



# Sacred Natural Sites

## A Law on Sacred Sites in Guatemala

### Key points

- National and international legal regulations support a Law on Sacred Sites in Guatemala
- The Law on Sacred Sites aims to achieve recognition, community management, access and administration of sacred sites
- The Law will contribute to a social and legally pluralistic society
- Social and political pressure is needed to get all congress members support the Law
- The Law process united indigenous Maya, Garifuna and Xinca indigenous peoples

### Sacred sites defined

Sacred sites can consist of man-made structures such as temples, shrines, and pilgrimage roads, but many natural places and specific plant and animal species are also of special sacred significance to Indigenous peoples and local communities and play a vital role in their overall well-being. In Guatemala, sacred sites are defined as “naturally or constructed places where cosmic energies are at a confluence to enable communication with ancestors; special places for learning and practicing the spirituality, philosophy, science, technologies and art of the indigenous peoples”<sup>1</sup>. Many sacred sites are an expression of worldviews in which nature is animated; human values are attributed to nature and elements of nature. Sacred natural sites are defined internationally as “areas of land or water having special spiritual significance to peoples and communities”<sup>2</sup> and are recognized as the oldest conserved areas in the world<sup>3</sup>. Approximately 80%<sup>4</sup> of the world’s biodiversity and 95% of the world’s cultural diversity is found on lands belonging to Indigenous peoples and local communities, many of which are recognized as sacred or contain sacred sites<sup>5</sup>. The political and legal recognition of sacred natural sites and their custodians and governance systems can thus help strengthen this primary conservation network and the cultural diversity represented by the people that maintain it<sup>6</sup>. Greater protection of sacred sites is arguably needed and can be secured by asserting and building on existing and emerging rights under national and international law.

### The emergence of sacred sites within international legal frameworks

The need to protect sacred natural sites has been signalled by various international organizations and instruments. In the 1992 United Nations Convention on Biological Diversity (CBD), Articles 8(j) and 10(c) have great potential to support the restoration, protection, and conservation of sacred sites by their traditional custodians<sup>7</sup>. In 2004, the Secretariat of the CBD released the Akwé: Kon voluntary guidelines for cultural, environmental, and social impact



Felipe Gomez

*“The Law on Sacred Sites is important, because it seeks to dignify natural and constructed sacred sites. The sites are living spaces where we practice our spirituality, celebrate important astronomical events and where we go for our healing. Sacred sites allow us to thank Mother Nature and to be in harmony with the cosmic energies and all of nature. The Law will ensure that sacred sites are administered and managed by local communities and governed by a National Council of Sacred Sites. The Council consists of spiritual leaders from Mayan, Garifunas and Xinkas indigenous communities from Guatemala. Use of sacred sites in private properties or within municipalities will also be governed by the Council.”*

Felipe Gomez, Maya spiritual leader and coordinator of the Law Initiative on Sacred Sites.



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assessments for sacred areas<sup>8</sup>. In the United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, Article 12 asserts the right to practice spiritual and religious traditions and access such sites<sup>9</sup>.

In the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention for the Safeguarding of Intangible Cultural Heritage<sup>10</sup>, Article 2.1 introduces the concept of “cultural space” through which sacred sites could be subject to the Convention’s purpose (as defined in Article 1), which is to safeguard, ensure respect for, raise awareness about, and provide international cooperation and assistance. Furthermore, Article 7.1 of the International Labour Organization Convention on Indigenous and Tribal Peoples in Independent Countries (ILO 169) states that: “The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development”. Article 14.1 of ILO 169 states: “The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities”<sup>11</sup>. In addition to these international legal frameworks, protected area and conservation designations such as Indigenous and Community Conserved Areas<sup>12</sup>, UNESCO World Heritage Sites<sup>13</sup> and Biosphere Reserves<sup>14</sup>, Ramsar Sites<sup>15</sup>, and Globally Important Agricultural Heritage Systems<sup>16</sup> create an important space in the policy and practice of conserving, restoring, and protecting sacred sites. This corpus of international legal and policy provisions arguably provides significant political leverage for the recognition and protection of sacred natural sites at the international level, through which signatory States are encouraged or mandated<sup>17</sup> to enact similar provisions at the national level.

### Box 1. A chronological overview of the development of the Law Proposal on Sacred Sites.

<b>1997</b>	A Commission for the Definition of Sacred Sites was formed on the initiative of Oxlajuj Ajpop.
<b>2003</b>	First draft of the Law Proposal on Sacred Sites presented by Oxlajuj Ajpop to the Commission for the Definition of Sacred Sites.
<b>2006</b>	Renewed governmental agreement to support sacred sites. Oxlajuj Ajpop consulted its member organizations, made a strategic plan, organized linguistic groups of Maya, Garífuna, and Xinca origin to discuss contents related to sacred sites, and formed its own technical and legal team.
<b>2008</b>	Based on dialogues with Indigenous peoples, the Commission for the Definition of Sacred Sites revised and accepted the Law Proposal on Sacred Sites.
<b>June 18, 2008</b>	The Plenary of the Congress of the Republic of Guatemala received the Law Proposal and registered it for its study and approval. It was directly sent to the Commission for Indigenous Peoples, the Commission on Legislation and Constitution, and the Peace Commission.
<b>June, 2008 - August, 2009</b>	Technical and legal advisors of different political parties studied the text and six articles were revised through dialogue processes. Oxlajuj Ajpop and the Commission for the Definition of Sacred Sites succeeded in maintaining the essence of the Law Proposal in the final text.
<b>April 19, 2009</b>	The Law Proposal was fully approved by the 11 deputies of the Peace Commission and 12 deputies of the Commission on Indigenous Peoples of the Congress.
<b>April 8, 2010</b>	In a public meeting, the Commission to Define Sacred Sites and Oxlajuj Ajpop gave a petition to the Congress through the Peace Commission to approve the Law Proposal.

### The long road to recognition of Sacred Sites in Guatemala

Oxlajuj Ajpop<sup>18</sup> is an organization of indigenous Maya spiritual leaders representing Maya, Xinca, and Garífuna groups in Guatemala. Oxlajuj Ajpop has developed a Social-Environmental Agenda for Guatemala based on the Indigenous worldviews and the Rights of Mother Earth<sup>19</sup>. As of 2010, the organization has been engaging in an ongoing dialogue process with the Ministry of Agriculture and Natural Resources, emphasizing the need for a new constitution and legal reforms that respect Mother Earth, Indigenous territories, biodiversity, and a socially and legally pluralistic state. The document, developed in 2009, has been based on consultations with representatives of the three Indigenous peoples of Guatemala (Maya, Garífuna, and Xinca) during meetings held in four different locations in Guatemala. The Agenda elaborates on proposals for state reform, how to deal with pollution and consumerism and changing production systems, and its

relation with Indigenous worldviews. In Santa Cruz del Quiché, Guatemala, Oxlajuj Ajpop is implementing various activities on sacred sites and the environment, including festivals and community education. Over 20 communities are reflecting on the importance of sacred sites, recording and documenting their histories, assessing their current ecological and legal status, and having celebrations to re-sanctify them. In the process, the Indigenous communities are also gaining awareness of their rights to participate in the administration of sacred sites based on their Indigenous management and governance systems<sup>20</sup>. As part of the process of recuperation and revitalization of sacred sites, biocultural community protocols<sup>21</sup> are being developed by two communities to provide an adaptive interface between the communities’ rights and traditional ways of life and external entities such as private companies and governments that wish to interact with them. The communities are also participating in dialogues on the law at the national

level with the Congress and politicians, thus influencing that process on the basis of their shared experiences and understanding of their rights. In Guatemala, the National Law for Peace Agreements, signed in 1996, acknowledges the rights of Indigenous peoples to practice their cultures on a specific territory and thereby implicitly acknowledges sacred (natural) sites as part of that territory. Against the legal backdrop of the Peace Agreements and the international obligations outlined above, a Law Proposal on Sacred Sites<sup>22</sup> has been developed over the past 13 years (see Box 1).

Thus far, the Law Proposal for Sacred Sites has not been accepted by all members of the Guatemalan Congress and the government, but negotiations still continue. The aim of the Law Proposal is to achieve recognition for and community management over the access to and use, conservation, and administration of sacred sites<sup>23</sup>. If accepted by the government, the Law would arguably set a precedent to incorporate aspects of Mayan and other Indigenous peoples' identities that are central to sacred natural sites into other areas of Guatemalan law

### Opposition from the private sector

Within the current political context of Guatemala, not all parties are yet supportive of the Law Proposal. Certain political parties do not recognize or respect historic, spiritual, and cultural rights. These parties are linked to extractive economic enterprises in the country and are concerned that the Law Proposal would restrict their ability to exploit natural resources. Interest groups lobbying the Guatemalan parliament on behalf of the private sector have, on several occasions when the law proposal was being discussed in parliament, put forward that Article 20 affects private property. As a result, the Article was modified in 2009 and now reads: "In cases in which sacred sites are declared sacred and are part of the Cultural Heritage of the Nation, the administration of these sacred sites is coordinated by the Ministry of Culture and Sports and the National Council of Sacred Sites". Although Article 20 still respects rights of



Multidisciplinary groups will be formed, with representatives from both Maya and Western scientific backgrounds to discuss the registration, management, and customary laws related to sacred sites. Furthermore, the Maya and other Indigenous movements will strengthen alliances with civil society movements to put social and political pressure on the Congress of Guatemala to accept the Law Proposal; they also plan to present their efforts to the United Nations Permanent Forum on Indigenous Issues<sup>26</sup>. At the local, national, regional, and international levels, different organizations such as Oxlajuj Ajpop, Maya Vision, ETC COMPAS, and the International Union for Conservation of Nature (IUCN) are working together to highlight the importance of sacred sites in the lives of Indigenous peoples. This is indispensable to the self-determination of Indigenous peoples to recuperate their territorial rights, conserve biodiversity, and revitalize traditional knowledge and customary ways of life. Overall, coordination efforts between Indigenous movements and supporting non-governmental organizations and networks should enable Indigenous peoples to revitalize and administer their ancestral sacred sites as they have been doing for centuries.

### Notes

1. Oxlajuj Ajpop, 2007. *Iniciativa de Ley de Lugares Sagrados de los Pueblos Indígenas*. Published with the support of ETC COMPAS, SDI, CATIE, and Mecanismo de apoyo de Pueblos Indígenas: Guatemala, page 15.

2. Wild, R., and C. McLeod (eds.), 2009. *Sacred Natural Sites: Guidelines for Protected Area Managers*, Best Practice Protected Area Guidelines Series, No. 16. IUCN and UNESCO: Gland, Switzerland.

3. Dudley, N., L. Higgins-Zogib, and S. Mansourian, 2009. "Links between Protected Areas, Faiths, and Sacred Natural Sites".

## Biocultural Community Protocols are developed in two communities to support the recuperation and revitalization of sacred sites

such as education, natural resource management, health, and justice. The Law Proposal focuses on the integral quality of sacred sites as a source of spirituality, territory, knowledge management, reproduction, and a holistic vision of the world. In other words, it expresses the importance of sacred sites to Indigenous peoples' well-being and cosmology. Adoption and implementation of the Law Proposal would enable the Mayan worldview to complement the contemporary, Western state-based system currently adopted by the Guatemalan government<sup>24</sup>. Indigenous organizations would also be assisted with training programmes in administration and biodiversity management. In that sense, the Law Proposal serves as an important step towards the development of a social and legally pluralistic society within Guatemala.

Indigenous peoples, it does not directly enable Indigenous action that may affect access to and ownership and exploitation of private property and natural resources contained therein. This complicates the Indigenous custodianship of sacred sites on private lands<sup>25</sup>. There is good faith that the Law will be approved, though with some adaptations. Importantly, this process has helped mobilize Indigenous communities to recuperate and organize the administration of sacred sites at the local level.

### The way forward

The Indigenous Maya calendar, sacred fire, ancestors, traditional leaders, and community leaders are continuously consulted by spiritual leaders of Oxlajuj Ajpop to get insight and direction about the way forward in the negotiation process. Over the coming years, Sacred Sites Councils based on linguistic territories will be organized.

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*Conservation Biology*, 23(3): 568-577.

4. Secretariat of the Permanent forum on Indigenous Issues, 2009. *State of the World's Indigenous Peoples*. Department of Economic and Social Affairs Division for Social Policy and Development, United Nations: New York.

5. Sobrevilla, C., 2008. *The Role of Indigenous Peoples in Biodiversity Conservation: The Natural but Often Forgotten Partners*. The World Bank: Washington, D.C.

6. Verschuuren, B., R. Wild, J. McNeely, and G. Oviedo (eds.), 2010. *Sacred Natural Sites, Conserving Culture and Nature*. Earth Scan: London.

7. Guatemala signed the CBD on July 10, 1995. Article 8(j) states that contracting parties shall, "[s]ubject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices." Article 10(c) states, "Each Contracting Party shall, as far as possible and as appropriate protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements". Last accessed August 23, 2010, at: <http://www.cbd.int/convention/articles.shtml?a=cbd-10>.

8. Secretariat of the Convention on Biological Diversity, 2004. *Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments Regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities*. CBD Guidelines Series: Montreal.

9. United Nations Declaration on the Rights of Indigenous Peoples, 2007. UN Doc A/RES/61/295.

10. Signed by Guatemala on October 25, 2006. Convention on the Safeguarding of Intangible Cultural Heritage (CSICH), opened for signature October 17, 2003, UNESCO Doc MISC/2003/CLT/CH/14 (entered into force April 20, 2006).

11. Ratified by the Guatemalan government

on June 5, 1996. See ILO 169, 1989. ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries. 28/ILM/1382, 1991.

12. See, for example, the ICCA Registry. UNEP-WCMC, 2010. "Recognising Indigenous and Community Conservation". Last accessed August 23, 2010, at: <http://www.iccaregistry.org>; and the ICCA Consortium, 2009. Last accessed August 23, 2010, at: <http://www.iccaforum.org>.

13. For UNESCO World Heritage Sites registered by the World Heritage Committee, see UNESCO World Heritage Centre, 2010. "World Heritage List". Last accessed August 23, 2010, at: <http://whc.unesco.org/en/list>.

14. UNESCO, 2010. "UNESCO's Man and the Biosphere Programme (MAB)". Last accessed August 23, 2010, at: [http://portal.unesco.org/science/en/ev.php-URL\\_ID=6393&-URL\\_DO=DO\\_TOPIC&-URL\\_SECTION=201.html](http://portal.unesco.org/science/en/ev.php-URL_ID=6393&-URL_DO=DO_TOPIC&-URL_SECTION=201.html).

15. Ramsar Convention on Wetlands of International Importance (no date). Last accessed August 23, 2010, at: <http://www.ramsar.org>.

16. FAO, 2009. "Globally Important Agricultural Heritage Systems". Last accessed August 23, 2010, at: <http://www.fao.org/nr/giahs/en/>.

17. Whether States are mandated or simply encouraged to do so depends on whether or not the international instrument in question is legally binding. For example, while the Convention on Biological Diversity (and the provisions contained therein) is legally binding, the United Nations Declaration on the Rights of Indigenous Peoples is voluntary.

18. Oxlajuj Ajpop is comprised of different Indigenous groups and is a leading member of the COMPAS Network in Central America to implement endogenous development approaches to bio-cultural diversity based on Indigenous worldviews.

19. Oxlajuj Ajpop, 2009. *Agenda Socio Ambiental desde el Pensamiento de los Pueblos Indígenas por los Derechos de la Madre Tierra*, Guatemala. 20 Article 66 of the Guatemalan Constitution acknowledges that the Guatemalan state is made up of diverse ethnic groups and that "the state must recognize, respect and promote the ways of life, customs, traditions, forms of social organization, the use of Indigenous traditional dress, languages and dialects".

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21. Bavikatte, K., and H. Jonas (eds.), 2009. *Bio-cultural Community Protocols: A Community Approach to Ensuring the Integrity of Environmental Law and Policy*. UNEP: Nairobi.

22. Oxlajuj Ajpop, 2007.

23. Article 1 states that the aim of the Law Proposal is to guarantee the historical, cultural, and spiritual rights of the Indigenous peoples by means of recognition, respect, dignification, use, conservation, administration, and access to sacred sites, constructed or natural, located in the national territory of Guatemala (see Oxlajuj Ajpop, 2007).

24. Article 23 mandates the creation of the National Council of Sacred Sites, a decentralized unit within the state with a legal status and its own resources. Articles 25 and 28 describe the Council of Principals as the highest authority of the National Council of Sacred Sites, consisting of 52 representatives, including 24 from each of the linguistic communities from the Maya, Garífuna, and Xinca origin and 28 representatives from the proportionate size of each linguistic community.

25. Custodians of sacred sites need access to sacred sites for carrying out their responsibilities and customary use such as performing ceremony and ritual. When owners of the land on which sacred sites are located have made no provisions for such activities, custodians face problems regarding the social, material, and spiritual well-being of the communities they represent.

26. United Nations Permanent Forum on Indigenous Issues, 2006. Last accessed August 23, 2010, at: <http://www.un.org/esa/socdev/unpfi/index.html>.

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