1994): 'The Politics of Recognition' in Amy Gutmann (ed.): *Multiculturalism — Examining the Politics of Recognition*. Princeton University Press, Princeton. pp. 25-73.
- (1998): 'The Dynamics of Democratic Exclusion' in *Journal of Democracy*. Vol. 9, No. 4. pp. 143-56.
- Tilley, Virginia (1997): 'The terms of the debate: untangling language about ethnicity and ethnic movements' in *Ethnic and Racial Studies*. Vol.20. pp. 497-522.
- TSE (Tribuna Supremo Electoral) (1999): 'Documento Informativo'. UCADE-TSE, Guatemala.
- Tuyuc, Rosalina (1996): Interview in *Iximulew*. CECMA/Siglo Veintiuno, Guatemala. 31 March.
- United Nations (1998): *Eighth Report of the Human Rights Area of the United Nations Verification Mission in Guatemala (MINUGUA)*. United Nations General Assembly, New York. 15 June.
- Vásquez, Juana (1996): Interview in *Iximulew*. CECMA/Siglo Veintiuno/ Cholsamaj, Guatemala. 31 March.
- Vermuelen, Hans and Cora Govers (1994): 'Introduction' in Hans Vermuelen and Cora Govers (eds.): *The Anthropology of Ethnicity. Beyond 'Ethnic Groups and Boundaries'*. Het Spinhuis, The Netherlands. pp. 1-10.
- Walzer, Michael (1994): 'Comment' in Amy Gutmann (ed.): *Multiculturalism — Examining the Politics of Recognition*. Princeton University Press, Princeton. pp. 99-103.
- (1995): 'Pluralism: A Political Perspective' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford, Oxford University Press. pp. 139-54.
- Warren, Kay (1997): 'Identidad indígena en Guatemala: una crítica de los modelos norteamericanos' in *Mesoamérica*. Year 18, no. 33. pp. 73-91.
- (1998): *Indigenous Movements and Their Critics. Pan-Maya Activism in Guatemala*. Princeton: Princeton University Press.
- Watanabe, John M. (1994): 'Unimagining the Maya: Anthropologists, Others and the Inescapable Hubris of Authorship' in *Bulletin of Latin American Research*, Vol. 14. pp. 25-45.
- (1999): 'State Formation as Bureaucratic Formalism in the Late Nineteenth-century Guatemala' at the Society of Latin American Studies' Annual Meeting and Conference, 9-11 April 1999, Cambridge, United Kingdom. Lecture.
- Wievorka, Michel (1998): 'Is multiculturalism the solution?' in *Ethnic and Racial Studies*. Vol.21, no.5. pp. 881-910.
- Wilson, Richard (1995): *Maya resurgence in Guatemala — Q'eqchi' experiences*. University of Oklahoma Press, London.
- (1999) 'Culture and Rights'. University of Oslo, Oslo. 1 September (1999). Lecture.
- Woodward, Ralph Lee, Jr. (1971): 'Social Revolution in Guatemala — The Carrera Revolt' in *Applied Enlightenment*. Middle American Research Institute, Tulane University, New Orleans. Publication 23. pp. 43-70.
- Yin, Robert K. (1994): 'The Case-study as a Serious Research Strategy' in *Knowledge: Creation, Diffusion, Utilisation*. Vol. 3, no. 1. pp. 97-114.
- Young, Iris Marion (1989): 'Polity and Group Difference. A Critique of the Ideal of Universal Citizenship' in *Ethics*. Vol. 99. pp. 250-74.
- (1990) *Justice and the Politics of Difference*. Princeton University Press, Princeton.
- (1995): 'Together in Difference: Transforming the Logic of Group Political Conflict' in Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford University Press, Oxford. pp. 155-76.
- Zapeta, Estuardo (1997): 'El Ladino alebestrado' in *Iximulew*. CECMA/ SigloVeintiuno/Cholsamaj, Guatemala. 23 July.
- (1998): 'Indígenas debaten la Nación' in *Siglo Veintiuno*. 6 February.



# Summary

This thesis analyses the implications of taking cultural diversity into account when discussing the elaboration of a just political system and just policies in Guatemala. In 1996, a long-lasting civil war came to its end in Guatemala, and since then the implications of cultural diversity for the organisation of the Guatemalan state has been at the centre stage of public debate. The demands and proposals of the Guatemalan indigenous movement and a peace accord that addresses the 'identity and rights of the indigenous peoples' provide the framework for this debate.

The thesis examines the situation in Guatemala in light of contemporary normative political theory. Political liberalism, one of the major schools of contemporary political thought, is chosen as the basic normative framework for understanding the requirements of a just political system and just policies. Two different approaches for how cultural differences should be accommodated in democratic states are examined, and the implications of them for Guatemala are discussed. The two approaches or policies, both of which have a long history within liberal political theory, can be outlined as follows: *non-discrimination* requires that the state is 'neutral' when it comes to the particular cultural identities of its citizens. According to this approach, the state should not seek to identify, protect, or promote any particular ethnic identity or culture.

*Recognition*, on the other hand, requires that the state gives explicit recognition to the particular cultural identities of its citizens, usually through a system of rights that differentiates between members of different ethnic groups. The Canadian philosopher Will Kymlicka's book, *Multicultural Citizenship*, is a comprehensive

and highly acclaimed liberal defence of 'recognition', and it provides the theoretical focus throughout this thesis. However, a discussion of the characteristics of ethnicity, political participation, political autonomy and concerns for social unity in Guatemala leads to a conclusion which diverges from Kymlicka's, and a third approach is suggested that may solve some of the dilemmas created by both 'non-discrimination' and 'recognition' for the achievement of justice.



