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'Reencountering our ways'

A discourse analysis of indigenous women's work for their individual rights within the Mayan systems in Guatemala

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‘Reencountering our ways’¹ – A discourse analysis of indigenous women’s work for their individual rights within the Mayan systems in Guatemala

Key Words:

Human Rights; Women’s Rights; Indigenous Peoples Rights; Legal Pluralism; Latin America; Fairclough; Critical Discourse Analysis; Three-dimensional Model

Abstract

Legal pluralism, the co-existence of several legal systems within the same state, exists in most countries in the world. This existence of parallel legal systems can enhance women’s access to justice, for example if these legal institutions are located closer to the women in the rural areas or if the representatives speak the same language as the women. There is however growing indications suggesting that parallel legal systems create obstacles to women’s access to justice and to their rights, like when the parallel systems are based on, for instance, interpretations of religious and cultural principles that are discriminatory towards women. As a response to this, women’s organizations around the world are creating innovative ways to protect and enhance women’s rights.

This qualitative study is focused on the way indigenous women work with women’s rights in Latin America. I have examined to what extent it is possible for women to preserve and protect cultural / collective rights at the same time as protecting and improving women’s access to their individual rights. The empirical data consists of two books produced by an indigenous women’s organization from Guatemala, the *Mujeres Mayas Kaqla*, and I have used Norman Fairclough’s critical discourse analysis as the method to analyse these books.

The results of the analysis showed that the *Mujeres Mayas Kaqla* manage to combine the preservation and protection of their cultural and collective rights at the same time as they promote their individual rights as women by reformulating and mixing existing discourses in

¹Grupo de Mujeres Mayas Kaqla, 2011: *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres* http://www.bd.cdmujeres.net/sites/bd.cdmujeres.net/files/documentos/publicaciones/master_final_kinojibal_qatit.pdf (Seen: 2013-04-23) Page 86. Translation: “Reencontrando nuestro camino”

a culturally sensitive manner. They to simultaneously strengthen their Mayan cultures and the position of women within their cultures, and they approach the topics of women's rights, gender based violence, discriminatory structures, etc, in different ways, for example, by talking of the oppressive structures as something not originally Mayan, but as something their communities have adopted after years of living in an oppressive society. In their work, they refrain from using "Western" concepts, and instead use Mayan concepts, when talking of human rights issue, showing that they do not have to conform to the existing human rights language and discourse, but instead translate it to fit into the relevant, local context.

List of Abbreviations

CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CEH	Commission for Historical Clarification
ECOSOC	United Nations Economic and Social Council
EMRIP	United Nations Expert Mechanism on the Rights of Indigenous Peoples
FIMI	Foro Internacional de Mujeres Indígenas (International Indigenous Women's Forum)
ILO	International Labour Organization
ITP	Indigenous and Tribal Peoples
OAS	Organization of American States
UN	United Nations
UN Habitat	United Nations Human Settlements Programme
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
URNG	Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity)

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*Somos mujeres Mayas,
aquí estamos y como no nos hemos muerto todavía,
¡Algo podremos hacer para eliminar la pobreza,
el hambre, la discriminación, la servidumbre y la victimización!
¡Algo podremos hacer, crear y cambiar!*²

1 Introduction

Legal pluralism is everywhere. There is, in every social arena one examines, a seeming multiplicity of legal orders, from the lowest local level to the most expansive global level. There are village, town, or municipal laws of various types; there are state, district or regional laws of various types; there are national, transnational and international laws of various types. In addition to these familiar bodies of law, in many societies there are more exotic forms of law, like customary law, indigenous law, religious law, or law connected to distinct ethnic or cultural groups within a society.³

Legal pluralism, the co-existence of several legal systems within the same state, exists in most countries in the world.⁴ Examples of legal systems that apply in parallel to national law are sharia laws in Muslim states such as Saudi Arabia and Iran,⁵ customary laws in for example states like South Africa⁶ and Uganda⁷, and the recognition of indigenous peoples' rights to their own systems in Latin America. Other examples of legal pluralism are the recognition of global and transnational organizations, such as the European Union and the World Trade Organization, and their legal systems.⁸

The United Nations (UN) Women report *In pursuit of Justice – Progress of World's Women 2011-2012* emphasizes how the existence of parallel legal systems can enhance women's access to justice,⁹ for example if these legal institutions are located closer to the women in the rural areas or if the representatives speak the same language as the women. There is however

² Grupo de Mujeres Mayas Kaqila, 2009: *Mujeres Mayas, Universo y Vida. Kinojib'al Qati't* http://www.bd.cdmujeres.net/sites/bd.cdmujeres.net/files/documentos/publicaciones/master_final_kinojibal_qatit.pdf (Seen: 2013-04-23) Page 83. Translation: "We are Mayan women, here we are and since we haven't died yet, we can do something to eliminate poverty, hunger, discrimination, and victimization servitude! We can do, create and change something!"

³ Tamanaha, Brian Z, 2008: Understanding legal pluralism: Past to Present, Local to Global. *Sydney Law Review*, Volume 30, Number 3, pp. 375-411. Page 375

⁴ UN Women, 2011: *In pursuit of Justice – Progress of World's Women 2011-2012*

⁵ Sveriges Utbildningsradio AB: Sharia. <http://www.ur.se/Produkter/140229-Muslim-i-Europa/Sharia> (Seen: 2013-04-02)

⁶ Department of Justice and Constitutional Development, Republic of South Africa, 1998: *Recognition of Customary Marriage Act 120 of 1998*. <http://www.justice.gov.za/legislation/acts/1998-120.pdf> (Seen: 2013-04-02)

⁷ UN Habitat, 2007: *A guide to property law in Uganda*.

<http://www.unhabitat.org/pms/listItemDetails.aspx?publicationID=2444> (Seen: 2013-05-11)

⁸ UN Women, 2001: page 68

Tamanaha, 2008: Page 386

⁹ UN Women, 2011: Page 68

growing indications suggesting that parallel legal systems create obstacles to women's access to justice and to their rights,¹⁰ like when the parallel systems are based on, for instance, interpretations of religious and cultural principles that are discriminatory towards women. The report further states that "the goal of many non-state justice system is not individual redress but the restoration of peace and social harmony, which may mean that discrimination against women is perpetuated and that individual women are denied their rights".¹¹ As a response to this, women's organizations around the world are creating innovative ways to protect and enhance women's rights. Rachel Sieder¹² and Maria Therese Sierra¹³ describes, in the report *Indigenous Women's Access to Justice in Latinamerica*, how indigenous women in countries like Ecuador, Guatemala and Mexico actively work to incorporate and strengthen women's rights in the indigenous peoples' own systems, systems that may be shaped by structures that subordinate women and an emphasis on the group and not individual rights. The authors bring up, amongst other things, how the organizations have worked to innovate and re-shape their own languages, as well as the human rights language, in their struggle for women's rights.¹⁴ Sieder and Sierra tell the tale of a group of Nauha women in Mexico, and how "the language of rights, human rights, indigenous rights and women's rights has been appropriated and redefined /.../ in line with their own cultural context and needs" in their work.¹⁵ They also explain how a group of Mayan women in Guatemala have come up with their own gender theories by using their own frames of reference and cultural language, such as the Maya notion *cosmovisión*, to re-contextualize the relationship between gender and law,¹⁶ (*cosmovisión* could be translated into "worldview"; according to the women's organization *Mujeres Mayas Kaqla*, *cosmovisión* is the way they see and explain themselves in relation to each other, to the world, the cosmos, the nature, etc. According to them it also means that

¹⁰ UN Women, 2011: Page 68

¹¹ Ibid: Page 69

¹² Rachel Sieder is a political scientist whose research interests cover indigenous rights, human rights, judicial reform, access to justice, legal pluralism, etc; her geographic area of specialization is Guatemala and Central America. She is a senior research professor at the Centro de Investigaciones y Educación Superior en Antropología Social (CIESAS) in Mexico City, and research fellow at the Institute for the Study of the Americas at the University of London. (Source: <http://www.cmi.no/staff/?rachel-sieder>)

¹³ Maria Theresa Sierra is a professor at the Center for Advanced Studies and Research in Social Anthropology (CIESAS) in Mexico City, and specializes in legal and political anthropology and in the study of ethnicity, multiculturalism and gender. She is a founding member of the Red Latinoamericana de Antropología Jurídica (RELAJU). She has been a principal investigator and coordinator of several research projects on indigenous rights and justice from a gender perspective. Together with Rachel Sieder she has also participated in a project on women and law in Latin America. (Source: http://usmex.ucsd.edu/programs/current-fellows/current-fellows_2012020472438.htm)

¹⁴ Sieder, Rachel & Sierra, Maria Theresa, 2010: *Indigenous Women's Access to Justice in Latin America*. Bergen: Chr. Michelsen Institute. <http://www.cmi.no/publications/file/3880-indigenous-womens-access-to-justice-in-latin.pdf> (Seen: 2013-02-18) Page 28

¹⁵ Sieder & Sierra, 2010: Page 24

¹⁶ Ibid: Page 36

nothing in this world can exist without each other, everything is interdependent and complementary¹⁷). This is both interesting and important as it shows the women's need to find and create their own language when talking about human rights, a language that makes sense in their context and that is not imposed from the outside. But it is also interesting and important when it comes to discussions about human rights and universalism versus relativism. Are human rights a Western invention or do they exist everywhere only that different societies and cultures express themselves differently? It is also interesting from another point of view – the one regarding collective versus individual rights – does one exclude or “trump” the other, or can they coexist and be protected, both at once? Can you be a woman fighting for your individual rights as a woman, but also be an indigenous person, striving to protect and preserve your newly won collective rights? These women's groups are working for their rights as women, but within the traditional frames, they are also using existing cultural terms and principles to show that these rights already exist within their own cultures.

1.1 Plan of the study

The purpose of this study is to illustrate how indigenous women work with women's rights issues in Latin America. I examine to what extent it is possible for women to preserve and protect cultural / collective rights at the same time as protecting and improving women's access to their individual rights. I aim to do this by analysing the work of an indigenous women's organization from Guatemala, the *Mujeres Mayas Kaqla*.

The thesis begins with an introduction of the subject, the purpose of the thesis and the research questions. Next is a section on previous research on legal pluralism in Latin America and indigenous women's struggle for their access to justice. After that follows the chapters that contain the theoretical framework and the methodology used while conducting the study. This is followed by a section containing a brief historical background to Guatemala, the women's organization *Mujeres Mayas Kaqla* and the concept *Cosmovisión*, to give the reader

¹⁷ Grupo de Mujeres Mayas Kaqla, 2004: *La palabra y el sentir de las Mujeres Mayas de Kaqla*. http://74.52.178.178/~ebiguat/index.php?option=com_content&task=view&id=882&Itemid=88 (Seen: 20130-02) Page 129.; Sieder, Rachel & McLeod, Morna, 2012: Género, derecho y cosmovisión maya en Guatemala. In Hernández, R. Aída & Canessa, Andrew (eds.), 2012: *Complementariedades y exclusiones en Mesoamérica y los Andes*, pp. 170-200. Quito: Editorial Universitaria Abya –Yala. Page 177

a contextual understanding. Finally I present my findings and discuss them in relation to the theoretical framework.

1.2 Research questions

- How do the *Mujeres Mayas Kaqla* work with women's rights issues within their culture and their own legal system?
- How have they reformulated / recontextualized the language of rights?
- How do they juggle the issue of preserving and protecting their cultural / collective rights at the same time as they work to protect and increase women's access to their individual rights?

1.3 Delimitations of the study

The focus of this study is on how indigenous women work with women's rights issues in Latin America, and to what extent it is possible for women to simultaneously preserve and protect their cultural / collective as well as their individual rights.

There are many indigenous groups and peoples and many women's organizations in Latin America, but due to the restrictions of this study, I have limited myself to look at how one specific women's organization, *Mujeres Mayas Kaqla*, work with these issues in Guatemala. I can therefore not speak in general terms but only regarding the work of these specific women. The empirical data relating to this organization consists of two books, which the women have produced themselves and that express the women's approach to, and perspective on issues of indigenous women.

It is also worthy of note that I in this study make discourse analysis of these women's work, this means that what I map out is these women's perceived reality. The women write about how they perceive the situation for women within their communities as well as in the Guatemalan society at large, they also describe the relationship between men and women, etc. This is however as stated above their perceived reality. My task in this study is to analyse how they experience this reality but also how they express themselves to present this reality and the potential changes they might want to generate in a culturally sensitive way. I do not claim

that their perceived reality is the absolute truth. Everyone has their own perceptions of reality and many different discourses tend to exist side by side within communities and within cultures. If one would ask a Mayan man or other Mayan women they might not experience things in the same way. However, this is a study of how this particular women's organization perceive the reality for women within their communities, and how they go about making their opinions and voices heard, and possibly generate change, by reformulating and re-contextualising the language of human rights to fit their own context.

2 Previous research

The purpose of this thesis is not only to examine legal pluralism and how different legal systems can coexist, but also to look at indigenous women's struggle for their rights within the indigenous system by reformulating the modern Western rights language. My background research has, as a consequence, included research on legal pluralism, a review of studies on the specific topic of indigenous women's work in Latin-America, as well as literature on universalism versus relativism.

2.1 Legal pluralism in Latin America

As mentioned above, legal pluralism exists in some form in almost every country in the world. One could say that there are roughly three types of legal pluralism:

1. Where several legal systems exist parallel to the national law but without formal recognition, such as, e.g. village assemblies – *jirgas* – that deals with conflict resolution in Pakistan and Afghanistan.¹⁸
2. Where the national legal system itself is plural, such as the coexistence of *common* and *customary laws* in South Africa and Uganda, or the recognition of indigenous legal systems in Latin America.¹⁹
3. Where quasi-state legal orders are established or where the state incorporate non-state legal orders, as, for example, in several African countries where local, traditional power holders are incorporated at the lowest tier of the state legal system through

¹⁸ UN Women, 2011: Page 68

¹⁹ Ibid: Page 68; Department of Justice and Constitutional Development, Republic of South Africa, 1998.

decentralization.²⁰

In this study my focus is on the second type, as I examine indigenous systems in Latin America, which I will develop further below.

The legacy of colonialism and the persistence of semi-autonomous spheres of indigenous governments has meant that legal pluralism – the existence of multiple norms, institutions, practices and beliefs for regulation and conflict resolution within a single jurisdiction have long characterized Latin American societies. Indeed the majority of indigenous people have for centuries made recourse to semi-autonomous spheres of indigenous justice, on the one hand, and to state justice institutions on the other.²¹

As mentioned in this quote, legal pluralism has been found in Latin America since colonial times as indigenous peoples to some extent have been able to maintain norms and principles of their own. Since the middle of the 1980s these systems have achieved increasing formal recognition. In several Latin American countries indigenous peoples' right to their own laws is acknowledged in the constitutions as a result of a combined pressure from social movements in the country and international instruments concerning indigenous peoples rights, together with some states' wishes to reflect their pluri-cultural nature.²² Donna Lee Van Cott describes the development leading up to the re-writing of the constitutions in Latin American countries such as Colombia and Bolivia, as a result of three different crises.²³ There was a *representation crisis* (non-representative political parties monopolized the access to the state), a *participation crisis* (most citizens could not participate in the decision-making due to lack of access of means) and a *legitimacy crisis* (there was for example a discriminatory access to judicial protection and an equal membership in the nation).²⁴ According to Van Cott these crises stem from centuries of social inequality and exclusion that reached critical heights by the early 1990s, which led to the re-writing of the countries constitutions.²⁵ This situation created a chance for the indigenous peoples' movements to get their issues on the agenda and into the constitutions. At this point, it was however also in the states' interest to include these groups, as their participation and inclusion added legitimacy to the new constitutions.²⁶ Van Cott notes

²⁰ UN Women, 2011: Page 68

²¹ Sieder & Sierra, 2010: Page 3

²² Ibid: Page 3

²³ Van Cott, Donna Lee, 2000: *The friendly liquidation of the past: the politics of diversity in Latin America*. Pittsburgh: University of Pittsburgh Press. Page:1

²⁴ Van Cott, 2000: Page:1

²⁵ Ibid: Page 1

²⁶ Ibid: Page 2

Constitutionalism is about limiting the power and reach of the state; indigenous organizations seek to delineate a sphere of autonomy where state power cannot penetrate. Constitutionalism is about establishing the rule of law and enunciating the rights of citizens under that law; indigenous organizations seek to redefine the terms of their citizenship and to establish mechanisms to protect their individual and collective rights. Indigenous organizations seized the opportunity to act as *subjects* in the creation of the political regime, as opposed to the objects of legislation composed and imposed by a distant and hostile state.²⁷

Internationally the issues of indigenous peoples rights were also getting more attention than before, which resulted in the establishment of, for example, the International Labour Organization (ILO) Convention no. 169; a convention that to a greater extent than the previous convention 107, which is substituted, recognized indigenous peoples' rights, such as their right to their own legal systems. I will discuss this convention, and other international frameworks and legislations further below.

Van Cott describes how the modern Latin American states are built through the conquest, control and exploitation of their indigenous peoples,²⁸ and how national identities on the continent were constructed by denying indigenous peoples their land, their language, their autonomy, etc, all while creating a myth of a homogenous identity – the mestizo nation.²⁹ Despite the effort to create this myth of a homogenous mestizo identity, native people have lived on and tried to keep their semi-autonomous spheres.³⁰ The states' constitutions are however based on the premises of a homogenous population, as well as on the Western constitutional tradition that was developed in states with relatively homogenous cultural, social and political groups (and, as a consequence, a lack a conception of culturally alienated groups).³¹ Multicultural states need to go beyond this narrow tradition, with its liberal focus on individual rights, and add the protection of collective rights to their constitutions.³² Van Cott argues that the new wave of constitutionalism that occurred in the early 1990s found its strength and unity in diversity.³³ This is for example evident in Bolivia, where the discourse

²⁷ Van Cott, 2000: Pages 1-2

²⁸ Ibid: Page 2

²⁹ Ibid: Pages 2, 8

³⁰ Sieder & Sierra, 2010: Page 3

³¹ Van Cott, 2000: Page13

³² Ibid: Page 13

³³ Ibid: Page 13

changed in the late 1980s into that of a “multicultural state”.³⁴ This discourse grew stronger in the following decade and was further strengthened with the movement that led up to the election of Evo Morales as president in 2005. It was consequently expressed in the new constitution from 2009 that proclaimed Bolivia a pluri-national state and guaranteeing indigenous peoples’ rights. The constitution emphasizes amongst other things that the state’s aim is to “construct a just and harmonious society, built on decolonization, without discrimination or exploitation, with full social justice, in order to strengthen the pluri-national identities”,³⁵ and a whole chapter is dedicated to *the Rights of Nations and Rural Native Indigenous Peoples*. “Nations and rural native indigenous people” are in this constitution defined as “every human collective that shares a cultural identity, language, historic tradition, institutions, territory and world view, whose existence predates the Spanish colonial invasion”.³⁶ Article 30.14 in this chapter concerns the rights of these groups to “practice their own political, juridical and economic systems in accordance with their world-view”.³⁷

Due to the new waves of constitutional reforms (one as mentioned above in the early 90’s and another one during the 2000s, as in Bolivia) significant advances have been made in the recognition of legal pluralism in Latin America. However, to quote Sieder and Sierra, the picture has been “mixed” regarding the recognition of indigenous justice systems.³⁸ The new constitutions accepted legal pluralism in general terms, but the recognition of indigenous autonomy has been limited.³⁹ An example of such limitations is the subordination of the indigenous law to the constitutional law, as well as to the international human rights law.⁴⁰

2.2 International law and indigenous peoples’ rights

The change in discourse with regard to indigenous peoples’ rights at the end of the 1980s was not taking place only within Latin America. The general discourse prior to the 80’s was that indigenous and tribal peoples should be integrated into the larger society, and put under the

³⁴ Van Cott, 2000: Page 238

³⁵ Constitution of the Plurinational State of Bolivia, translated by the Embassy of Bolivia in Washington, 2009: <http://www.scribd.com/doc/73770823/Bolivia-2009-Official-Translation> (Seen: 2013-05-11)

³⁶ Constitution of the Plurinational State of Bolivia, 2009

³⁷ Ibid

³⁸ Sieder & Sierra, 2010: Page 5

³⁹ Ibid: Page 5

⁴⁰ Ibid: Page 6

decision-making of the State.⁴¹ However, through the growing organization and participation of indigenous and tribal peoples, both nationally and internationally, during the 60's and the 70's, this discourse began to change.⁴² A new development discourse, based on a general assumption that indigenous and tribal peoples constitute permanent societies with a right to determine for themselves what the development process should be like, was established.⁴³

In this section I will briefly discuss international conventions, frameworks and legislation that concern indigenous peoples' rights and more specifically their right to their own legal systems.

In 1957 the ILO Convention no 107 had been adopted. This Convention was based on the development discourse of the time, and thus encouraged integration and was based on the assumptions that indigenous and tribal peoples were destined to disappear with "modernisation".⁴⁴ Due to the change in discourse in the late 80's mentioned above, this convention started to be seen as out-dated and "detrimental in the modern world",⁴⁵ and was thus replaced in 1989 by the ILO Convention no. 169.⁴⁶ In its preamble the Convention no. 169 states that "the developments which have taken place in international law since 1957, as well as developments in the situation of indigenous and tribal peoples in all regions of the world, have made it appropriate to adopt new international standard on the subject with a view to removing the assimilationist orientation of the earlier standards".⁴⁷ The Convention recognises "the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live".⁴⁸ The ILO Convention no. 169 is one of the most comprehensive international legislation concerning indigenous rights and is today ratified by twenty-two countries, eleven of which are Latin

⁴¹ International Labour Organization, 2013a: History of the ILO's work.

<http://www.ilo.org/indigenous/Aboutus/HistoryofILOswork/lang--en/index.htm> (Seen 2013-05-11)

⁴² Ibid

⁴³ International Labour Organization, 2013a

⁴⁴ International Labour Organization, 2013b: *Convention No 107*. <http://www.ilo.org/indigenous/Conventions/no107/lang--en/index.htm> (Seen: 2013-05-10)

⁴⁵ Ibid

⁴⁶ UN Women, 2011: Page 68

⁴⁷ International Labour Organization, 1989: C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169).

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C169 (Seen: 2013-03-11)

⁴⁸ Ibid

American countries.⁴⁹ Below the main differences between the Conventions Nos. 107 and 169 are presented, which shows clearly the differences in discourse and approach:⁵⁰

Conventions Nos. 107 and 169: Major differences	
No. 107	No. 169
Founded on the assumption that ITPs (Indigenous and Tribal Peoples) were temporary societies destined to disappear with «Modernization».	Founded on the belief that ITPs are permanent societies
Reference to «Populations»	Reference to «Peoples»
Encouraged integration	Recognition of, and respect for, ethnic and cultural diversity

Apart from the ILO, the United Nations (UN) also established a Permanent Forum on Indigenous Issues in the year 2000 which administratively is placed under the UN Economic and Social Council (ECOSOC) resolution 2000/22,⁵¹ and an Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) under the Human Rights Council in 2007.⁵² They also adopted the UN *Declaration on Indigenous Peoples Rights* in 2007.⁵³ This declaration emphasizes indigenous peoples' right to

...promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.⁵⁴

As far as regional agreements are concerned, the Organization of American States (OAS) is drafting an American Declaration on the Rights of Indigenous Peoples. In 2010, the OAS presented a Program of Action concerning indigenous peoples (*the Program of Action on*

⁴⁹ Ratifications of C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314:NO (Seen: 2013-03-11)

⁵⁰ International Labour Organization, 2013b

⁵¹ United Nations Permanent Forum on Indigenous Issues, <http://social.un.org/index/IndigenousPeoples/AboutUsMembers/ECOSOCResolution200022/ResolutionE200022.aspx> (Seen: 2013-03-11)

⁵² Office of the High Commissioner for Human Rights, The Expert Mechanism on the Rights of Indigenous Peoples. <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx> (Seen: 2013-03-11)

⁵³ United Nations, 2007: *Declaration on Indigenous Peoples Rights*. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf Article 34. (Seen: 2013-03-11)

⁵⁴ Ibid

Indigenous Peoples in the Americas),⁵⁵ with the aim of ”promoting and strengthening the participation of indigenous peoples in domestic and international decision-making processes, increasing the awareness of society in general regarding this topic, training indigenous peoples’ representatives in a range of areas that will allow the comprehensive development of their communities, and establishing indigenous issues as a cross-cutting theme in the Organization’s different projects and activities”.⁵⁶ Article 2.5 in this Program of Action concerns the political participation of indigenous women, ”through the development of their capacities, the cultural construction of gender, and the promotion of their human rights”,⁵⁷ and Article 3.1 states the need to offer mechanisms to bring ”the practices of current indigenous law into line with positive law”.⁵⁸

2.3 Indigenous Women and their access to justice in Latin America

Indigenous women are amongst the poorest and most vulnerable in Latin America, and they tend to face multiple cases of discrimination based on their gender, class and ethnicity.⁵⁹ As Maria Theresa Sierra puts it

Given the weight of gender ideologies that justify the subordination of women to male decision-making and power differentials, it has been very difficult for indigenous women to gain access to state and community justice. A patriarchal vision prevails both in the state legal system and indigenous law. Studies in indigenous regions have documented the conditions of disadvantage, racism and exclusion that women encounter within state justice institutions, as well as the difficulties they face when dealing with their own local authorities.⁶⁰

The discrimination against women and the patriarchal as well as racist structures of society have, according to Sierra, very direct and indirect effects on women’s access to justice, concerning both the state justice system and local ones. In the report *Indigenous women’s access to justice in Latin-America* Rachel Sieder and Maria Theresa Sierra regard the discrimination that indigenous women face when in contact with state actors as a form of

⁵⁵ Organization of American States, 2010: *Program of Action on Indigenous Peoples in the Americas*. http://www.oas.org/dil/indigenous_peoples_program_of_action_DIL.pdf (Seen: 2013-03-12)

⁵⁶ Organization of American States, 2010: Page 3

⁵⁷ Ibid: Page 5

⁵⁸ Ibid: Page 6

⁵⁹ Sieder & Sierra, 2010: Page 1

⁶⁰ Sierra, Maria Theresa, 2012: *Indigenous women fight for justice: gender rights and legal pluralism in Mexico*. Pages 56-81 in: Sieder, Rachel & McNeish, John-Andrew: *Gender Justice and Legal Pluralities: Latin-American and African Perspectives*. New York: Taylor & Francis Books. Page 60

psychological violence conducted not “simply because of their gender, but because of their ethnicity, class and history”.⁶¹ Indigenous women’s struggle for their rights is thus intertwined with a broader struggle against injustice, poverty, racism, discrimination, etc.⁶² As mentioned in the beginning of this section, indigenous women belong to the poorest and most vulnerable sector of the society, they tend to be less educated and have less income than indigenous men, which in turn also affect their access to justice as the combination of their lacking knowledge of their rights and their low income usually keep them from seeking help.⁶³ It thus becomes clear that human rights are interdependent and indivisible, and that the realization of some rights are fundamental for the realizations and protection of others – for example to secure womens access to justice, we also need to secure their right to education.

In 2012 the Special Rapporteur on extreme poverty and human rights of the UN, Magdalena Sepúlveda, submitted a report regarding the main obstacles hindering people living in poverty from accessing justice.⁶⁴ Sepúlveda emphasizes that ”improving access to justice for persons living in poverty requires tackling a range of legal and extralegal obstacles present both within and outside of the formal justice system, including social, economic and structural obstacles”.⁶⁵ Sepúlveda highlights a number of barriers that may hinder people living in poverty to access justice, such as social and cultural barriers (e.g. fear of reprisal and mistrust of the justice system, socioeconomic subordination, lack of empowerment and access to information), legal and normative barriers (eg. inadequate legal framework and normative protection, lack of judicial review for social policies, lack of legal identity), institutional and structural obstacles in the justice chain (eg. location and physical accessibility, inadequate capacity and resources, stigma and lack of understanding of the needs of the poor), non-existent or inadequate legal assistance, structural problems of judicial processes, etc.⁶⁶ To ensure indigenous women their right to justice a number of other rights must accordingly be protected, like, e.g., the right to information, the right to education, the right to not be discriminated against, etc. Apart from this, both Sieder and Sierra and the *Foro Internacional de Mujeres Indígenas*, FIMI, emphasize the importance of recognising Indigenous Peoples’

⁶¹ Sieder & Sierra, 2010: Page 12

⁶² Ibid: Page 1

⁶³ Ibid: Pages 10-11

⁶⁴ United Nations General Assembly, 2012: Report of the Special Rapporteur on extreme poverty and human rights, A/67/278. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/458/06/PDF/N1245806.pdf?OpenElement> (Seen: 2013-03-12)

⁶⁵ Ibid

⁶⁶ Ibid

collective rights in the struggle for Indigenous women's rights.⁶⁷ FIMI explains how indigenous women often experience human rights abuses on the "crossroads of their individual and collective identities", and as an example they give the dumping of toxic wastes on indigenous territories, which leads to women having miscarriages.⁶⁸ FIMI therefore calls for "overcoming the dichotomy between individual and collective rights and recognising collective rights as a necessary complement to individual rights, integral to safeguarding those individual rights recognized in international human rights law".⁶⁹ FIMI believes that when it comes to indigenous women's rights, their collective rights and their individual rights are also indivisible.

So maybe the solution to the lack of access to justice for indigenous women is legal pluralism? As a result of the discrimination that women face when in contact with state actors, they often prefer to seek help from parallel, local justice systems. The Special Rapporteur on extreme poverty and human rights states that

...informal justice systems are often more accessible to persons living in poverty and may have the potential to provide quick, affordable and culturally relevant remedies".⁷⁰ In turn, if they seek assistance from their local justice systems, these offer a linguistic and cultural accessibility, physical proximity and low costs.⁷¹

A problem however is that most indigenous justice systems are also marked by gender ideologies that subordinate women.⁷² As a response to this problem indigenous women's organizations have created innovative ways to promote and enhance their rights as women. In the report *Indigenous Women's Access to Justice in Latinamerica* Sieder and Sierra emphasize the importance of understanding gender roles as well as the perspectives of indigenous women when dealing with discrimination and violence towards women, and they point out that many of the programs working with these issues in the area tend to have a very liberal view on rights and fail to acknowledge cultural values.⁷³ Sieder and Sierra state that

⁶⁷ Foro Internacional de Mujeres Indigenas, 2006. *Mairin Iwanka Raya: Indigenous Women Stand Against Violence*. FIMI. Available at www.indigenaswomensforum.org (Seen: 2013-03-05) Page 6; Sieder & Sierra, 2010: Page 1

⁶⁸ Foro Internacional de Mujeres Indigenas, 2006: Page 8

⁶⁹ Ibid: Page 9

⁷⁰ United Nations General Assembly, 2012

⁷¹ Sieder & Sierra, 2010: Page 17

⁷² Sierra, 2012: Page 68

⁷³ Sieder & Sierra, 2010: Page 21

...a critical and culturally sensitive perspective on indigenous women's rights seems to be the only effective way to develop strategies to discuss violence and discriminations within communities and to guarantee women's access to justice, both to indigenous community and state judicial institutions.⁷⁴

Women's organizations are now coming up with their own strategies, making use of their indigenous cultural models of conciliation and dialogue, a critical view on certain customs and the language of rights.⁷⁵ As a part of these strategies, women are redefining the language of rights in line with their own cultural context.⁷⁶ An example of such an organization, is the *Mujeres Maya Kaq'la* in Guatemala, who develop their own gender theories based on Mayan notions of how the world is constituted, that is, their *cosmovisión*.⁷⁷ According to the *Mujeres Maya Kaq'la*, *cosmovisión* means that nothing in this world can exist without each other – there is no day without night, no unity without collectivity, and no femininity without masculinity, men and women are therefore interdependent and created to complement each other, not to suppress each other.⁷⁸ By using these Mayan notions, this organization are re-contextualising their human rights as women within their local context.

2.4 Universalism versus relativism – an overview.

One of the most discussed topics in human rights theory is that of universalism versus relativism.⁷⁹ Sally Engle Merry describes this debate as “premised on a fixed and abstract conception of both culture and rights”, and that the ambition is to either adopt a universal system of rights or to protect cultural diversity.⁸⁰ Engle Merry says that with this focus, the debate misses that both culture and rights are fluid and changing concepts.⁸¹

In the debate, universalists see human rights as universal and unalienable to all human beings on the bases that they are human beings. Rhoda E Howard defines human rights as rights

⁷⁴ Ibid: Page 21

⁷⁵ Sieder & Sierra, 2010: Page 21

⁷⁶ Ibid: Page 24

⁷⁷ Ibid: Page 36; Sieder & McLeod, 2012: Page 177

⁷⁸ Sieder & McLeod, 2012: Page 177

⁷⁹ Donnelly, Jack, 2007: The Relative Universality of Human Rights. *Human Rights Quarterly*, Volume 29, Number 2, May 2007, pp. 281-306. The Johns Hopkins University Press. Page 282

⁸⁰ Engle Merry, Sally: 2001: Changing rights, changing cultures. Page 31-55 in : Cowan, Jane K, Dembour, Marie-Bénédicte & Wilson, Richard A. 2001: *Culture and Rights: anthropological perspectives*. Cambridge: Cambridge University Press. Page 31

⁸¹ Engle Merry, 2001. Page 31

”possessed by all biological human beings, merely by virtue of being human. They are equal for all: all human beings are of equal moral worth and deserve the same protections. Human rights do not depend upon a particular social status (such as male or female, upper or lower caste). They are individual rights, independent of group membership and held primarily against the state. /.../ Human rights are a 'trump': they trump any other claims that can be made.”⁸² Universalists may be concerned that cultural relativism is used as an excuse to protect oppressive regimes instead of protecting vulnerable groups or cultures.⁸³ Rhoda E Howard writes that the purpose of human rights are to protect the individual from oppressors, be they the State, the community or even the individual’s family, therefore the claim for collective rights cannot be the same as the claim for human rights as this “reasserts the value of the traditional community over the individual.”⁸⁴

Relativists, in contrast, see universal human rights as a Western concept that works as an ideological disguise for cultural imperialism and they object to the notion of one human rights-frame that should fit all.⁸⁵ To many non-Western states, minority cultures, or cultures that have formerly been colonialized, the idea of someone coming from the outside (or from the West) imposing their points of view and their ideology as the only right one is a sensitive issue. Michael Freeman writes “resistance by some non-Westerners to the concept of human rights, or their insistence on developing their own conception of human rights, may be part of this self-emancipation from Western domination.”⁸⁶ Abdullah Ahmed An-Na’im writes that “the merits of a reasonable degree of cultural relativism are obvious, especially when compared to claims of universalism that are in fact based in the claimant’s rigid and exclusive ethnocentricity”.⁸⁷ Critics of universalism see human rights as rooted in liberal theories with their main focus on the individual. Jane K. Cowen, Marie-Benedicte Dembour and Richard A. Wilson observe that “critics have identified both disguised particularism in universalism (its androcentrism, heterosexism and Eurocentrism) and the exclusion and disparagement towards

⁸² Howard, Rhoda E., 1997-1998, Human rights and the culture wars – Globalization and the universality of human rights. *International Journal*, Vol. 53, Number 1 (Winter 1997-8), pp. 94-112. Page 95

⁸³ Freeman, Michael, 2011: *Human Rights: An Interdisciplinary Approach*, Cambridge: Polity Press. Page 128

⁸⁴ Howard, Rhoda E, 1992: Dignity, Community and Human Rights. Pages 81-102 in An-Na’im, Abdullahi A: *Human Rights in Cross-Cultural Perspectives*. Philadelphia: University of Pennsylvania Press. Page 83

⁸⁵ Freeman, 2011: Page 121

⁸⁶ Freeman, 2011: Page 122

⁸⁷ An-Na’im, Abdullahi A, 1992b: Toward a Cross-Cultural Approach to Defining International Standards of Human Rights. The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment, pages 19-43 in An-Na’im, Abdullahi A: *Human Rights in Cross-Cultural Perspectives*. Philadelphia: University of Pennsylvania Press. Page 25

certain collectives that it entails (sexism, homophobia, and racism)”.⁸⁸ The authors add their twist on the debate by looking at rights as culture, “rights constitutes a kind of culture, in the sense that the rights discourse embodies certain features that anthropologists recognize as constituting culture. Rights – understood as rights talk, rights thinking, rights practices – entail certain constructions of self and sociality, and specific modes of agency.”⁸⁹ The authors continue by explaining how the discourse of rights is structured by different ideas regarding its individualistic conception, how it addresses suffering through a legal rather than an ethical framework, how it emphasizes certain aspects of human coexistence, such as the individuals rights over others, etc.⁹⁰ Sally Engle Merry sees human rights law as “primarily a cultural system”⁹¹ and she argues that “its documents create new cultural frameworks for conceptualizing social justice. It is ironic that the human rights system tends to promote its new cultural vision through a critique of culture.”⁹² Moreover, Engle Merry notes that the particular vision of social justice that frames human rights is based on a “neoliberal privilege of choice” instead of alternatives that might be more community-based or have a socialist or a religious focus.⁹³

The either/or terms created in the universalism vs relativism-debate are by many authors seen as a great problem. Cowan, Dembour and Wilson write “rather than seeing universalism and cultural relativism as alternatives which one must choose, once and for all, one should see the tension between positions as part of the continuous negotiating of ever-changing and interrelated global and local norms.”⁹⁴ Researchers that share this point of view, point out that in order for human rights to be successful they need to be translated, reinterpreted and reconstructed into local terms, to fit with the local context.⁹⁵

⁸⁸ Cowan, Jane K, Dembour, Marie-Bénédicte & Wilson, Richard A. 2001: Introduction. Pages 1-26 In Cowan, Jane K, Dembour, Marie-Bénédicte & Wilson, Richard A: *Culture and Rights: anthropological perspectives*. Cambridge: Cambridge University Press. Page 15

⁸⁸ Engle Merry, 2001.

⁸⁹ Cowan, Dembour, & Wilson, 2001: Page 11-12

⁹⁰ Ibid : Page 11-12

⁹⁰ Engle Merry, 2001.

⁹¹ Engle Merry, Sally, 2006: *Human Rights & Gender Violence. Translating International law into Local Justice*. Chicago: The University of Chicago Press. Page 16

⁹² Engle Merry, 2006: Page 16

⁹³ Ibid: Page 103

⁹⁴ Cowan, Dembour, & Wilson, 2001 :Page: 6

⁹⁵ Engle Merry, 2006: Page 1; Freeman, 2011: Page 128; An-Na'im, Abdullahi A, 1992b: Page:25

⁹⁵ An-Na'im, Abdullahi A, 1992a: Introduction, pages 1-15 in An-Na'im, Abdullahi A: *Human Rights in Cross-Cultural Perspectives*. Philadelphia: University of Pennsylvania Press. Page 20

3 Theoretical framework

Since the purpose of my thesis is to examine how the *Mujeres Mayas Kaqla* have translated the concept and the language of human rights to make sense in their own cultural context, my theoretical framework is based on the concepts “cross-cultural approach” and “cultural translation.” As I focus on various statements of the organization I also provide a definition of the concept “discourse”.

3.1 Cross-cultural Approach

I became more sensitive to the fact that Western hegemony (in the economic, technological, intellectual, and other fields) profoundly influences ruling elites, as well as scholars and activists in the South or the Third World. Even in trying to resist this hegemony, we are reacting to its philosophical premises, rather than seeking to articulate our own indigenous ideas and concepts. Since we are emerging from centuries of colonization from the West, and continue to suffer from various types of dependencies on it, we have not yet had the opportunity to develop our own thinking on many fundamental and practical issues.⁹⁶

In his book *Human Rights in Cross-Cultural Perspective*, Abdullahi Ahmed An-Na'im explains how he sought for ways to establish an Islamic legitimacy for human rights, only to realize that the way to do this was by promoting human rights within the Muslim context.⁹⁷ This is similar to what the indigenous women's organizations are doing as they are elaborating innovative ways to work with women's rights within their proper systems. This strategy is important because, due to their history, both the Muslim contexts that An-Na'im writes about and indigenous women's organizations may be sensitive to influences imposed from the outside.

An-Na'im states that “in accordance with the logic of cultural relativism, the shared moral values must be authentic and not imposed from the outside”,⁹⁸ and the only way to do this is

⁹⁶ An-Na'im, Abdullahi A, 1992c: Conclusion, pages 427-435 in An-Na'im, Abdullahi A: *Human Rights in Cross-Cultural Perspectives*. Philadelphia: University of Pennsylvania Press. Page 428

⁹⁷ Ibid. Page 427

⁹⁸ An-Na'im, Abdullahi A, 1992b: Page 25

by using norms and concepts from the particular culture. An-Na'im accordingly proposes a cross-cultural approach to human rights as a way to enhance their universal legitimacy.⁹⁹ This approach aims at reinterpreting and reconstructing the discourse of human rights through *internal cultural discourse* and *cross-cultural dialogue*, in other words by focusing on dialogues within and between cultures.¹⁰⁰ An-Na'im explains the general thesis of his approach as follows

Since people are more likely to observe normative propositions if they believe them to be sanctioned by their own cultural traditions, observance of human rights standards can be approved through the enhancement of the cultural legitimacy of those standards.¹⁰¹

According to An-Na'im, the claim that existing human rights already enjoy universal legitimacy is weak from a historical point, as many groups have had little input in the formulation of the standards. However, universal cultural legitimacy can be achieved retrospectively through innovative or alternative interpretations of cultural norms.¹⁰² Apart from using this as a way to achieve universal legitimacy, An-Na'im suggests that this method could be used by disadvantaged groups within different cultures.¹⁰³ He writes that disadvantaged groups, such as women fighting for their rights in a patriarchal and unequal society, can use alternative interpretations of internal discourses as a way to support their interests.¹⁰⁴ This means taking an existing discourse or norm, that is generally interpreted in a certain way, and reinvent it or interpret it differently so that it serves one's purpose and challenges the ruling discourse. An example from the *Mujeres Mayas Kaqlas* work could be the fact that they use existing gender roles as an argument as to why they should be a part of the decision-making sphere. They point out that they, as women, are the "custodians of the cultures" and thus they need to have a say in what happens in their communities.¹⁰⁵ In this way, the *Mujeres Mayas Kaqla* use alternative interpretations of already existing internal discourses as a way to support their interests.

⁹⁹ An-Na'im, Abdullahi A, 1992a: Page 3.

¹⁰⁰ An-Na'im, Abdullahi A, 1992a: Page 3.

¹⁰¹ An-Na'im, Abdullahi A, 1992b: Page 20

¹⁰² Ibid: Page 21

¹⁰³ Ibid: Page 28

¹⁰⁴ Ibid: Page 28

¹⁰⁵ Grupo de Mujeres Mayas Kaqla, 2004: Page 44

In this study I use An-Na'ims approach and concept (such as the concept “internal cultural dialogue”) as tools in my analysis to further grasp how these women work within their own systems. By applying An-Na'ims approach I can paint a clear image of the work that these women do, and also explain and show how they use existing norms to legitimize their demands. An-Na'ims theories (such as “shared moral values must be authentic and not imposed from the outside”, “propositions are more likely to be approved if they are sanctioned by cultural traditions”, etc) will, if applied when analysing the *Mujeres Mayas Kaqlas* work, help explain why and how human rights demands that are presented in culturally resonant ways might be received better in non-western cultures with a history of domination and colonisation, such as the Mayan cultures. These tools also enhance and highlight the culturally sensitive aspects in the *Mujeres Mayas Kaqla*.

3.2 Cultural translation

In her book *Human Rights & Gender Violence. Translating International Law into Local Justice* Sally Engle Merry talks about the importance of translating human rights into local terms as well as situating them within local contexts in order for them to be effective.¹⁰⁶ Engle Merry states that translation is not the same as transformation but in order for human rights to be accepted they need to be “tailored to the local context and resonate with the local cultural framework.”¹⁰⁷ Such a tailoring is what the *Mujeres Mayas Kaqla* are doing when they are reformulating the human rights discourse using existing Mayan concepts and tools.

Engle Merry discusses the difficulties that may arise when working against gender based violence while at the same time trying to keep a culture relativist standpoint. As Engle Merry states, diminishing violence against women requires a cultural transformation as there in most cultures is a line between accepted forms of violence and unaccepted forms – between discipline and abuse.¹⁰⁸ As activists seek to redefine all violence from discipline to abuse, religious and political leaders often resist making the required changes to protect women on the ground that that there is also a need to protect their culture.¹⁰⁹ Engle Merry therefore asks herself if it is even possible to find a space that both respects cultural differences and protects

¹⁰⁶ Engle Merry, 2006: Page 1

¹⁰⁷ Ibid: Page 221

¹⁰⁸ Ibid: Page 25

¹⁰⁹ Ibid: Page 25

women from violence, as these often seems to be opposite goals.¹¹⁰ Many of the international documents established to protect women's right are even actively condemning the cultural justification of gender based violence, such as for example Article 5:a in the *UN Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW). This article states that State Parties shall take appropriate measures

...to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.¹¹¹

Another example is Article D:118 in *The Beijing Declaration and Platform for Action* which states that "violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices".¹¹²

It is with this observation that Engle Merry's theory on translating the human rights discourse is introduced into this thesis. Her opinion is that "rights need to be presented in local cultural terms in order to be persuasive, but they must challenge existing relations of power in order to be effective".¹¹³ Engle Merry points out that even though programs, discourses and projects are translated and re-contextualised, they never become completely indigenous due to their individualistic focus.¹¹⁴

They retain their underlying emphasis on individual rights to protection of the body along with autonomy, choice, and equality, ideas embedded in the legal codes of the human rights system. Inside the culturally resonant packaging is a core that radically challenge patriarchy.¹¹⁵

The significance of Engle Merry's approach is however that it is not enough only to translate texts, projects and program, but to do so in a culturally sensitive manner that takes into

¹¹⁰ Ibid: Page 25

¹¹¹ United Nations, 1979: *Convention on the Elimination of all forms of Discrimination Against Women*.
<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article5> (Seen: 2013-04-04)

¹¹² UN Women, 1995: *The Beijing Declaration and Platform for Action*
<http://www.un.org/womenwatch/daw/beijing/platform/violence.htm> (Seen: 2013-04-04)

¹¹³ Engle Merry, 2006: Page 5

¹¹⁴ Ibid: Page 137

¹¹⁵ Ibid: Page 137

account conflicts that may arise, such as conflicts between individual- and collective-focused discourses.

In this study I use Engle Merrys approach and concepts in the same way as I use An-Na'im's, that is, as tools to better grasp the work and the methods of the *Mujeres Mayas Kaqla*, as they translate and tailor the human rights discourse to make sense and fit into their own context. By using the concepts of Engle Merry I enhance the understanding for how this women's organization works for women's rights in a culturally sensitive way.

3.3 Social constructionism and the definition of the term 'discourse'

According to a social constructionistic point of view, the way we understand the world is "a product not of objective observation of the world, but of the social processes and interactions in which people are constantly engaged".¹¹⁶ The spoken and written language plays an important part in this, as it is used by people both to communicate and to organize their perception and ideas of reality.¹¹⁷ This approach is consistent with my own, which is why I aim to do a discourse analysis of texts produced by women's organizations.

According to Marianne Winther-Jørgensen and Louise Phillips there is no single definition of social constructionism but its general characteristics are

- *A critical stance to taken-for-granted knowledge;*¹¹⁸
- *The ways in which the world is commonly understood is historically and culturally specific, which mean that the way we see the world changes over time;*¹¹⁹
- *Knowledge is sustained by social processes, within these social processes "truths" are constructed, and power struggles to take place over what is true and what is false;*¹²⁰
- *Knowledge and social action go together* – certain worldviews sustain some patterns of social action and exclude others, thus some patterns of social behaviour may be accepted within a worldview whereas others are not. In other words, different

¹¹⁶ Burr, Vivienne, 1995: *An introduction to Social Constructionism*. London: Routledge. Page 4

¹¹⁷ Bergström, Göran & Boréus, Kristina, 2005: *Textens mening och makt. Metodbok i samhällsvetenskaplig text- och diskursanalys*. Lund: Studentlitteratur. Page 221

¹¹⁸ Winther Jørgensen, Marianne & Phillips, Louise, 2000: *Diskursanalys som teori och metod*. Lund: Studentlitteratur. Page 11

¹¹⁹ Winther Jørgensen & Phillips, 2000: Pages 11-12

¹²⁰ *Ibid*: Page 12

worldviews leads to different forms of social action with differing social consequences.¹²¹

Within social constructivism the term 'discourse' is central. The term 'discourse' is a contentious term but it can be described as ways to talk about and/or understand the world.¹²² For the present study I have chosen to use Norman Fairclough's theory of critical discourse analysis. Fairclough defines the term 'discourse' as both language and social practice; he sees it as "a way of speaking that gives meaning to experiences from a particular perspective".¹²³ An important part of Fairclough's view on discourse is the fact that he does not see discourse only as socially shaped but also as socially *constituent*;¹²⁴ and it is the tension between these two sides that Fairclough's method of critical discourse analysis aims at exploring.¹²⁵ Discourse according to Fairclough reproduces and changes knowledge, power and social relations but it is at the same time shaped by other social relations and structures;¹²⁶ as Fairclough puts it

Language use – and text – is always simultaneously constitutive of (1) social identities, (2) social relations and (3) systems of knowledge and belief.¹²⁷

4 Methodology

In this section I present my data selection and my method of analysis, as well as a minor research ethical discussion.

4.1 Data selection

I found my inspiration to this essay in the UN Women report *In pursuit of Justice – Progress of World's Women 2011-2012*. My first step after that was to use the database EBSCOHOST to search for articles and reports on the topic using search words such as "legal pluralism", "legal pluralism + women", "legal pluralism + Latin-America", "indigenous rights", "group

¹²¹ Ibid: Page 12

¹²² Ibid: Page 7

¹²³ Winther Jørgensen & Phillips, 2000: Page 72

¹²⁴ Ibid: Page 71; Fairclough, Norman, 1995: *Media Discourse*. London: Hodder Headline TLC. Page 55

¹²⁵ Fairclough, 1995: Page 55

¹²⁶ Winther Jørgensen & Phillips, 2000: Page 71

¹²⁷ Fairclough, 1995: Page 55

rights”, etc. The articles and reports I found started a “snow ball effect”-search which soon led me to the paper *Indigenous Women’s Access to Justice in Latinamerica* by Rachel Sieder and Mara Theresa Sierra, as well as to the book *Gender Justice and Legal Pluralities: Latin-American and African Perspectives* by Rachel Sieder and John-Andrew McNeish. This led me to other articles, reports and books on the same topic by the same authors.

4.1.1 Empirical material

After having read the literature above, I decided to do a search on the different women’s organizations mentioned in this research to find out what kind of material they had produced. With this background I chose *Mujeres Mayas Kaqla* as the object of my study due to the sheer volume of written material that they have produced. Of the books and texts produced by the women I managed to find the following three available on line: *La palabra y el sentir de las Mujeres Mayas de Kaqla (The words and the thoughts of the Muejeres Mayas Kaqla)*,¹²⁸ *Mujeres Mayas: Universo y Vida*,¹²⁹ and *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres (Plots and transcendence. Rebuilding stories with our grandmothers and mothers)*.¹³⁰ The books differ in some aspects and I decided that my main focus in the analysis would be on *La palabra y el sentir de las Mujeres Mayas de Kaqla*, as it was the one best suited for the purpose of the study. It is more of a political manifest than the others, focusing on what needs to be changed in both the Mayan and the Guatemalan societies in order to better deal with women’s rights. I have however, also used the book *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres*, as I thought this might give another dimension to my analysis since it is written seven years after the first one and is less like a political program.

4.1.2. Theoretical concepts

¹²⁸ Grupo de Mujeres Mayas Kaqla, 2004: *La palabra y el sentir de las Mujeres Mayas de Kaqla*. http://74.52.178.178/~ebiguat/index.php?option=com_content&task=view&id=882&Itemid=88 (Seen: 2013-03-25)

¹²⁹ Grupo de Mujeres Mayas Kaqla, 2009: *Mujeres Mayas, Universo y Vida. Kinojib’al Qati’t* http://www.bd.cdmujeres.net/sites/bd.cdmujeres.net/files/documentos/publicaciones/master_final_kinojibal_qatit.pdf (Seen: 2013-04-23)

¹³⁰ Grupo de Mujeres Mayas Kaqla, 2011: *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres* http://www.bd.cdmujeres.net/sites/bd.cdmujeres.net/files/documentos/publicaciones/master_final_kinojibal_qatit.pdf (Seen: 2013-04-23)

As a part of my background search for this study I not only searched for books concerning legal pluralism and women's or indigenous' rights, I also did a search on Gothenburg University on texts about universalism versus relativism. It was during this search that I found what became the theoretical framework for this study. I wanted something that would help me to explain the approach of the *Mujeres Mayas Kaqla* in clear terms. The theories I finally landed on was that of Abdullah A An-Na'im and Sally Engle Merry concerning *internal cultural dialogue* and *cultural translations* (see above pp. 21-24) as means to implement and work for human rights within non-western cultures and society. These authors' approaches and concepts thus helped me analyse and explain the work of the *Mujeres Mayas Kaqlas*.

4.2 Method of analysis

Since the purpose of this study is to analyse material produced by an indigenous women's organization I have chosen to do a qualitative text analysis. I analyse this material using Norman Fairclough's critical discourse analysis method, as well as his three dimensional model since it fits my purpose of analysing language and mapping out the discourses used in this material. I have found my inspiration in his books *Media Discourse*¹³¹ and *Discourse and Social Change*¹³². I have also used two books on method: *Textens mening och makt*¹³³ by Göran Bergström and Kristina Boréus, and *Diskursanalys som teori och metod*¹³⁴ by Marianne Winther Jørgensen and Louise Philips.

Critical discourse analysis aims at exposing power structures and it focuses on the discursive construction of identities as well as on how language is used to construct and reproduce different worldviews, etc.¹³⁵ According to Fairclough the analysis of any type of discourse involves two complementary focuses – *communicative events* and *the order of the discourse*.¹³⁶

Fairclough describes the analysis of a communicative event as “the analysis of relationships between three dimensions of facets of that event”: *text*, *discourse practice*, and *sociocultural*

¹³¹ Fairclough, Norman, 1992: *Discourse and Social Change*. Cambridge: Polity Press

¹³² Ibid

¹³³ Bergström & Boréus, 2005

¹³⁴ Winther Jørgensen & Phillips, 2000

¹³⁵ Bergström & Boréus, 2005: Page 324

¹³⁶ Fairclough, 1995: Page 56

practice.¹³⁷ In the analysis of the first dimension, the text, one looks at the characteristics of the text, the vocabulary, semantics, writing system, textual organization, etc. and how these aspects of the text help construct discourses linguistically.¹³⁸ In the analysis of the second dimension, the discourse practice, the focus is on the production, distribution and consumption of texts.¹³⁹ Fairclough describes the discourse practice as

...mediating between the textual and the social and cultural, between the text and sociocultural practice, in the sense that the link between the sociocultural and the textual is an indirect one, made by way of the discourse practice: sociocultural practice shape texts, but by way of shaping the nature of the discourse practice, i.e the ways in which texts are produced and consumed, which is realised in features of texts.¹⁴⁰

Winther Jørgensen and Philips describe how the focus of this analysis depends on how both the author and the text-receivers use already existing discourses when they create and interpret/consume texts.¹⁴¹ In the analysis of the third dimension, the sociocultural practice, the focus of the analysis is on the bigger setting that the text is a part of, from the immediate context to a wider frame of society and culture.¹⁴²

According to Winther Jørgensen and Philips *the order of the discourse* is “a form of system that both shape and is shaped by specific cases of language use”,¹⁴³ it is thus both a form of structure and a practice. Using existing discourses in new ways, or by using discourses from other orders, changes the order of a discourse; orders of discourses are particularly open to change when exposed for the latter.¹⁴⁴

Two other important concepts for Fairclough are *interdiscursivity* and *intertextuality*. Fairclough explains intertextuality as “the explicit presence of other texts in a text” and interdiscursivity as “the constitution of a text from a configuration of text types or discourse conventions”.¹⁴⁵ Winther Jørgensen and Philips describes interdiscursivity as a form of

¹³⁷ Ibid: Page 57

¹³⁸ Winther Jørgensen & Phillips, 2000: Pages 74-74; Fairclough, 1995: Pages 57-58

¹³⁹ Winther Jørgensen & Phillips, 2000: Page 74

¹⁴⁰ Fairclough, 1995: Page 59-60

¹⁴¹ Winther Jørgensen & Phillips, 2000: Page 75

¹⁴² Ibid: Page 74; Fairclough, 1995: Page 62

¹⁴³ Winther Jørgensen & Phillips, 2000: Page 76

¹⁴⁴ Ibid: Page 76

¹⁴⁵ Fairclough, 1992: Page 10

intertextuality; they both have to do with how different texts relate to each other as well as to previous events – nothing stands alone, everything is related.¹⁴⁶

Fairclough describes the difference between a linguistic analysis of texts and an intertextual analysis of texts as a descriptive one versus an interpretative one.¹⁴⁷ In the intertextual analysis the researcher looks at a text from the perspective of discourse practice asking questions such as “what genres and discourses were drawn upon in producing the text, and what traces of them are there in the text?”¹⁴⁸

I find Fairclough’s model of analysis particularly adequate for my research. The *Mujeres Mayas Kaqla* are rewriting the language of human rights using already existing Mayan notions in their struggle for their individual rights as women. They are thus trying to contest the established power by changing the discourse through using already existing discourses in new ways.

As Fairclough puts it, “there is no set procedure for doing discourse analysis; people approach it in different ways according to the specific nature of the project, as well as their own views on discourse”.¹⁴⁹ He does however recommend that one follow the progression from i) analysis of the discourse practice, ii) analysis of the text, and finally iii) analysis of the sociocultural practice of which the discourse is a part.¹⁵⁰ The analyst should however start with some sense of the sociocultural practice in which the discourse is embedded.¹⁵¹ In my analysis I ask several questions to the text at hand, I also analyse how Faircloughs three dimension relate to each other. Below is a chart that I use during my analysis containing the questions that I pose to the texts.

Discourse practice:
– In what way does the text use already existing discourses?
– What discourse types are drawn upon and how?
– Is the discourse sample relatively conventional in its interdiscursive properties, or relatively innovative?

¹⁴⁶ Bergström & Boréus, 2005: Page 324; Winther Jørgensen & Phillips, 2000: Page 77

¹⁴⁷ Fairclough, 1995: Page 61

¹⁴⁸ Ibid: Page 61

¹⁴⁹ Fairclough, 1992: Page 225

¹⁵⁰ Ibid: Page 231

¹⁵¹ Ibid: Page 231

- How are identities constructed in the text? What characteristics are assigned to men/women? How is gender constructed in the text?
Text:
- How is the text narrated?
- What metaphores are used and what associations may these words bring?
Sociocultural practice:
- In what context is the text produced and consumed?
- Who is the anticipated audience? Are there signs that the text producers anticipate more than one sort of audience?

4.3 Research ethical discussion

In this section I will reflect upon my methods for data selection, as well as my selected material, from a research ethical perspective. To do so I've turned to texts on research ethical principles, namely *Forskningsetiska principer inom humanistisk-samhällsvetenskaplig forskning*¹⁵² and *Good Research Practice – What is it?*¹⁵³ from the Swedish Research Council.

As this study is based on textual analysis I do not have to worry about the criteria regarding consent, anonymity for informants, etc. that I would have to consider if I had done interviews. Regarding other criteria, such as transferability and transparency, I believe I meet these as I clearly present how I selected and searched my material and how I analysed it (by attaching my analytical scheme), and I also clearly present links to the analysed texts. This would then make it easier for others to control my study, which strengthens the external reliability of this study.

One issue to keep in mind when doing discourse analysis is that we are all part of different discourses, we are all affected by the society and the discourses in which we live, no one is thus completely objective. However, by clearly presenting the tools and the model I have used for my analysis, as well as the detailed accounts of how this was done, I allow readers to follow my reasoning and form an opinion about my findings. The fact that I am a product of the discourses I live in, and thus not objective, should not stop me from doing this study.

¹⁵² Vetenskapsrådet, 2002: *Forskningsetiska principer inom humanistisk-samhällsvetenskaplig forskning*.
<http://www.codex.vr.se/texts/HSFR.pdf> (Seen: 2013-04-29)

¹⁵³ Vetenskapsrådet, 2006: *Good Research Practice – What is it?*
<http://www.vr.se/download/18.6b2f98a910b3e260ae28000469/Good+Research+Practice+20+april.pdf> (Seen: 2013-04-29)

5 The context of the *Mujeres Mayas Kaqlas*

As mentioned in section 4.2, one of the dimensions that need to be taken into account when using Faircloughs three-dimensional model, is the larger setting that the text is a part of.¹⁵⁴ I will therefore in this section give a brief background to Guatemala, the *Mujeres Mayas Kaqla* and the concept *cosmovisión*, as this concept is frequently used by the women.

5.1 Guatemala – a brief background

After Guatemalas independence from Spain in 1839, the country's history has been marked by democratic as well as dictatorial periods, such as the periods following the overthrow of president Jacobo Arbenz in 1954 and the military coup in 1982 that put general Efraín Rios Montt in power, to mention a few.¹⁵⁵ Between 1960 and 1996 Guatemala was ravaged by an armed conflict with the *Unidad Revolucionaria Nacional Guatemalteca* (URNG) on one side and the Guatemalan state on the other.¹⁵⁶ In this conflict more than 200,000 people were killed.¹⁵⁷ The department of El Quiché, which is one of the departments with the highest ratio of indigenous people, amounting to approximately 90% of the population, was one of the departments most affected by the armed conflict with thousands of people killed, disappeared and displaced.¹⁵⁸

During the peace agreements in Oslo in 1994 the Commission for Historical Clarification (CEH) was established to clarify the human rights violations and acts of violence related to the armed confrontation.¹⁵⁹ The CEH received thousands of testimonies and presented their findings in a report in 1999. In this report the CEH notes that acts of particular cruelty were committed by state agents against Mayan communities.¹⁶⁰ The report states as follows

In the majority of massacres there is evidence of multiple acts of savagery, which preceded, accompanied or occurred after the deaths of the victims. Acts such as the killing of defenceless

¹⁵⁴ Winther Jörgensen & Phillips, 2000: Page 74; Fairclough, 1995: Page 62

¹⁵⁵ Nationalencyklopedin, 1992: Åttonde bandet. Höganäs: Bra Böcker AB. Pages 152-153

¹⁵⁶ Sieder, Rachel, 2012: Sexual Violence and gendered subjectivities: indigenous women's search for justice in Guatemala. Pages 109-132 in: Sieder, Rachel & McNeish, John-Andrew: *Gender Justice and Legal Pluralities: Latin-American and African Perspectives*. New York: Taylor & Francis Books. Page 110

¹⁵⁷ Sieder, 2012: Page 110

¹⁵⁸ Sieder & McLeod, 2012: Page 180

¹⁵⁹ Commission for Historical Clarification, 1999: *Guatemala Memory of Silence. Tz'inil Na'tab'al. Report of the Commission for Historical Clarification. Conclusions and Recommendations*.

<http://shr.aaas.org/guatemala/ceh/report/english/toc.html> (Seen: 2013-04-11) Prolog.

¹⁶⁰ Commission for Historical Clarification, 1999: Conclusions II:86

children, often by beating them against walls or throwing them alive into pits where the corpses of adults were later thrown; the amputation of limbs; the impaling of victims; the killing of persons by covering them in petrol and burning them alive; the extraction, in the presence of others, of the viscera of victims who were still alive; the confinement of people who had been mortally tortured, in agony for days; the opening of the wombs of pregnant women, and other similarly atrocious acts, were not only actions of extreme cruelty against the victims, but also morally degraded the perpetrators and those who inspired, ordered or tolerated these actions.¹⁶¹

The report also stated that the use of rape as a weapon in the conflict was widely used, especially against Mayan women:

The majority of rape victims were Mayan women. Those who survived the crime still suffer profound trauma as a result of this aggression, and the communities themselves were deeply offended by this practice. The presence of sexual violence in the social memory of the communities has become a source of collective shame.¹⁶²

The CEH also documented 626 massacres and “scorched earth operations” which resulted “in the complete extermination of many Mayan communities”,¹⁶³ and found that 83% of the victims during the armed conflict were Mayan.¹⁶⁴

...the CEH has established that along with the killings, which in themselves were sufficient to eliminate the groups defined as the enemy, members of the Army or of Civil Patrols systematically committed acts of extreme cruelty, including torture and other cruel, inhuman and degrading actions, the effect of which was to terrorise the population and destroy the foundations of social cohesion, particularly when people were forced to witness or execute these acts themselves.¹⁶⁵

As a part of the peace agreements in the 1990's, the Guatemalan state and the URNG, signed the *Acuerdo sobre identidad y derechos de los pueblos indígenas* (*Agreement on identity and rights of indigenous peoples*),¹⁶⁶ in which the rights of indigenous peoples are recognised. This agreement aims amongst other things at effectively promoting indigenous rights and

¹⁶¹ Ibid: Conclusions II:87

¹⁶² Commission for Historical Clarification, 1999: Conclusions II:91

¹⁶³ Ibid: Conclusions II:86

¹⁶⁴ Ibid: Annex: Victims and violations by year and ethnic group

¹⁶⁵ Ibid: Conclusions II:114

¹⁶⁶ United Nations, 1995: *Agreement on identity and rights of indigenous peoples* A/49/882; S/1995/256
<http://www.guatemalaun.org/bin/documents/Identity%20and%20Rights.pdf> (Seen: 2013-05-01)

indigenous peoples right to live free from discrimination, as well as to create specific legislation to protect indigenous women's rights.¹⁶⁷ Guatemala also ratified the ILO Convention no 169 in 1996,¹⁶⁸ and voted in favour of the adoption of the UN Declaration on the Rights of Indigenous Peoples, in 2007.¹⁶⁹ In the Guatemalan Constitution, articles 66-70 deal with the rights of indigenous communities. Article 66, that deals with the protection of ethnic groups, declares

Guatemala is made up of various ethnic groups which include indigenous groups of Mayan descent. The State recognizes, respects and promotes their ways of life, customs, traditions, forms of social organization, the use of traditional dress by men and women, languages and dialects.¹⁷⁰

Today, one of the biggest issues concerning indigenous rights is that of land and territories. In 2010 the Special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, visited Guatemala to assess the application of the principles of consultation with the country's indigenous peoples regarding the extractive industries.¹⁷¹ Anaya then found that the country's lack of applicable legislative and institutional framework concerning the consultation processes is inadequate in terms of the international standards.¹⁷² The duty to consult is recognized in several international treaties to which Guatemala is a party, such as the ILO Convention no 169, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights , etc.¹⁷³ Anaya writes

The provisions of ILO Convention No. 169 are directly applicable and must be complied with by all public officials. This conclusion is borne out by the jurisprudence of the Constitutional Court, which has explicitly stated that consultations are a fundamental right and form part of the corpus of constitutional law on an equal footing with other rights recognized in the

¹⁶⁷ United Nations, 1995

¹⁶⁸ Ratifications of C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314:NO (Seen: 2013-03-11)

¹⁶⁹ United Nations General Assembly, 2010: *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, A/HRC/15/37/Add.8*. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/149/88/PDF/G1014988.pdf?OpenElement> (Seen: 2013-05-01) Page: 4, Article 15

¹⁷⁰ Constitución Política de la República de Guatemala, 2010: http://www.cc.gob.gt/index.php?option=com_content&view=article&id=219&Itemid=67 (Seen: 2013-05-01)

¹⁷¹ United Nations General Assembly, 2010

¹⁷² Ibid: Page 3, Article 7

¹⁷³ Ibid: Page 3, Article 15

Constitution.¹⁷⁴

He further states that the failure to consult with indigenous peoples is often associated with an “intergenerational impression of invasion, marginalization and dispossession and a continuous sense of exclusion from and lack of involvement in decisions affecting them”.¹⁷⁵ Apart from this, Anaya identifies a second basic issue, namely that “the high degree of legal insecurity as regards land ownership, the lack of collective titles to property in many if not the vast majority of cases, as well as the on-going consequences of land dispossession during the internal armed conflict”.¹⁷⁶ The country has thus still a long way to go when it comes to indigenous peoples rights.

5.2 Mujeres Mayas Kaqla

Even if Guatemala today is at peace, violence continues to be a part of life. Apart from the structural violence that indigenous people face in their everyday life (see section 2.3), physical violence is also common. Guatemala has one of the highest homicide rates in Latin America, and although this disproportionately affects men, ‘femicide’ (women being killed because they are women) increased with 179% between 2003 and 2008.¹⁷⁷

The organization *Mujeres Mayas Kaqla* was formed in 1996, in the context of the Guatemalan peace agreements, by and for Mayan women.¹⁷⁸ The word “Kaqla” means “Rainbow” in the K’iché language and refers to the internal diversity amongst indigenous women; initially the group consisted of about thirty-five Mayan women from different linguistic groups.¹⁷⁹ The organizations goal was to create their own space, where they could discuss various issues related to gender, ethnicity and class, and reflect upon the different forms of oppression they had faced.¹⁸⁰ The organization soon realized that there was a need for developing healing and therapeutic methods in addition to the theoretical debates as the discussions brought up strong

¹⁷⁴ Ibid: Page 5, Article 19

¹⁷⁵ Ibid: Page 3, Article 7

¹⁷⁶ Ibid: Page 3, Article 8

¹⁷⁷ Sieder, 2012: Page 111

¹⁷⁸ Grupo de Mujeres Mayas Kaqla, 2008: *¿Quiénes somos?* <http://mujeresmayaskaqla.un-mundo.net/leer.php/2288111>
(Seen: 2013-04-05)

¹⁷⁹ Sieder & McLeod, 2012: Pages 178-179

¹⁸⁰ Grupo de Mujeres Mayas Kaqla, 2008; Sieder & McLeod, 2012: Pages 178-179

emotions of anger, hate, resentment and sadness.¹⁸¹ By adding this dimension of personal healing to their strategies, the *Mujeres Mayas Kaqla* have changed the traditional political discourse.¹⁸² The women see this change as an important addition to their political program as they believe personal healing will help heal their collective trauma.¹⁸³ They describe their goal today as helping to eradicate the oppression of Mayan women by contributing to the political self-determination and autonomy of their peoples, through their program that involves the introduction of political self-determination and the exercise of individual rights of women.¹⁸⁴

To quote Rachel Sieder and Maria Theresa Sierra, indigenous women "are not only victims whose rights are being denied; they are also actors with agency and voice, who have developed diverse strategies to improve gender justice".¹⁸⁵

5.3 Cosmovisión

A central concept in the books produced by the *Mujeres Mayas Kaqla* is the concept of *cosmovisión*. I will therefore present a brief explanation of this concept before I continue.

Cosmovisión can be translated as "worldview", and consists of ideas and symbols through which the Mayan peoples interpret the world.¹⁸⁶ Nature is central to the *cosmovisión*, as is the relationship between nature, man and the cosmos as the wellbeing of any living thing is indispensable for the universal balance.¹⁸⁷ There is no distinction between Loq''alaj Ulew (the Holy Land) and Winaq (humans), as according to the *cosmovisión* Maya all beings are part of a single living system, the Qanan Ulew (Mother Earth).¹⁸⁸ Therefore, everything (trees, stones, the sky, the wind, etc) has life and needs to be respected.¹⁸⁹ Carmen Alvarez, one of the founders of *Mujeres Mayas Kaqla*, also explains that within the *cosmovisión* Maya

¹⁸¹ Sieder & McLeod, 2012: Pages 178-179

¹⁸² Ibid: Pages 178-179

¹⁸³ Ibid: Pages 178-179

¹⁸⁴ Grupo de Mujeres Mayas Kaqla, 2008

¹⁸⁵ Sieder & Sierra, 2010: page 1

¹⁸⁶ Gobierno de Guatemala, Ministerio de Cultura y Deporte, 2012: *Cosmovisión Maya*. <http://mcd.gob.gt/amanecer-maya/articulos> (Seen: 2013-05-11)

¹⁸⁷ Sieder & McLeod, 2012; *Civilización Maya en Guatemala*, 2012: *Cosmovisión Maya*. <http://www.visitguatemala.com/2012/es/baktun-13/cosmovision-maya> (Seen: 2013-05-11)

¹⁸⁸ *Civilización Maya en Guatemala*, 2012

¹⁸⁹ Ibid

everything is intertwined and interdependent – there is for example no day without night and the other way around.¹⁹⁰

6 Analysis of the case study

In this section I analyse two books, *La palabra y el sentir de las Mujeres Mayas de Kaqla* (*The words and the thoughts of the Mujeres Mayas Kaqla*),¹⁹¹ from 2004, and *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres* (*Plots and transcendence. Rebuilding stories with our grandmothers and mothers*),¹⁹² from 2011. I do this analysis by looking at the *discourse practice*, the *sociocultural practice* and the *text* separately as well as related to each other, according to Faircloughs three-dimensional approach.

6.1 Sociocultural practice

The *Mujeres Mayas Kaqla* was formed in post-war Guatemala. As mentioned above (section 5.1) the Mayan peoples were specifically targeted during the Guatemalan armed conflict, entire communities were exterminated, and thousands of people were killed, tortured, disappeared and displaced. Rape was widely used as a weapon, especially against Mayan women, and the memory of this “has become a source of collective shame”.¹⁹³ The organizations goal is thus not only to create a space were Mayan women can discuss, reflect and heal from their experiences, but also to transform the oppression of Mayan women, and involve women’s rights in the struggle towards the self-determination and autonomy of their peoples.¹⁹⁴

The texts I analysed are produced in that light, aiming to present the Mayan women’s side of the story. In the preamble to the book *La palabra y el sentir de las Mujeres Mayas de Kaqla*

¹⁹⁰ Sieder & McLeod, 2012

¹⁹¹ Grupo de Mujeres Mayas Kaqla, 2004: *La Palabra y el Sentir de las Mujeres Mayas de Kaqla*.

http://74.52.178.178/~ebiguate/index.php?option=com_content&task=view&id=882&Itemid=88 (Seen: 2013-03-25)

¹⁹² Grupo de Mujeres Mayas Kaqla, 2011: *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres*. http://www.bd.cdmujeres.net/sites/bd.cdmujeres.net/files/documentos/publicaciones/master_final_kinojibal_gatit.pdf (Seen: 2013-04-23)

¹⁹³ Commission for Historical Clarification, 1999: Conclusions II:91

¹⁹⁴ Grupo de Mujeres Mayas Kaqla, 2008

they write that the book is about “nosotras y no otras, no *las otras*” (“us and not others, not *the others*). They do not claim to be speaking on behalf of all Mayan women but with these books they wish “to break the ancient silence imposed by colonisation”, and show how their shared history of oppression has changed them, who they are today and who they want to be in the future. They present their own methodologies for change, consisting not only of theories, but also of “group therapy sessions”. These sessions came about as the women realized they were all carrying strong emotions of grief, rage, resentment and hate.¹⁹⁵ They believe that the just and free society they wish to create can only come about if they recognize and heal the emotional and spiritual effect that centuries of oppression has had on their way of being, acting and living.¹⁹⁶ These sessions will help to heal the collective as well as the individual traumatised persons, they will also help the women to talk of issues that they have refrained from talking about before, because of shame and fear of violence against women.¹⁹⁷

*We all talked about our personal and intimate experiences. And because of that we feel more united, because we stopped feeling guilt when talking about these issues. It is good that we have talked about it.*¹⁹⁸

The women state that even though their targeted audience is society at large it is directed to Mayan men and women in particular. They turn to the society at large to share their stories, whereas they turn to their Mayan communities to empower and make them proud of their heritage and at the same time to generate change. In *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres* they write that they hope this book “creates good thoughts and great energy” and makes the readers want to “join the efforts to break the oppressions” and through that make them happier, healthier and freer peoples.¹⁹⁹ I also find that the women target other Mayan women specifically, as they wish to empower them and make them proud of their indigenous heritage. As mentioned in section 4.1, the books differs in some aspects. *La palabra y el sentir de las Mujeres Mayas de Kaqla*, is principally a political manifest with its main focus on what needs to change in the Mayan *cosmovisión* as well as in society at large while *Tramas y Trascendencias. Reconstruyendo*

¹⁹⁵ Sieder & McLeod, 2012: Pages 178-179

¹⁹⁶ Grupo de Mujeres Mayas Kaqla, 2004: Page 16

¹⁹⁷ Grupo de Mujeres Mayas Kaqla, 2004: Page 107

¹⁹⁸ Grupo de Mujeres Mayas Kaqla, 2011: Page 79 “Todas contamos experiencias propias y cercanas. Y por eso nos sentimos más unidas, porque dejamos de sentir culpas al hablar de estos temas. Es bueno que lo hayamos platicado.”

¹⁹⁹ Grupo de Mujeres Mayas Kaqla, 2011: Page 10

historias con nuestras abuelas y madres mainly is a documentation over Mayan women's lives, history and experience, with the aim at making Mayan women proud of their heritage. The concept *cosmovisión* is not mentioned as much in the second book, instead the focus is on patterns and beliefs that need to be "healed" as well as "threads that needs to be restored", as the way to change their society. I will develop this further below.

6.2 Discourse practice and text

In the book *La palabra y el sentir de las Mujeres Mayas de Kaqla*, the women explain what it is like to be a Mayan woman in Guatemala, a woman who has lived in oppressive societies her whole life (the Guatemalan society, which have killed, persecuted and oppressed the Mayan population for centuries, and their own Mayan society, which is unequal between men and women).

Patrones de identidad

The women talk about how we as people are shaped by the society we live in, but that the power to change the way we are, and in extension the society we pass on to the next generation, is still ours. They write that the *patrón de identidad* (identity patterns) that we create and establish today will decide what tomorrow's society will look like.

*If the pattern we lay today is to be oppressed, this is how the coming generations will be like.*²⁰⁰

The women mean accordingly that these patterns have to change and since these patterns are a part of their culture today this also means re-evaluating their culture. They write that over time a lot has changed in their culture, and that it is time to analyse their traditions to see what to keep and what not to keep. Here you can notice the similarities to human rights documents talking about modifying cultural patterns that may be discriminatory or harmful, such as for example the above-mentioned Article 5:a in CEDAW.²⁰¹ Just as this human rights document, the women wish to modify and/or eliminate the cultural and traditional patterns that are

²⁰⁰ Grupo de Mujeres Mayas Kaqla, 2004: Page 42. "Si el patrón que instauramos hoy es el de ser oprimidas, así serán las generaciones venideras".

²⁰¹ United Nations, 1979 "States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

discriminatory towards women. These requests are however more likely to receive legitimacy than the UN Conventions might, as they are presented in a form of *internal cultural discourse*, as the *Mujeres Mayas Kaqla* reformulate the existing human rights discourse using existing local concepts to support their interests.²⁰² By formulating their demands using their own language and concepts, they show that these demands are coming from within, thus avoiding the sense that it is something imposed from the outside, (which would be the case if they had just used the existing conventions). When the *Mujeres Mayas Kaqla* discuss their culture in relation to human rights and equality, they look upon culture from a partially non-static perspective.

*At this stage of life, pure culture no longer exists, because many of the things we call culture come of Christianity, from consumerism, from the capitalistic system; But they are deeply rooted in us and we have made them part of our culture.*²⁰³

This is the argument the women use in their negotiation with the text audience to make changes in their culture. They see culture as a changing thing, and write that one should choose the best parts and the best traditions from a culture, the parts that help develop people, and leave the rest behind.²⁰⁴

Using existing gender roles

Historically in the Mayan culture, men have often left the responsibility of being custodians and transmitters of culture to the women; the women therefore describe themselves as the “anchors” of their culture.²⁰⁵ According to them, this has left the men free to change, whereas the women have been left unable to change.²⁰⁶ Despite this, the men are described as the purists (telling the women what they can and cannot do, if they can or cannot change, etc²⁰⁷) and the women write that if they want to be purists they need to stay true to the “purist”-discourse and stop using modern things such as cell phones, computers, fridges, toilet paper, etc. In this section, the women seems to be arguing directly with the men, which gives the

²⁰² An-Na'im, 1992a: Page 3; An-Na'im, Abdullahi A, 1992b: Page 28

²⁰³ Grupo de Mujeres Mayas Kaqla, 2004: Page 64. “A estas alturas de la vida, ya no existe cultura pura, porque muchas de las cosas que llamamos cultura vienen del cristianismo, son del consumismo, son del sistema capitalista; Pero están metidas en lo más profundo de nosotras, y las hemos hecho parte de nuestra cultura”.

²⁰⁴ Grupo de Mujeres Mayas Kaqla, 2004: Page 76

²⁰⁵ Ibid: Page 44

²⁰⁶ Ibid: Page 44

²⁰⁷ Ibid: Page 44

reader the impression that this might be an on-going discussion. The women write that the men can't choose to be purists about some things and liberal about others, the past and its traditions needs to be seen as references and not as the absolute truth.

*We revise our culture, what is healthy, nice, good, bad, **pure**, what makes us happy, what hinders or aids our development, and what can we learn from other cultures?. The Mayan culture does not have the absolute truth.*²⁰⁸

By expressing themselves this way, the women compare old and new influences in their lives and put in them in perspective, saying “do you want to go back to the way we were before all these modern things, or do you want to develop?” The women use words such as “develop” and “development” but not in the Western sense often meaning modernity, consumption, etc. Instead they use these words to describe the society that they strive to find/create, with an emphasis on the good and the beautiful, and not the evil and painful. The *Mujeres Mayas Kaqla* also use the fact that they are the “anchors of the cultures” as well as the mothers in the community, as arguments for why they should have a voice in the decision-making processes. They write that since the men have not had the experience of giving birth, they do not have the same sense of responsibility for the group, and for the reproduction of the species, as women do.²⁰⁹ Women must therefore be a part of the reconstruction of the *cosmovisión*. By referring to the traditional roles of women as “custodians of the culture” they also show that they do not wish their cultures any harm. They may ask for change but the Mayan cultures are not threatened, as they as custodians of those cultures would never do anything to harm them.

When analysing these sections of the text, the Maya women be seen to use similar discourses as the ones used in women's human rights documents concerning the need to modify harmful cultural and traditional patterns and practices. However by using concepts like *patrón de identidad* and *cosmovisión*, the women approach the topic of changing their traditions, without stepping too far away from their own culture. This can be understood by comparing it to An-Na'im *internal cultural discourse*, in which human rights demands are legitimized by the reinterpretation and reconstruction of the discourse of human rights.²¹⁰ They also make

²⁰⁸ Grupo de Mujeres Mayas Kaqla, 2004: Page 76. “Revisemos nuestra cultura, qué tiene de sano, bonito, bueno, malo, **puro**, ¿qué nos hace felices?, ¿qué obstaculiza o ayuda al desarrollo?, ¿qué podemos aprender de otras culturas?. La cultura maya no tiene la verdad absoluta.”

²⁰⁹ Grupo de Mujeres Mayas Kaqla, 2004: Page 38

²¹⁰ An-Na'im, 1992a: Page 3.

use of existing views on women and the Mayan cultural gender structures as an argument for why their voices should be heard. This is a good example of Sally Engle Merry's theory of a "culturally resonant packaging" with a core that will challenge patriarchy (see section 3.2). The women's use of existing Mayan gender roles as a tool in their struggle, gives legitimacy to their cause as it shows that they do not wish to eliminate all Mayan customs or gender roles, at the same time as it may still challenge what Sieder and Sierra see as a patriarchal system.

The internalised oppressor

Dealing with their past in oppressive societies and a history filled with violence, conquest and armed conflict, the *Mujeres Mayas Kaqla* put emphasis on the process of healing. It is not only the people who are suffering in their eyes, it is also the society that is sick and the society can only recuperate and become a healthy society if the people are healed.

*...we live in a physically and spiritually sick society.*²¹¹

The *Mujeres Mayas Kaqla* believe that the key to create a better society and become a better collective, is to make sure that the people within that collective feel good and happy. Therefore, the women believe that the Mayas need to change the things in their cultures that keep them feeling bad or makes them sick. The women write that they have "internalised the oppressor" and now subconsciously see themselves the way the oppressor sees them, and they have therefore lost their cultural and ethnical pride and are now participating in the oppression of each other as well as themselves.²¹² Examples of precepts that the Mayan have copied/learned from the oppressors is the idea to value men more than women, mestizos more than indigenous, and the urban and universal more than the local and rural.²¹³

The *Mujeres Mayas Kaqla* maintain that because society have internalised the view of men as more valued than women, and because of the deep rooted view on men as an authority figure, men now can do whatever they want. This condition, they claim, is the reason why violence

²¹¹ Grupo de Mujeres Mayas Kaqla, 2004: Page 35. ... "vivimos en una sociedad enferma, física y espiritualmente".

²¹² Grupo de Mujeres Mayas Kaqla, 2004: Page 25-30

²¹³ Grupo de Mujeres Mayas Kaqla, 2011: Page 18

against women is so widely accepted.²¹⁴ Both Latin American and Mayan societies force men to become oppressors to prove their manhood, saying “you’re not a real man if you don’t drink”, “you’re not a real man if you don’t discipline your wife and children”, etc.²¹⁵ Apart from this, the authorities, both mestizo and indigenous ones, ignore the problem of gender based violence, as it is seen in terms of “family affairs.”²¹⁶ Women on the other hand contribute to this both by helping to reproduce the structures that allow this type of domination, and by having taken on the role as victims so well that it is now a part of their identity as women to the extent that suffering is even applauded. *Mujeres Maya Kaqla* write

*We do not want to justify the aggression of men toward women, whether rape, physical, verbal or psychological abuse, sexual abuse or incest. We rather seek elements that help both women and men, to change these conditions, in order to build a society free of violence, oppression and humiliation. Despite all the pain endured by our peoples, this pain is not what we want for ourselves, let alone what we want to pass on to future generations. Therefore, one of the beliefs we have to check is the one that tells us to praise the life of suffering and sacrifice for us the women. We ought neither to applaud our tears nor our suffering or violence in the name of love, marriage or children.*²¹⁷

This section is interesting for a number of reasons. In the first sentences the women emphasize how violence against women is a collective problem, stressing that both men and women need help to break these structures and, through that, create a society “free of violence, oppression and humiliation”. In this context they use a collective discourse rather than an individual one, thus avoiding the traditional human rights discourse. They also connect their struggle for women’s rights and against gender based violence, with their peoples struggle against oppression from the Guatemalan state; they do this by using words and images that helps create a struggle that everyone in their group can relate to, such as the struggle for a society “free of violence, oppression and humiliation”. The mentioning of “all

²¹⁴ Grupo de Mujeres Mayas Kaqla, 2011: Page 83

²¹⁵ Ibid: Page 85

²¹⁶ Grupo de Mujeres Mayas Kaqla, 2011: Page 84

²¹⁷ Grupo de Mujeres Mayas Kaqla, 2011: Page 86. “Nosotras no queremos justificar las agresiones de los hombres hacia las mujeres, ya sea de violación, abuso físico, verbal o psicológico, abuso sexual o incesto. Queremos más bien buscar elementos que nos ayuden, tanto a mujeres como a hombres, a cambiar estas condiciones, a fin de construir una sociedad libre de violencia, de opresión, de humillación. A pesar de todo el dolor padecido por nuestros pueblos, no es ese el dolor que queremos para nosotras mismas, ni mucho menos heredarlo a las nuevas generaciones. Por eso una de las creencias que tenemos que revisar todos es esa que nos dice que debemos enaltecer la vida de sufrimiento y de sacrificio de nosotras las mujeres. No debemos aplaudir nuestro llanto ni nuestro sufrimiento, ni las violencias en nombre del amor, del matrimonio o de los hijos e hijas.”

the pain endured by our people” creates similar associations. Finally, in the last two sentences, the women draw attention to a belief that they as Mayan women carry with them the image of themselves as victims, and that this needs to change for them in order to actually put up a fight against oppression. This image is so deeply rooted that it has become a part of their identity and it is now preventing them from achieving true freedom and equality. They thereby stress that both Mayan men and women have to change beliefs and identity patterns to create a better society, such as the belief that makes men “oppressors” and women “victims”. In this way, the *Mujeres Mayas Kaqla* try to empower their peoples, especially the Mayan women, making them aware of the fact that they are actors who possess the capacity to produce change. This is further emphasized in the text when they write that it is now necessary to “take the reins of their own lives.”²¹⁸

Religion

One of the tools that the Spanish used to dominate and colonialize native peoples of Latin America was religion, a religion that came with a set of rules dictating what was allowed and what was forbidden. These rules were, according to *Mujeres Mayas Kaqla*, internalized into peoples’ minds, making them fear eternal damnation and punishment if they did not comply with the laws of God.²¹⁹

*The worst is that when someone free themselves from these oppressive elements, we ourselves, as oppressed beings, say: This should not be done!, Be careful, you go outside of the customs!, without realizing that we have learned many of these behaviours from the oppressors.*²²⁰

*Perhaps we will never fully know how the religion was imposed on our ancestors, and how the state began to support the oppression against our peoples. But what we do see is that we have internalized all these beliefs in all generations, and that it is beliefs that cause harm to ourselves, to our daughters and to most women.*²²¹

²¹⁸ Grupo de Mujeres Mayas Kaqla, 2011: Page 86

²¹⁹ Ibid: Page 56

²²⁰ Grupo de Mujeres Mayas Kaqla, 2004: Pages 25-26. ”Lo peor es que, cuando alguien se libera de esos elementos opresores, nosotras mismas como seres oprimidas, decimos: ¡Eso no se hace!, ¡Cuidadito te sales de las costumbres!, sin darnos cuenta que muchas de esas conductas, las hemos aprendido de los opresores.”

²²¹ Grupo de Mujeres Mayas Kaqla, 2011: Page 79. ”Quizá nunca sabremos totalmente cómo fue impuesta la religión a nuestros ancestros y cómo el Estado comenzó a apoyar la opresión contra nuestros pueblos. Pero lo que sí podemos ver es que hemos internalizado todas estas creencias en todas las generaciones y que son creencias que nos causan daño a nosotras mismas, a nuestras hijas y a la mayoría de las mujeres.”

By showing that these beliefs are something Mayan peoples have inherited from the Spaniards/mestizos through years of oppression and war, the women show that these beliefs are not part of Mayan cultures, and they should therefore not be protected and valued as such. They have no place in the Mayan *cosmovisión* and the Mayan societies, and these beliefs and this behaviour do accordingly not need to be protected by “purist”. In fact, the *Mujeres Mayas Kaqla* even state that this religion keeps them from seeing all that is sacred in the nature around them, and keep them from being grateful for all the elements that has life and that gives them life, leading them instead to celebrate pain and suffering. This religion would thus, according to them, be incompatible with their *cosmovisión*.

With religion stuck in our minds, in our bodies and in our senses, we fail to see the sacredness of plants, mountains, water. We also stop being grateful to all of the elements that have life and give us life, and we stop celebrating the life of the seeds, of the cycles of the moon, the sun and the body. We begin to see images of men and women who said they were an example of virtue as sacred, and we go as far as to love and worship their pain, believing that suffering should also be part of our lives. Everything became sinful, fear got in everywhere, especially in the consciousness of our grandmothers and mothers. You did not need anyone else to watch over you, they incriminated themselves.²²²

The *Mujeres Mayas Kaqla* therefore believe that if they, as Mayan peoples, search for autonomy, they also need to free themselves from their internal oppressor and the devaluating, oppressive beliefs that they have adopted. In this way the *Mujeres Mayas Kaqla* legitimize their struggle by connecting it to the Mayan peoples’ struggle against an oppressive state, pointing out that “if we want true autonomy and true freedom, we need to liberate our minds and our *cosmovisión* from these oppressive structures”.

The lack of love and affection

²²² Grupo de Mujeres Mayas Kaqla, 2011: Page 56. “Con la religión metida en nuestra mente, en nuestro cuerpo y en nuestro sentir, dejamos de ver lo sagrado de las plantas, de las montañas, del agua. También dejamos de agradecer a todos los elementos que tienen vida y nos dan vida y dejamos de celebrar la vida de las semillas, de los ciclos de la Luna, del Sol y del cuerpo. Empezamos a ver como sagradas las imágenes de hombres y mujeres que decían que eran ejemplo de virtud y llegamos hasta amar y adorar su dolor, creyendo que también el sufrimiento debía ser parte de nuestras vidas. Todo se volvió pecado, el miedo se metió por todas partes, sobre todo en la conciencia de nuestras abuelas y madres. No hacía falta que alguien las vigilara, ellas mismas se incriminaban.”

Another issue raised by the women is that Mayan women are deprived of affection. Guatemala, the country that has persecuted and killed them for centuries, is an “affectionless society”.

*A society that commits murders, that has persecuted the Mayan peoples for many years, is not a caring society, because of that we say that there is a problem of affection in Guatemala.*²²³

The women moreover state that there is a lack of affection within their own communities, as affection would mean loving and respectful families and partners, as well as lives free from violence. According to the women, violence against women has become so common within their cultures that it has become a part of their identity.²²⁴

*We have determined that within the essential human needs for women, an urgent and key elements, is affection. The strong lack of affection is evident both in personal relationships and the social structure.*²²⁵

*Why do you think we get sick? The most common response was:
For lack of affection.*²²⁶

The women furthermore talk of love saying “to love is being able to promote rights, freedom and respect.”²²⁷ They see love as the medicine against the sick, unfair and oppressive system.²²⁸

In these quotes the *Mujeres Mayas Kaqla* use words like ‘love’ and ‘affection’ rather than using the discourse of human rights. By reading the women’s texts with An-Na’im’s and Engle Merry’s concepts and theories in mind, we can see that the *Mujeres Mayas Kaqla*

²²³ Grupo de Mujeres Mayas Kaqla, 2004: Page 34. ... “Una sociedad que comete matanzas, que ha perseguido a los pueblos Mayas durante muchos años, no es una sociedad afectuosa, por eso decimos que en Guatemala hay un problema de afecto”.

²²⁴ Grupo de Mujeres Mayas Kaqla, 2004: Page 36

²²⁵ Grupo de Mujeres Mayas Kaqla, 2004: Page 34. ... “hemos determinado que dentro de las necesidades humanas esenciales de las mujeres uno de los elementos, clave y urgente, es el afecto. Esa fuerte carencia de afecto, se evidencia en las relaciones personales y en la estructura social”.

²²⁶ Grupo de Mujeres Mayas Kaqla, 2011: Page 132. “¿Por qué creen que nos enfermamos?, las respuestas más comunes fueron:

’Por falta de afecto’.”

²²⁷ Grupo de Mujeres Mayas Kaqla, 2004: Page 130

²²⁸ Ibid: Page 130

translate universal human rights to make sense in their own context. By using other words and concepts, such as love and affection, they do what Engle Merry would call a *cultural translation*, as well as engage in what An-Na'im refers to as an *internal cultural dialogue*. They show that they have not stepped too far away from their group by discussing these issues using their own language. Instead of conforming to the existing human rights discourse, they formulate their needs using their own words and the values rooted in their culture. They talk about a sick society that can only be healthy if the people within it are healthy – thus combining a collective discourse with an individual one. The individual persons within the community need to be healthy, happy and loved for the community and the society to be healthy, and the other way around. The women mean that the way to accomplish this is to change what they refer to as the current Mayan *cosmovisión*. They question how a collective that has strived for freedom and equality for generations, can use physical violence at home, and point out that this is not consistent with their worldview, their *cosmovisión*.

*If we believe in justice and we fight against oppression, but then hit our children, we are not coherent to what we believe in.*²²⁹

The connection of the collective and the individual

*A people that is filled with destructive patterns can not build their own freedom and live with plenitude.*²³⁰

Once again the women connect their struggle with their peoples struggle, and thus play on the collective longing for freedom and equality. They remind the men and show them that what they want is the same as what the collective wants – freedom, equality and happiness. This way the *Mujeres Mayas Kaqla* show that the issue of women's rights and equality are inevitably intertwined with their oppressive past and must be included in their peoples' struggle for autonomy from the Guatemalan state. The patriarchal system, the in-equality and the oppression of women, is according to them not a Mayan tradition and cannot be a part of their *cosmovisión* or their beliefs. By putting emphasis on the importance of equality between men and women as well as on individual freedom in the struggle for well-being and autonomy

²²⁹ Grupo de Mujeres Mayas Kaqla, 2004: Page 36. ... "si creemos en la justicia y luchamos contra la opresión, pero les pegamos a nuestros hijos e hijas, no somos coherentes con lo que pensamos"

²³⁰ Grupo de Mujeres Mayas Kaqla, 2011: Page 153. "Un pueblo que esta lleno de patrones destructivos no puede construir su propia libertad y vivir con plenitud"

for the peoples, the *Mujeres Mayas Kaqla* use the collective-discourse in their struggle for individual rights.

*...autonomy for women and for peoples cannot be constructed if Mayan women are relegated.*²³¹

The *Mujeres Mayas Kaqla* thus tie the struggle for women's rights even tighter together with their collective struggle for their peoples' rights, making it something that everyone in their group can relate to. This way they show that freedom and equality are universal needs as well as universal rights. They also emphasize that if individuals within a group feel that they lack freedom, something has to change within that group. This is true for the Mayan peoples within the Guatemalan state, and it is true for the women within the Mayan society. In this way the women yet again talk of the human rights discourse but translated into local terms and their local reality, making it more accessible and relatable to other members of their group.

*If a human being feels that his/hers freedom is restricted by the group to which he/she belongs, that means that the relationships within that group has to change.*²³²

By not referring to individuals as individuals but as human beings, they once again avoid using the Western liberal and individualistic discourse that permeates human rights.

Healing the broken threads

The theme of healing and sanitation also recurs in the other book analysed, *Tramas y Trascendencias. Reconstruyendo historias con nuestras abuelas y madres*, but here the focus is slightly altered. In the first book the focus was on healing the people as well as the "sick society" by changing and re-evaluating the *cosmovisión*; in the second book the focus is still on healing individuals and society but instead of changing the *cosmovision* and the beliefs – these too need to heal. When the *Mujeres Mayas Kaqla* discuss the parts in their culture that they feel need to change, they refer to these as "patterns and beliefs that must be healed" and

²³¹ Grupo de Mujeres Mayas Kaqla, 2011: Page 11. ... "la construcción autónoma como mujeres y como pueblos no se puede hacer si las mujeres Mayas estamos relegadas"

²³² Grupo de Mujeres Mayas Kaqla, 2004: Page 46-47. "Si un ser humano, se siente restringido en su libertad por el grupo al que pertenece, significa que en ese grupo, se tienen que transformar las relaciones".

“threads that needs to be restored.”²³³ Amongst the patterns and the threads that need to be healed and restored are the sense of self-value and the sense of collectivity, but also the relationship between men and women. Here it becomes obvious how they have developed their thoughts on the “internalized oppressor”, and on the values that the Mayas have adopted from the Spaniards/mestizos, seeing them as wounds or scars making their belief-system and *cosmovisión* in need of healing and restoration. Instead of saying “these are the things in our society and our culture that need to change” they now say “these are the things in our society and our culture that need to be healed”. By doing this they emphasize that what they see as wrong in their cultures is not something specifically wrong with their Mayan cultures, it’s a heritage from years as oppressed peoples. They thereby legitimize their struggle to other members of their groups (such as purists) by saying, “this is not our fault and this is not part of our culture, this is something that is broken in our culture and that we must help heal”.

Apart from this, the enhanced focus on threads and weaves that permeates the second book aims at empowering Mayan women and make them feel proud of themselves as indigenous women. They emphasize in the first book that their clothes and weaves are not only important for cultural reasons, it is also financially important as it is a way for Mayan women to make a living and become financially independent.²³⁴ The women point out the symbolic values of their traditional clothes, as they regard wearing them as way to show resistance.²³⁵ The use of this metaphor aims to empower, strengthen, and give pride to Mayan women. The metaphor is further highlighted in the title of the second book as the word “tramas” can also mean “tejido”, which means woven fabric.

Apart from its obvious empowering qualities, the weave-metaphor also helps emphasize how everything is interrelated and intertwined. This is an example of how the women’s struggle for their rights is a part of the indigenous struggle, or how what has happened in the past affects the present as well as the future, and so forth. By referring to the parts of their culture that they feel are in need of change and healing as “broken threads”, they create an image of society and life as a big weave were the broken threads create wholes in obvious need of mending and restoration.

²³³ Grupo de Mujeres Mayas Kaqla, 2011: Page 131

²³⁴ Grupo de Mujeres Mayas Kaqla 2004: Page 77

²³⁵ Ibid: Page 78

*If we do not want to continue to transmit all these burdens to new generations, we need to start learning our healing processes.*²³⁶

All actions are threads that are woven into this weave and therefore they possess some power, or influence, over the weave. If the threads are broken or “sick” the weave comes out broken and sick, but if the threads are strong and healthy, the weave comes out strong, healthy and happy. In this way the *Mujeres Mayas Kaqla* underline how the Mayan peoples, and Mayan women, can actively affect their lives and the society they live in, by restoring the broken threads and by controlling what new threads (or actions) that are inserted into the weave.

*...instead, as everything is interconnected, if one of us takes a deep process of healing, we create a balance in our family, in our groups and humanity.*²³⁷

This reaffirms them as actors, not victims. Time and time again, the *Mujeres Mayas Kaqla* point out that they do have some say in what tomorrow’s society will be like. They can change their *cosmovisión* and their beliefs, they can mend and heal what is broken in their societies and in their cultures, and they can, as the women put it, actively weave in threads filled with positive energy, equality, freedom, love and affection into the weave that is their lives. In this way they can create the society “free of violence, oppression and humiliation” that their peoples have been longing for, for generations; they can however not do this as long as women are still oppressed. The personal and the collective are according to them inevitably intertwined, and the Mayas must therefore both work as a collective as well as individuals to create the best society and the best “weave” they can. By placing their struggle for women’s rights on par with the Mayan struggle for their collective rights, they do not only make the struggle relatable to everyone in their group, they also create a human rights discourse where their individual rights as women, and their collective rights as indigenous peoples are somewhat equalized. In the *Mujeres Mayas Kaqlas* point of view, a woman’s right to live in a free and equal society, without violence and oppression, is the same thing as the Mayan’s rights to do so.

²³⁶ Grupo de Mujeres Mayas Kaqla, 2004: Page 222. “Si no queremos seguir transmitiendo todas esas cargas a nuevas generaciones, emprendemos nuestros procesos de sanación”.

²³⁷ Grupo de Mujeres Mayas Kaqla, 2004: Page 222. ...”si uno de nosotras asume un proceso profundo de sanación, de cambio, como todo está interconectado, creamos un balance en nuestra familia, en nuestros grupos y en la humanidad”.

<p>Discourse practice:</p>
<p>- In what way does the text use already existing discourses?</p> <p>Mixing human rights discourse and Mayan discourse with the aim to create new Mayan <i>cosmovisión</i>/worldview. Talks about culture, individualism, human rights, etc but using Mayan concepts</p>
<p>- What discourse types are drawn upon and how?</p> <p>Mixes human rights discourse with Mayan, talks about the need to change the <i>cosmovisión</i> and the <i>pattern of identity</i>. Mixes a collective discourse with an individual one, discussing how the individual has to feel good in order for the collective to feel good, how equality between men and women is important for the collective.</p>
<p>- Is the discourse sample relatively conventional in its interdiscursive properties, or relatively innovative?</p> <p>It is a mix, the women for example talk about how culture is not static but changes and evolves over time, which is a relatively conventional way to talk about culture. The way they wish to modify cultural patterns that can be discriminatory or harmful to women is also relatively conventional. However their mix of Mayan concepts to talk about human rights is innovative, as well as their mix of theories and group therapies as the way to change society. The way they put an individual emphasis in a collective discourse is also relatively innovative.</p>
<p>- How are identities constructed in the text? What characteristics are assigned men/women? How is gender constructed in the text?</p> <p>Women are described as the “anchors of the culture”; men don’t have the same sense of responsibility. The women think it’s because they don’t have the ”experience of birth”, they don’t have the same sense of responsibility concerning the reproduction of the group – but the women also use this as a an argument for why they need to have a say in what happens in the culture. If they are the “guardians” and the “reproducers” of the group, they need to have a say in what traditions should stay and which should go. The women also talk about how colonialism and the oppressive society in Guatemala has made them the submissive women they are today, they have “internalized the oppressor” thus helping to reproduce views that oppress themselves and others.</p>
<p>Text:</p>
<p>- How is the text narrated?</p> <p>There is a mix between theories and the women’s “voices” telling their stories, that help emphasize each other. The text is also very poetic, between the theories and the “voices” there are poems, they are also using words such as universal love, etc that gives a poetic touch to the text.</p>
<p>- What metaphores are used and what associations may these words bring?</p>

Society is sick, it needs to heal, love is the medicine – brings associations of society as a living organism. The document is described as “la punta de los hilos del tejido” (“end of the threads of the weave”). The threads in the weave needs to be repaired, they are weaving their history – associations with weaving and threads – Mayan traditional clothes and handicraft – empower and make them proud of their inheritance. The weave/web metaphor also brings the association of everything (society, life, relationships, actions...) being interrelated and intertwined. Time to “take the reins over their own lives”.

Sociocultural practice:

- In what context is the text produced and consumed?

Post-conflict Guatemala, “empowerment/emancipative, feministic manifest”.

The text is produced in a context in which the Mayan peoples have lost their ethnical and cultural pride, so they wish to honour Mayan women, both from the past and today, and make Mayan women today proud of their heritage.

- Who is the anticipated audience? Are there signs that the text producers anticipates more than one sort of audience?

Book 1: Everyone. Society at large in general, and their own Mayan communities in particular, they also target Mayan women specifically. They turn to Mayan women to empower them and make them proud of their heritage, they turn to their communities with the same goal and at the same time to generate change, and they turn to society at large to tell their stories.

Book 2: Same as book 1, but more specifically addressing Mayan women specifically, even though they write in the beginning that it is also aimed at men.

7 Discussion.

The purpose of this study is to illustrate how a group of indigenous women in Latin America works with women’s rights issues as well as to examine to what extent it is possible for them to preserve and protect cultural / collective rights at the same time as promoting women's individual rights. To do so, I have chosen to analyse the work of the women’s organization *Mujeres Mayas Kaqla*, a women’s organization from Guatemala consisting of Mayan women from several different linguistic groups. I analysed their work by applying Norman Faircloughs three-dimensional approach. In this section I discuss the findings presented in the previous section.

When analysing the books produced by the *Mujeres Mayas Kaqla* it becomes clear that these women manage to work with their individual rights as women within the traditional Mayan

systems by reformulating and mixing existing discourses. Instead of talking about issues such as equality and violence against women using a Western liberal and individualistic discourse, they talk about these issues using existing Mayan norms, concepts and tools (such as *cosmovisión*, beliefs, identity patterns, etc). In this manner they translate the topic to fit their own context at the same time as they approach the sensitive topic of changing aspects of their culture in a way that shows that they are still very much a part of this culture. In this way they legitimize their struggle by showing that they are not outsiders looking in, pointing out what needs to change – they are insiders, evaluating their own culture. This is further emphasized as they highlight the existing traditional gender roles in which Mayan women describe themselves as being seen as the custodians and anchors of the cultures. By reminding the text audience of this, they eliminate the sensation of threat that may occur if the request for change comes from the outside, but as custodians the women show that they do not want to harm the Mayan culture, but rather aim at protecting and preserving it. They perceive the society they live in today as sick, and that the *patrones*, *creencias* (beliefs) and *cosmovisiones* are damaged. They state that there are threads in the Mayan weave that are damaged and that need to be restored – for the good of the collective. A sick society produces unhappy people and the other way around. The *patrones de identidad* of today are creating oppressed beings and therefore the coming generations will also be oppressed. The women's will to modify certain cultural and traditional aspects and patterns is therefore merely that of concerned mothers and grandmothers. Emphasizing that their wish for change comes from their roles as Mayan women (anchors, custodians, mothers) can have a pivotal effect on the outcome, as many non-Western cultures are emerging from centuries of colonization and are therefore sensitive to influences and demands imposed from the outside.

The *Mujeres Mayas Kaqla* also use existing gender roles as an argument as to why they should be involved in the decision-making, by pointing out that nobody but them (the anchors) knows the culture better, and nobody but them (the mothers and the “reproducers”) knows better what is best for the collective. They thereby do not stop at simply expressing their concern for future generations; they challenge the current power structure by stating that they – based on their roles and functions as women – deserve and need to have a say in the decision-making. In this way, the *Mujeres Mayas Kaqla* mix the traditional roles of women, with a more “modern” one, as they work to emancipate women and create women leaders but still within their traditional roles. This use of existing gender roles is very innovative, and

challenges the patriarchal system at the same time as it stays within the culture framework. The women thus use already existing cultural norms, in a new way, which then both emancipate them as women and generate change. I think it is important to see that they do not conform to the liberal, modern human rights discourse, or step too far away from their own culture, when they work for women's rights and equality. Instead, they show that this can be done in a cultural sensitive way within the existing cultural framework.

Another approach that the women use is when they, in different ways, show that many of the oppressive structures and harmful aspects of their culture is something Mayan peoples have learned from the Spaniards/mestizos. This angle is used to emphasize and legitimize the need to change some aspects of their culture by pointing out that what they want to change is in fact not originally Mayan. The result of this approach is twofold – first of all, by showing that these traditions, structures and mind-sets are not part of Mayan culture, the women eliminate the purists' argument that these aspects must be protected from change. Secondly, by putting an emphasis on the role their oppressive past has played in the construction of these structures and mind-sets, they speak to the collective memory and the collective dream of freedom and equality, showing their communities that their struggle for women's rights is inevitably intertwined with their oppressive past and thus must be included in their struggle for autonomy. Oppressing women is not a part of the Mayan worldview, or *cosmovisión*, it is rather standing in the way of their collective goal as it is a heritage from the Spaniards/mestizos. They, as a collective, will not be entirely free until they *all* are free and equal, nor will they be entirely free until they have dealt with their past and the scars they have from the oppression. To be truly free, they must open themselves and realize that they have been affected by the centuries of oppression in more ways than they might realize. They must free themselves from the mind-set of the oppressors and heal their collective past. In this way the *Mujeres Mayas Kaqila* legitimize their struggle for women's rights by connecting it to their collective struggle. They also show their communities that they are not fighting for something new and different, but that their goal is the same as the Mayan peoples' common goal. In this way they combine an individual discourse with a collective one, creating a new human rights discourse where these two exist equally side-by-side. They show the Mayan peoples that they, as a collective, cannot be happy as long as the individuals within that collective are suffering, and that some needs and rights are universal – such as freedom, equality, freedom from violence, etc. Abdullah A An-Na'im writes about the importance of

moral values being authentic and not imposed from the outside when working to promote human rights within non-Western cultures. When analysing the work of the *Mujeres Mayas Kaqla*, it is evident that they seem to have the same belief, as their work is very focused on developing their own language and methods to talk of human rights using already existing moral values. This is further enhanced as these women also show that it is in fact the oppressive/discriminatory structures that are originally imposed from the outside. By linking women's issues to the collective struggle, and also equalize and draw parallels between the oppression of women and the oppression of the Mayan peoples, these two issues are immediately put in contrast to each other. On the one hand we have the Spaniards or the Guatemalan state that oppress people and on the other hand, we have the Mayan peoples who doesn't – or ..? By making this connection they make it easy for their own groups to “choose sides”. In putting it this way they show that the oppressive tendencies belong to the other side, they have only been internalised into the Mayan subconscious, thus the Mayan cultures has already changed. Changing again will therefore, according to them, not hurt their cultures, on the contrary. An-Na'im states that people are more likely to allow propositions or recommendations that seem to be sanctioned by their own cultural traditions,²³⁸ which is what the *Mujeres Mayas Kaqla* achieve as they talk of equality and human rights but from Mayan perspectives. They reformulate and translate the language of rights by using their own words, concepts and values, and thus manage to not only legitimize their propositions but also to make them relevant in their own context.

In her book *Human Rights & Gender Violence. Translating International Law into Local Justice*, Engle Merry asks whether it is even possible to find a space that both respects cultural differences and protects women from violence, as these often appear to be conflicting goals.²³⁹ I believe that the *Mujeres Mayas Kaqla* are creating this space. These women do not want to stop being Mayan, they do not want to erase or change important parts of their culture, quite the opposite. Part of their struggle is for them as Mayan to regain their sense of pride over their indigenous heritage, but in order to do this, they need to heal and restore what is broken, sick and damaged in their society and in their culture. By doing this they clearly intertwine the collective and the individual, but never sacrificing one over the other, which I think is an important aspect in their work. It also shows the importance of change coming

²³⁸ An-Na'im, 1992b: Page 20

²³⁹ Engle Merry, 2006: Page 1

from within, as only someone from within can know how to intertwine these two and how this fits within their culture. In contrast to the common view on cultures and traditions as oppressive or harmful against women, the *Mujeres Mayas Kaqila* show how the strengthening of cultures and strengthening of women can be done in parallel. In their case it is almost as if these two things work in conjunction with one another. They rebuild a cultural pride and reinforce their culture at the same time as they promote tolerance and equality. They do say that some aspects of their culture have to change, but they show that change is not always bad; change does not have to mean extinction. They point out that change is inevitable; it happens whether we want to or not, and it has most certainly already happened to Mayan culture, so why not be an active part of it? Why not actively choose what threads to insert in to the weave of life? Creating the best possible world is a collective goal, and thus something they need to work towards as a collective, both Mayan men and women. They need to look within themselves and decide what they want their *cosmovisión*, their *patron de identidad* and their beliefs to look like. This reaffirms them as actors, saying they have the power to change and restore what has gone bad and create a better world for the coming generation.

According to Norman Faircloughs' three-dimensional model, it is important to analyse and understand the sociocultural context in which a text is produced and consumed. I found this approach very useful in this study, as I would not fully have understood were the *Mujeres Mayas Kaqila* were coming from, had I not had a sense of their history and their sociocultural context. The three-dimensional model has allowed me to see and paint a bigger picture, and it has given further depth and further explanation to the discourses and the metaphors used in the text.

When it comes to the work of the *Mujeres Mayas Kaqila*, the sociocultural context is partly the centuries of oppression and the over thirty years long armed conflict, which has affected the Mayan peoples hard. During the armed conflict Mayan peoples have specifically been targeted and exposed to excessive torture, rape and even massacres. As a group they have thus endured extreme violence and discrimination from outside actors. In the light of this, the women's arguments for a world free from violence, as well as violence being something imposed from the outside, are emphasized. Discussing oppressive behaviour and violence in the way the women do, brings associations from the past and is therefore relatable to members of their collective – thus, the call for change is also relatable. They have spent their lives

living in a divided society, where it has been them as Mayans against oppressive others, and this is therefore a discourse that is close at hand, both for the women and for the other members of the society. The dichotomy between “the Mayan” and “the oppressive other” is present, already established in their collective memory. It is therefore understandable that the women see this as something that does not belong to their culture, and also, how this can be used as an argument to generate change. The social construction of “us” and “others” takes place both in the Guatemalan society (in which the Mayas are “the others”) and in the Mayan society (in which the Spaniards / the mestizos / the oppressors are “the others”). It’s a “we against them”-discourse that in this case works to the women’s advantage. They use this existing discourse, and these existing views on “the others” as a tool and an argument for change, saying “look at us, we are behaving like them”. For centuries the Mayan peoples have been struggling for autonomy and freedom, therefore saying “we are acting like *them*” or “we have adopted this behaviour from *them*” is a useful argument and incentive for change.

By doing this study it has become clear to me how the *Mujeres Mayas Kaqla* work to promote and enhance their individual rights within their traditional systems. Indigenous women often prefer to seek help from parallel, local justice systems as a result of the discrimination they face when in contact with state actors; many indigenous systems are however also permeated by gender ideologies that subordinate women.²⁴⁰ Organizations such as the *Mujeres Mayas Kaqla* therefore work in innovative ways to modify these ideologies, and reinvent their cultures to be more inclusive and equal for both men and women.

8 Conclusion

The *Mujeres Mayas Kaqla* have managed to combine the preservation and protection of their cultural and collective rights at the same time as they promote their individual rights as women by reformulating and mixing existing discourses in a culturally sensitive manner. I believe that a key aspect in their work is that they work towards simultaneously strengthen their Mayan cultures and the position of women within their cultures. The women approach the topics of women’s rights, gender based violence, discriminatory structures, etc, in different ways, for example, by talking of the oppressive structures as something not

²⁴⁰ Sierra, 2012: Page 68

originally Mayan, but as something their communities have adopted after years of living in an oppressive society. In this way they can argue for change in their societies without really threatening the culture itself. They also use existing norms and tools, such as the traditional roles for women within their culture, as an argument to be part of the decision-making. Apart from this, they equalize and link their struggle for women's rights to the Mayan struggle for freedom and equality from the Guatemalan state, as a way to legitimize and make their struggle relatable to their groups. They refrain from using "Western" concepts and instead use Mayan concept, when talking of this issues, showing that one does not have to conform to the existing human rights language and discourse, but instead translate it to fit into the relevant, local context. This also shows that these needs and rights are universal, albeit might be called or referred to differently in different cultures. A very important aspect of the *Mujeres Mayas Kaqlas* work is, in my opinion, their view on culture as partially non-static. They state that cultures change, but that this change does not have to be bad. They want to be proud Mayas, but to be that they feel a need to evaluate their cultures and eliminate, modify and/or restore the parts that might be harmful or damaged. Their answer to purists is that there is no "pure" culture, no absolute truth, instead they are the makers of their own future and thus they should take that opportunity and create the best future and the best Mayan culture for the generations to come.

9 Suggestions for further research

There are several different aspects that could be further researched on this topic, such as: how have other women organizations in Guatemala and/or the rest of Latin America worked with these issues? What kind of change has the *Mujeres Mayas Kaqla* and/or other women organizations managed to generate? How have other members of society responded to their work and their theories? It would also be interesting to look into whether or not there are similar organizations in other parts of the world, such as Africa, and research their work.

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