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## **INTERPRETING LAND IN THE GUATEMALAN PEACE PROCESS**<sup>1</sup>

### **Introduction**

Land distribution was one of the root causes of Guatemala's 36-year internal armed conflict. The peace accords, embodied in the December 1996 final agreement, disregard this issue, providing only cosmetic reform proposals, which maintain the privileges of the landed oligarchy. However, we must also consider interpretations of land which extend beyond the problem of distribution. Examining the struggles of displaced and indigenous populations provides these perspectives.

That the accords avoid any significant reorganisation of the land tenure system indicates that the Guatemalan oligarchy succeeded in its historic project of protecting private property. The oligarchy, a diverse grouping of landed and industrial-commercial-financial interests, mobilised politically to prevent redistribution appearing within the peace accords. For the business elite and their political party, the ruling centre-right Party of National Advancement (PAN), the negotiations have successfully tackled the land issue. But the accords contain little of value for landless *campesinos* living below subsistence and involved in land occupations. The weakness of the accords with regard to redistributive reform is a primary reason why the Guatemalan transition will remain highly limited.

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<sup>1</sup> Thanks to Samantha Sams, Revan Schendler, and Anna Vinegrad for comments and suggestions. This article is unpublished.

For refugees and the internally displaced, searching for a *parcela* on which to plant maize and beans, issues such as credit to buy land, soil quality, and proximity to military bases are of primary importance. Land disputes between displaced and non-displaced communities, and within the displaced population, have also become significant. Many indigenous groups, who synthesise the struggle for indigenous rights and land rights, consider land a central issue in the peace process due to its cultural and historical value, and long-standing border conflicts among indigenous groups are a major concern.

It is difficult to explore the relationship between land and the peace process in neutral language, from an impartial perspective. For example, those involved in occupations often refer to them as historical ‘recuperations’, while the government and press describe them as ‘invasions’ (Cojti 1997).<sup>2</sup> Using a term such as land ‘occupations’, I suggest a neutrality which is more apparent than real. However, recognition of such distortions should contribute to, rather than undermine, an understanding of the complexities of land problems in Guatemala.

The analysis begins by emphasising the centrality of land in Guatemala’s armed conflict and the absence of concrete reform since the 1950s, and then examines how the origins of the peace process influenced the framework for discussion of land. Following this I argue that the Socioeconomic Accord, the first of three agreements which address agrarian issues, failed to confront land distribution. This is explained in relation to both oligarchic intransigence and weaknesses of political actors on the left. The discussion of the Resettlement Accord shows that the land interests of displaced populations have received inadequate attention. Finally, I suggest that the Accord on the Identity and Rights of Indigenous People has not created the mechanisms necessary to satisfy Mayan land-related requirements.

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<sup>2</sup> The latter warfare metaphor associates those occupying vacant lands with the guerrillas, and helps justify state repression against the landless (Lakoff and Johnson 1980).

### **Roots of conflict and cosmetic reform**

During the colonial period the Spanish crown invoked the theory of *señorío*, through which it claimed a right to all lands that it conquered, automatically abolishing the property rights of indigenous people. The growth of *latifundios* (large estates) was also fueled by the ‘principle of incentive’ (Martínez Peláez 1990: 146). Private companies and individuals were attracted to the colonies by the promise of large tracts of land and virtually free indigenous labour. Granting communal land titles to ‘indians’ was also a fundamental element of colonial agrarian policy, concentrating and sustaining the indigenous population such that it was easily available for work on the *latifundios* (Martínez Peláez 1990: 143-158). More recent agricultural policy, such as the growth of the coffee economy from the 1870s, and the modernisation and diversification of the 1950s and 1960s (especially into sugar and cattle), has extended encroachment on indigenous lands and intensified the concentration of property ownership.

Additional factors contributed to land inequalities and the crisis of rural subsistence of the 1970s, which overwhelmingly affected indigenous Mayans. Population growth during the 1960s and 1970s, and the earthquake of 1976, ensured that between 1950 and 1975 the average size of a highland plot fell from 1.3 hectares/person to 0.85 ha/person, and that at the end of the 1970s there were over 400,000 landless labourers (Jonas 1991: 79). By 1979 72.2% of agricultural land was owned by 2.1% of the population and 88.2% of all plots were below family subsistence size (Berger 1992: 2). State violence, the growth of popular organisations, church *conscientización*, and the recomposition of the insurgent movement after defeat in the 1960s, all added to the revolutionary crisis of the late 1970s and early 1980s. Yet as in El Salvador and Nicaragua, both the disparity of rural property ownership and the pressures on the land tenancy system in the 1970s, were fundamental causes of armed conflict. As Dunkerley argues: ‘Nobody in their right

mind could plausibly refute the view that the Central American conflict is rooted in the economic structure of the region' (Dunkerley 1988: 171).

In the military's 'scorched earth' counterinsurgency campaign of 1981-1983, over 100,000 mostly indigenous people were killed, 440 villages completely destroyed, more than 10% of the population were internally displaced, and 150,000 were forced across the border into Mexico, 46,000 of whom were registered as refugees (Jonas 1989). Rural Guatemala became highly militarised: people were placed in 'model villages' and forced to join paramilitary 'civilian self-defence patrols' (PACs).<sup>3</sup> Between 1980 and 1990 the rural population living in poverty increased from 65% to 75%, while the percentage of *campesinos* in extreme rural poverty rose from 44% to 72% (Palencia and Holiday 1996: 22). In 1988 conservative official figures indicated that 367,000 *campesinos* out of a total population of 10 million were landless or had not enough land for subsistence, while in 1991 52% of cultivatable land remained underused (Gidley 1996: 3).

The only serious threat to private property this century was the 1952 agrarian legislation under the civilian reformist Arbenz regime. The land reform was violently opposed by the oligarchy, the United States (as it threatened property owned by the United Fruit Company), and key sections of the army (which opposed the formation of peasant leagues in rural areas). Guatemalan *fincas* (large landowners) rejected the legislation, as did industrialists (who had important interests in coffee, sugar, cotton and cattle). Neither the oligarchy, the army, nor the United States were able to prevent the initial implementation of the reform. By June 1954, 917,659 acres of land had been expropriated from 1,000 *fincas*. However, the unified oligarchy collaborated with the US and the military in the coup which overthrew Arbenz in 1954, and the reform was swiftly reversed under a US-backed military regime (Dosal 1995:100, 109, Handy 1984:132, Gleijeses 1991:378).

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<sup>3</sup> At least 50,000 people were resettled in model villages and 725,000 conscripted into PACs (Dunkerley 1994: 79).

The Arbenz experience had a polarising effect on Guatemalan politics, such that land reform was not considered a legitimate issue until the 1990s. The erosion of private property was simply off the political agenda during this period; hence agrarian reform after 1954 was highly limited. Under the Castillo Armas government (1954-1957) the establishment of 'Zones for Agrarian Development' did little to utilise idle lands and benefited only 2,814 families. Ydígoras Fuentes's (1958-1963) Decree 551 was ineffective in taxing undercultivated lands, and under Peralta (1963-1966) the oligarchy supported *campesino* colonisation of the Petén jungle to take pressure off their own *latifundios*. The Langerud García administration (1978-1982) supported a small co-operative movement, but independent co-operatives suffered military repression. Cerezo's 1986 Integrated Rural Development Plan was more concerned with efficiency and attracting foreign investment than promoting structural reform (Berger 1992: 95, 112, 130, 184,198).

At the end of the 1980s, when the peace process began, land tenure reform was undoubtedly a key to pacification. Property concentration and increasing landlessness had been a major cause of the internal armed conflict, and the counterinsurgency campaign had exacerbated the rural crisis of the 1970s: land and violence were inextricably entwined. Yet even after the return to civilian rule in 1986, the existing political parties ignored land reform, and popular organisations demanding agrarian change were labeled as wings of the guerrillas and met with state violence. By the early 1990s indigenous and *campesino* groups were able openly to advocate land reform and lobby the peace negotiations. Yet attempts to place land reform on the negotiating table largely failed.

### **Origins of the peace process**

In 1987, after the Iran-Contra scandal and peace proposals from an ally of the US, Costa Rica, and within the regional framework of the August 1987 Esquipulas II Agreement, the recently-elected Cerezo government initiated the Guatemalan peace process.<sup>4</sup> In October the Guatemalan National Revolutionary Unity (URNG)<sup>5</sup> and the government held their first meeting in Madrid. By 1989 pressure from the Catholic church, Costa Rican President Oscar Arias, and trade union and popular organisations led to the initiation of a National Dialogue, as specified by Esquipulas II. This was the first instance of an arena for popular forces in Guatemalan civil society to participate in the political transition. However, the dialogue had limited impact because the URNG was banned from the talks, delegates were subjected to human rights abuses, and CACIF<sup>6</sup>, the primary economic and political body uniting the oligarchy, refused to join.

Talks were held in 1990 between the URNG and various civil and political groups, many of which had participated in the National Dialogue. The prevailing international context was important in providing the impetus for this so-called Oslo process. The end of the cold war, progress in the Salvadoran peace process, and the Sandinista's electoral loss in Nicaragua all affected the negotiations (Dunkerley, 1994: 80). Cerezo announced that the government no longer made it a condition that the guerrillas would have to lay down arms in order to take part in preliminary discussions with political parties and organisations in civil society. This changing international terrain is also linked to some sectors of the army beginning to support negotiations, and helped to entice CACIF into the 1990 talks.

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<sup>4</sup> The Iran-Contra scandal sharpened the divide between the US presidency and the legislature, as Congress had been disregarded in fiscal matters concerning Central America. This rupture 'provided the governments of the isthmus with the unprecedented option of shifting diplomatic position and tentatively constructing a regional bloc whilst still retaining some support in Washington' (Dunkerley 1994: 45). Esquipulas II called for an end to armed conflict and the initiation of national dialogues in Nicaragua, El Salvador and Guatemala.

<sup>5</sup> The URNG was formed in 1982 and united four revolutionary organisations, some of which had been fighting since the 1960s. By the mid-1980s, severely weakened by the military's counterinsurgency campaign, the URNG favoured a negotiated solution to end the armed conflict (Jonas 1991: 149).

The Oslo talks included political parties (Spain, May 1990), CACIF (Ottawa, August 1990), religious organisations (Quito, Ecuador, September 1990), trade unions and popular organisations (Metepéc, Mexico, October 1990), and academics, co-operativists, *poblador* groups and small and medium business groups (Atlixco, Mexico, October 1990). The discussions opened the way for direct negotiations between the government and the URNG. In April 1991, three months after the election of centre-right President Jorge Serrano, the two negotiating parties signed the Mexico Accord, which specified an eleven-point agenda for the peace talks, including the discussion of seven substantive themes: (i) democratisation and human rights, (ii) strengthening of civil society and the function of the army in a democratic society, (iii) the identity and rights of indigenous people, (iv) constitutional reform and electoral regime, (v) socioeconomic aspects, (vi) the agrarian situation, (vii) and resettlement of the population displaced by the internal conflict.

The negotiations stagnated during 1991 and 1992, due to a failure to reach an accord on human rights. The military refused to make concessions such as the creation of a Salvadoran-style Truth Commission, which would name perpetrators of human rights abuses during the armed conflict. The peace process was then derailed by Serrano's attempted *autogolpe* (self-coup) in May 1993. A combination of military officers, private business and popular organisations was able to force the removal of Serrano, who was replaced by Ramiro de León Carpio.

A turning point was reached during the tenure of De León Carpio, with the signing of the January 1994 'Framework Accord for the Renewal of the Negotiating Process between the Government of Guatemala and the URNG'. The Framework Accord is the key document for understanding the peace process in its most successful stage, from 1994 to the signing of the final accord in December 1996. The UN was the designated moderator, with the Group of Friends (Colombia, Spain, the United States, Mexico, Norway and Venezuela) assigned the part of aiding the UN's

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<sup>6</sup> The Co-ordinating Committee of Agricultural, Commercial, Industrial and Financial Associations

moderating role in addition to legitimising the accords by acting as ‘witnesses of honour’. The UN also had a role in verifying both the operative and the substantive accords. The *partes* (negotiating parties) agreed to set up a Civil Society Assembly (ASC), comprising non-governmental sectors of Guatemalan society on condition that they could demonstrate their ‘legitimacy, representivity and legality’. The Assembly was to write non-binding consensus documents on most of the substantive themes. By incorporating indigenous and peasant organisations, the Assembly provided an arena for the voices of those who considered land to be the primary issue in the peace process. However, substantial land reform was largely ignored in the three agreements where it was most relevant: the Socioeconomic Accord, the Resettlement Accord, and the Indigenous Accord.

<u>Chronology of the Peace Process (1987-1996)</u>	
Aug 1987	Esquipulas II agreement signed by Central American presidents, providing framework for peace talks and national reconciliation.
Sept 1987	Establishment of National Reconciliation Commission (CNR) under presidency of Bishop of Esquipulas, Rodolfo Quezada Toruño.
Oct 1987	First public contact between guerrillas and state for 27 years. No accord signed.
Aug 1988	First URNG-CNR talks in San José.
1988/89	National Dialogue fails to yield firm results. URNG banned from participation and CACIF refuses to take part.
March 1990	Second URNG-CNR meeting in Oslo. 'Basic Accord for the Search for Peace by Political Means' signed, a general accord to resolve conflict by political means. Quezada Toruño to act as 'conciliator' and UN as observer.
June 1990	'Escorial Accord' between URNG and political parties in Spain. Parties envisage legalisation of URNG
Sept 1990	URNG talks with CACIF in Ottawa end without joint agreement or communiqué.
Sept 1990	'Quito Accord' between URNG and Church. Joint support for constitutional reform, respect for human rights, and the need to tackle economic deprivation.
Oct 1990	'Metepec Accord' in Mexico between URNG and unions/popular organisations.
Oct 1990	'Atlixco Accord' in Mexico between URNG and small and medium businesses, co-operativists, academics.
Jan 1991	Election of Serrano (MAS) in second round.
April 1991	'Mexico Accord' signed in Mexico D.F.. First official URNG-government talks agree on 11-point agenda. URNG achieves concession of inclusion of 'substantive' themes on agenda.
July 1991	'Querétaro Agreement' ('Framework Agreement on Democratization for the Search for Peace by Political Means') in Mexico on first agenda item - meaning of democracy.
1992/93	Failure to agree on human rights accord.
May 1993	Serrano unsuccessfully attempts <i>autogolpe</i> (self-coup).
June 1993	Congress appoints as new president Ramiro de León Carpio.
Jan 1994	'Framework Agreement for the Renewal of the Peace Negotiations between the Government of Guatemala and the URNG' signed in Mexico D.F.. UN to act as moderator and formation of Civil Society Assembly to present consensus documents on substantive themes.
March 1994	'Global Human Rights Accord'. Government obligation to end impunity and UN mission (MINUGUA) to verify accord.
June 1994	'Accord on the Resettlement of those Displaced by the Armed Conflict'.
June 1994	'Accord on the Establishment of the Commission to Clarify Human Rights Violations and Acts of Violence that have caused the Guatemalan Population to Suffer'. A Truth Commission to investigate human rights abuses during to war but will name only institutions, not individuals, as responsible.
Nov 1994	MINUGUA deployed.
March 1995	'Accord on the Identity and Rights of Indigenous People'.
Jan 1996	Election of Arzú (PAN) in second round.
March 1996	URNG unilateral cease-fire. Government responds by calling off counterinsurgency activities.
May 1996	'Accord on Socioeconomic Issues and the Agrarian Situation'.
Sept 1996	'Accord on Strengthening of Civil Power and the Function of the Army in a Democratic Society'.
Dec 1996	'Accord on Reforms to the Constitution and Electoral System'.
Dec 1996	Final accord signed.

### **The Socioeconomic Accord**

The most delicate substantive theme to negotiate, the Socioeconomic Accord was only signed after over a year of discussion. The reaction from the government and private sector business representatives was positive, while members of *campesino*, indigenous, and other popular civil groups were far more sceptical.

These responses related to the character of the negotiation process. The Civil Society Assembly was mandated to write a consensus proposal on the agrarian issue. This document demanded structural changes to the land tenure system and recognition of the 'social function' of property (ASC 1995: 72). In contrast, the business association CACIF called for agrarian modernisation within a framework of 'respect for private property' (CACIF 1995: 9). During the negotiations, CACIF refused to accept the UN's June 1995 draft proposal, which mentioned the social function of property (Central America Report - CAR - 16/6/96). CACIF also rejected the UN's December 1995 document on the same issue (interview 24.7.96).

The final accord reflected few Assembly proposals. It incorporated an element of decentralisation and the inclusion of women in development, but the social function of property was not addressed. Many ASC organisations were unwilling to recognise the accord because of its omission of a redistributive agrarian reform. Although the Assembly did finally give its endorsement, groups such as National Indigenous and Peasant Co-ordinator (CONIC) and Co-ordination of Mayan Peoples Organisations (COPMAGUA) did so with considerable misgivings. CACIF achieved its major aims: to protect private property by preventing any substantial land reform, to prevent radical changes to the regressive taxation system, and to produce a document that was sufficiently vague not to tie down future governments to very specific reforms.

There are, however, provisions in the accord which could benefit landless *campesinos*. One is for the creation of a land fund, comprising specific property held by the state, and lands in the Petén jungle area and Northern Transversal Region which were illegally acquired by members of the armed forces during military rule in the 1970s. After much delay the fund, FONTIERRA, was established in July 1997. Its function is to provide loans, rather than to directly grant land, to displaced populations, ex-guerrilla combatants, and ex-members of the civilian self-defence patrols. Bodies similar to FONTIERRA which were created to provide land credits for returned refugees, have failed to meet their objectives due a combination of inefficiency, underfunding, and corruption. There is little evidence that the new land fund will be any different. Without having the power to expropriate underused rural property owned by the landed elite or distribute land, FONTIERRA may have an impact similar to the post-1954 piecemeal attempts at agrarian reform.

The accord also created the Presidential Office for Legal Assistance and the Resolution of Land Conflicts (CONTIERRA). The office is to provide legal assistance to farmers and agricultural workers when requested, to receive denouncements of abuses committed against agricultural communities, workers and individual *campesinos*, and to intervene in land conflicts when solicited by one of the parties to gain a 'just and expeditious settlement' (WCC/Gricar Situation Report No.46, 1997: 15). Around 358 known land disputes will come under CONTIERRA's jurisdiction, most of which are border conflicts, with only 19 covering land occupations (CAR 17/7/97). In addition, it will only mediate in new conflicts, leaving old conflicts untouched. A statement made by the executive director, that the body 'will not be an instrument to compensate groups that mobilise outside the law' (CAR 17/7/97), ensures that those involved in land occupations will gain little. CONTIERRA is additionally co-ordinating the national land survey specified by the Socioeconomic Accord. The government has announced that it lacks the funds to

complete the survey and may contract out the work to the private sector; the impact of the survey remains uncertain.

An underlying assumption of these reforms is that the creation of new state structures will help solve agrarian conflict. Yet the lesson from Guatemala's recent history is that these structures are ineffective in settling land disputes, particularly for the indigenous population. Sieder (1997: 35) quotes a report from the Pastoral Social of the Catholic Church:

'It is difficult to pursue an ordered legal claim for untitled land because of the structure of the state and its service institutes; generalised corruption in the INTA [National Institute for Agrarian Transformation] and other agencies resulting in the claims becoming bogged down; non-compliance in the execution of resolutions as indicated by law; discrimination towards the indigenous population by INTA staff; those handling the claims taking advantage of lack of knowledge on part of the representatives of the untitled communities; because of their inability to understand Spanish and read and write community representatives are tricked; the delay in pursual of claims by INTA employees results in such frustration on the part of community representatives that they arrive at the extreme of abandoning their claims.' (Verapaz Diocese, November 1994)

Inadequacies of the legal system are also apparent: the judiciary is particularly weak in rural areas, is highly corrupt, and largely considered to lack independence from large landowners (Palencia and Holiday 1996: 19).<sup>7</sup> Without fundamental changes in the operation of the local legal system, land disputes are unlikely to be fairly arbitrated and impunity for human rights abuses against *campesinos* may continue. Given this institutional tradition, the land-related provisions in the Socioeconomic Accord will have a much-reduced impact.

*Campesino responses to the agreement*

The growth of land occupations since 1994 partly reflects the absence of structural land reform. Since the end of direct military rule in 1985, land occupations have become an increasingly important form of struggle against poor working and living conditions, and the inequalities and complexities of land tenure arrangements.<sup>8</sup> Before 1994 the aims of occupying groups mainly related to wage demands. Thus the 1989 and 1990 peasant mobilisations orchestrated by Committee of Campesino Unity on the Pacific Coast focused on pay and working conditions.<sup>9</sup> Once the peace negotiations entered their most active phase, after January 1994, the struggle for land was reoriented, with demands also focusing on structural reform of the land tenure system. Protesting groups saw this period as an opportunity to push the problems of the landless on to the negotiation table. Hence, occupations in 1995 were more than double the level of any of the previous ten years, an increase closely linked to the negotiation of the peace accords.<sup>10</sup> Both CONIC and the National Co-ordinator of Campesino Organisations (CNOC) voiced demands for: the recuperation of national lands seized by large landowners at the expense of *campesinos* on the Southern Coast (especially during the agricultural modernisation of the 1950s and 1960s), the return of lost ancestral lands, the restoration of lands granted under Arbenz in 1952 but later expropriated, and the recovery of lands seized by the military in the 1970s and 1980s.

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<sup>7</sup> For examples see the following section on land conflicts.

<sup>8</sup> Gidley (1996: 21) argues that new governments tend to be greeted with land occupations, as peasant and indigenous groups attempt to gauge the responsiveness of the administration to their problems. The political opening under Cerezo (1986-1991) encouraged popular organisations to enter the public sphere, despite continuing repression. After a drop in activity towards the end of the Cerezo administration, media reports of land occupations in 1991 and 1992 increased, coinciding with the early period of the Serrano Presidency. Occupations jumped again in 1994 under De León Carpio and have continued since Arzú became president in January 1996.

<sup>9</sup> At the end of the 1980s *campesino* and indigenous groups also began to call for the demilitarisation of the countryside, and the end of forced conscription and civil patrols.

<sup>10</sup> Gidley's data shows up to 80 occupations reported by some papers in 1995 (Gidley 1995: 21). The data should be treated with caution, as the growth in land occupations may partly be a function of increased media reporting in the latter period of her study.

The negotiations were immune to these pressures. Peasant and indigenous organisations were accused of links with the guerrillas and faced repression by both state security forces<sup>11</sup> and private ‘security forces’ hired by landowners. According to Amnesty International:

‘The perpetrators of these violations are...members of the security forces or members of private police companies who guard property and operate under licence from the Ministry of the Interior – functioning, by law, as auxiliaries of the police force – acting with the complicity of the landowners.’ (Amnesty International, 1997: 25)

In September 1994, in an occupation in San Juan del Horizonte (Quetzaltenango), government forces killed three *campesinos*, and a local peasant leader was later assassinated (Bastos and Camus 1995: 117-118).<sup>12</sup> More than two years after the eviction a trial has not yet taken place, and members of the security forces involved remain unpunished. The case has seen numerous judicial irregularities, and in March 1996 the presiding judge ruled that it was not necessary to summon the landowner to testify (Amnesty International 1997: 25-26). In an attempt by the National Police (including members of the Immediate Reaction Force) to evict occupiers in April 1996 at the El Tablero *finca* (San Marcos), four *campesinos* were shot and one was killed. Since the final peace accord was signed, land conflicts have continued in areas such as the Northern Transversal, the Southern Coast and the northern Petén.<sup>13</sup> On January 24, 1997, for example,

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<sup>11</sup> The National Police, Immediate Reaction Force and Treasury Guard have all taken part in land evictions. As the military becomes more involved in internal security, in possible violation of the peace accords, it is also increasingly active in controlling land occupations (Schirmer 1997).

<sup>12</sup> In addition, under pressure from CACIF, the De León Carpio government extended the jail sentence for invading private property from two months to between one and two years (Gidley 1996: 34).

<sup>13</sup> Environmental issues accompany land occupations in the Petén. Many disputed areas are within the Maya biosphere, a 1.2 million hectare biodiversity reserve. Media attention has focused on *campesinos* cutting and burning rare and precious woods (CAR 10/4/97). This raises a tension between international environmental non-governmental organisations demanding protection of the Petén jungle, and local peasant, indigenous, and displaced organisations struggling for subsistence and attempting to find cultivable land.

private security guards attempted to evict land occupiers in El Sauce, El Estor, in the department of Izabal. One woman was killed, reportedly shot by the local landowner, and crops and housing were destroyed. The arrest warrant issued against the landowner has never been enforced (Amnesty International 1998).

### *Explaining the absence of reform*

The absence of redistributive agrarian reform in the Socioeconomic Accord is not surprising. The URNG was never in a particularly strong negotiating position. Large portions of the military 'considered the notion of negotiation thoroughly ignoble', on the grounds that by 1993 the guerrillas were a marginal military force (Dunkerley 1994: 77). Although the URNG was not forced to lay down their arms during the talks, it seems unlikely that they could have imposed a redistributive reform on the government and landowners. This assumes that the URNG was always going to push for a major land reform. Yet as the prospect of a negotiated settlement became more realistic, it appears that some sectors in the guerrillas favoured a less confrontational approach. Key leaders believed that land reform could only be achieved on the basis of consensus, if a reaction similar to that following the Arbenz agrarian decree was to be avoided.<sup>14</sup> In addition, the guerrillas may have taken a more flexible stance on a land reform during negotiation of the Socioeconomic Accord in order to speed up the overall peace process, which appeared to be stagnating, as occurred between 1991 and 1993.

The variety of positions on agrarian reform among popular civil groups may also have played a role. No united front was presented by the *campesino* movement, indigenous groups, or co-operative organisations. There may have been a single ASC document on the agrarian situation,

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<sup>14</sup> Ricardo Ramirez allegedly held this view in the late 1980s. Personal communication with Anna Vinegrad.

but the demand for recognition of the 'social function' of property was accompanied by few concrete proposals for change and lacked technical content. The issue of land tenure reform revealed the fragmented nature of Guatemala's popular organisations.

However, the intransigence of the oligarchy largely explains the weakness of the Socioeconomic Accord. The oligarchy is not an homogenous entity, and the relationship between landed elements and industrial-commercial-financial interests is complex.<sup>15</sup> The growing importance of the latter sectors has been a slow process, and it was not until the late 1980s that they were regularly dominating large landowners within CACIF. However, at least since the 1930s, the business elite have displayed remarkable unity when challenged by threats to private property, the possibility of direct tax increases, and the extension of labour rights.

During the early stages of the peace process, landowners within CACIF were unwilling to support talks with the guerrillas. They had the most to lose from agrarian reform, and had been the primary target of guerrilla-imposed war taxes, kidnappings, and property damage. By 1994 the strength of modernising sectors in the business elite resulted in the creation a Business Peace Commission (CEPAZ) to support and lobby the peace process. CEPAZ was not only used as a vehicle to ensure that the oligarchy's views were expressed in the peace accords; it also served as a channel from the negotiating table to CACIF businessmen, particularly to assure the conservative agrarian sector that 'it was not a revolution that was happening at the negotiating table' (interview 17.7.96). The success of CACIF in the Socioeconomic Accord lies in this historic ability to unite and protect its interests.

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<sup>15</sup> Divergence within the oligarchy has occurred on issues including protectionism and regional trade integration, indirect taxation, and support for the peace talks.

Differences between rural and urban elites in Guatemala have not resulted in the triumph of the later over the former and the consequent weakening of landowners' political and economic power, as was the case in western industrialised democracies (Rueschmeyer, Stephens and Stephens 1992). Instead, both landowner and urban business interests have remained substantially unified in CACIF. Economic ties across sectors have drawn together the business elite. Modernising industrial and commercial elements have both emerged from and expanded into the agricultural sector, such that there is no clear division between the 'landed aristocracy' and the 'industrial bourgeoisie' (Dosal 1995: 2, 5). A related source of unity is the existence of strong 'family networks' (*redes familiares*) across business elite sectors, based on marriage and a shared non-indigenous ethnic background (Casaus Arzú 1992). Families such as Aycinena, Arzú, Urruela, and Díaz Durán have sustained this oligarchic nucleus from the 1700s to the present.

The links between business and the state are crucial for CACIF's influence. The Beltranena-Aycinena wing of the Aycinena family collaborated with a number of military governments after 1954, and in the civilian period two Aycinenas held posts in Serrano's cabinet.<sup>16</sup> In the peace process, CACIF's links to the De León Carpio and Arzú governments gave it privileged access to the negotiations. De León Carpio, a representative of the neoliberal wing of the oligarchy and ex-head of the sugar growers' association, placed CACIF members in his cabinet (Dosal 1995: 188). Arzú, although from a younger modernising generation of the elite, is himself part of a family whose wealth is based on commerce and which 'politically, represents the most conservative and oligarchic wing of the dominant classes, and continues to unite them' (Casaus Arzú 1992: 106).

The limitations of the Socioeconomic accord in relation to land reform is primarily a result of the strength of the business elite in CACIF. While infighting is common, to the extent that CACIF

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<sup>16</sup> Maria Luisa Betranena Aycinena was Minister of Education and Culture, while Acisclo Valladares Molina Aycinena was Attorney General (Casaus Arzú 1992: 91).

was almost cleft in two when Ríos Montt imposed a value-added tax in July 1983, threats to private property restore harmony between *finqueros* and urban modernisers. Until this internal unity disappears and state autonomy becomes a reality, structural changes in the land tenure system are a remote possibility.<sup>17</sup>

### **The Resettlement Accord**

During the armed conflict both refugees and the internally displaced had their former lands granted by the government to other families, occupied by local *campesinos*, or taken over by the landed elite. Landless labourers, reliant on seasonal plantation work, were also amongst the displaced. The plight of externally displaced populations was initially addressed in the October 1992 'Agreement Between the Government of Guatemala and the Permanent Commissions of Guatemalan Refugees in Mexico (CCPP) for the Return of Guatemalan Refugees'.<sup>18</sup> This accord, while not part of the official peace talks (as the government negotiated directly with the refugee population rather than with the guerrillas), contains a number of provisions for the externally displaced, such as permitting voluntary collective returns of refugees and international accompaniment during return. There are also sections on access to land, outlining the complex legal processes by which refugees can regain their land and promising soft loans from the government for property purchase.<sup>19</sup>

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<sup>17</sup> For more detail on the role of CACIF in the peace process, see Krznaric (1996) and Krznaric (1999). My current research addresses the ways in which the business elites of Guatemala, El Salvador, and Peru have maintained their traditional privileges despite the changing political environment.

<sup>18</sup> The Permanent Commissions of Guatemalan Refugees (CCPP) were formed in camps in Mexico in 1987 to negotiate 'organised, collective returns' for the refugees. These 'returnees' are distinct from 'repatriates'. Between 1984 and 1997 around 17,000 individuals voluntarily repatriated to Guatemala. Those who 'returned' came collectively under the auspices of the CCPP. The return movement is often depicted as opposed to the government and linked to the guerrillas (Stepputat 1997: 2).

<sup>19</sup> A number of CCPP demands were ignored. These include the abolition of the civil self-defence patrols and elimination of military barracks near returnee settlements.

The June 1994 'Accord on the Resettlement of those Displaced by the Armed Conflict' was the second accord in the peace process that considered agrarian issues. The agreement attempted to build on the 1992 Accord within the framework of the government-URNG talks, and was an opportunity to confront the land problems of all those uprooted by the conflict. Asserting that displaced populations include both the internally and externally displaced, it recognised the Communities of Population in Resistance (CPRs) as victims of the armed conflict rather than as subversives.<sup>20</sup> This is a response to the definition of displacement supported by the Civil Society Assembly. The accord acknowledges that displaced populations find it especially difficult to prove their legal right to land, due to the loss of government records, or because lands were unlawfully declared 'voluntarily abandoned' and subsequently resettled.

The promise of land credits, legal assistance, and the creation of a Technical Commission<sup>21</sup> to interpret and implement the accord, are yet to solve the difficulties faced by displaced populations. Government institutions such as CEAR, FONAPAZ, FONATIERRA, and FORELAP<sup>22</sup>, have exhibited extreme inefficiency and a lack of will to support land access. Refugees hoping to return from Mexico can wait months, even years, for CEAR to approve credit for the purchase of a *finca*. Many returnees often give up their applications under such conditions. This governmental intransigence partly explains why around half of the 30,000 refugees remaining in Mexico are unwilling to return. In the south of the country, *finqueros* in CACIF have opposed government purchases of land for the displaced. In other regions resistance comes from the military, which associates returnees with the guerrillas. The October 1995 Xamán

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<sup>20</sup> Some who fled the military's counterinsurgency campaigns in the early 1980s, but remained within the country's borders, formed Communities of Population in Resistance (CPRs) in remote areas such as the Ixcán jungle, the sierra and Petén. The military has generally considered the CPRs to be allied to the guerrillas.

<sup>21</sup> The Technical Commission includes two representatives of the Consultative Assembly of the Displaced Population (ACPD), the umbrella body which unites over fifteen displaced groups.

<sup>22</sup> These organisation are: the Special Commission for Attention to the Displaced, Returnees and Refugees (CEAR), the National Peace Fund (FONAPAZ), the National Land Fund (FONATIERRA), and Fund for the Labour and Productive Reinsertion of the Returnee Population (FORELAP).

massacre, in which eleven returnees were killed by soldiers who had entered their community, illustrates the military's attitude. The government, landowners, and military have all obstructed return.

The collective return between 1993 and 1997 of up to 20,000 refugees was largely due to pressure from displaced organisations, partially acting through the CCPP, ACPD, and the Technical Commission, and from international agencies such as the United Nations Development Programme (Palencia and Holiday 1996: 34-5). However, since the signing of the final peace accord, international pressure has been taken off the government, allowing the return process to languish. Yet even for those who have returned and secured land, the difficulties do not end. The size of plots is often inadequate for large families and the soil is frequently of poor quality, particularly in the Northern Transversal Zone, which has received the majority of returned refugees. Lack of rainfall and disease have also damaged crops (Bastos and Camus 1995: 132,134, WCC/Gricar Situation Report No.45, 1997: 25).

#### *Land disputes and the displaced*

Various forms of land conflict have accompanied attempted social and economic reintegration of displaced populations. Government agencies and institutions have been largely unable or unwilling to resolve these disputes, and bodies created by the peace accords, such as CONTIERRA, are yet to prove their efficacy. One type of conflict is between returned refugees and local populations which have been granted titles to returnee land. An example concerns the Xalbal co-operative, part of the Ixcán Grande Co-operative (IGC), in the municipality of Ixcán. During the 1970s, Xalbal was part of the IGC. While the refugees were in Mexico, the military and government relocated people from other parts of the country to Xalbal, giving them new land titles. After 1993, when mass collective returns began in the region, old members of the IGC who

had *parcelas* in Xalbal prior to the 1980s massacres, tried to return to their former land. Yet the highly militarised residents prevented returnees from claiming their *parcelas*. This led to a series of returnee marches on Xalbal and threats of violence, and resulted in hundreds of returnee families living in refugee camps without any means of subsistence. Xalbal illustrates many of the complexities of land conflicts in Guatemala. The militarisation of Xalbal and government approval of new land titles is at the basis of this conflict. Response from government agencies to resolve the dispute was lackadaisical. Additionally, political divisions within returnee communities prevented a coherent strategy from the refugees and delayed swift resolution of the conflict.<sup>23</sup>

The internal divisions in returnee communities have been exacerbated by attempts to re-integrate ex-combatants since the guerrillas were demobilised. In April 1997 members of the IGC voted to expel 57 former guerrillas, despite the fact that they were land-owning members of the co-operative. This continues persecution amongst the returnees of those with alleged guerrilla sympathies, evident in Ixcán communities since around 1995.<sup>24</sup> Returned refugees have also been involved in disputes with the internally displaced. Once returns began in the Ixcán, the newly-arrived members of the IGC attempted to evict Communities of Population in Resistance (CPRs) living in the north of the co-operative (Bastos and Camus 1995: 133, CAR 1/5/97).<sup>25</sup>

Internally displaced groups have clashed with local non-displaced populations. One such conflict was in the Ixil triangle, in the department of Quiché. Facing army persecution in the early 1980s,

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<sup>23</sup> Divisions are partly linked to domestic political affiliation. A number of returnees are allied with popular groups with links to guerrilla organisations, while others co-operate more closely with the government. Competition over development funds provided by international organisations has also exacerbated conflict. Additionally, divisions reflect attitudes to foreign companies involved in oil exploration, especially in the Ixcán. Some returnees, usually in leadership positions, want to encourage the oil companies, while many fear that there will be little benefit for communities (Krznaric 1997: 72-74).

<sup>24</sup> In early 1998 most of the ex-combatants were reinstated into the IGC.

<sup>25</sup> In 1995 the Catholic church helped resolve the dispute by purchasing alternative land for the CPRs in the south-east corner of the Ixcán.

many indigenous Ixil from the towns of Nebaj and Chajul, in addition to a number of K'iche people, fled into the mountains to form CPRs. For over a decade the CPRs cultivated land formerly owned by residents of Chajul, a village which for many years had a strong army presence. Even after military conflict in the region ended, the CPRs, supported by the international solidarity movement, were largely unwilling to leave the land (CAR 11/7/96). Stoll quotes one CPR member:

'We've already been here for years. The government should replace the land the Chajules had. They should be paid for it. They have to recognise our land here because we've been defending it for more than thirteen years. We've paid for it with our blood, our children have been born here, we have our crops here, and the government has not arranged other land for us. So where are we going to go? If they kick us out of here, we don't have anywhere else.' (Stoll 1997: 200)<sup>26</sup>

Stepputat (1997) emphasises the importance of historical land claims and the language of dispute. In January 1994, 1000 collectively returning refugees purchased an estate (Nueva Esperanza) in Nentón, department of Huehuetenango. Residents in the nearby village of Aguacate, comprised of non-displaced population and some who individually repatriated from Mexico in 1991, united to claim land which was part of Nueva Esperanza. A group from Aguacate invaded the land and began building houses on it. The dispute attracted attention from international NGOs (many of which had funded Nueva Esperanza), the UN Human Rights Mission (MINUGUA), and the army. In arguing their case, the residents of Aguacate 'established their entitlement through the story of their grandfather who managed to get a title for the land from the government and have Aguacate declared [a] village (*aldea*)' (Stepputat 1997: 9). The returnees, many of whom were

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<sup>26</sup> The CPRs have now been granted land in four different locations.

related to the Aguacate residents, were depicted as *conquistadores* invading Mayan lands (Stepputat 1997: 8-10).

The struggle of displaced populations to return to former lands or to find new areas for cultivation has contributed to a diverse range of land conflicts. Although a final peace accord has been signed, the battle for land persists. Armed conflict gives way to land disputes in which the consequences of militarisation become evident, historical claims are rekindled and reworded, different indigenous groups divide, international actors take sides, and alliances among the displaced are transformed.

### **The Indigenous Accord**

The 'Accord on the Identity and Rights of Indigenous People' (March 1995) was the final document which addressed land issues. Although much more the product of popular civil actor influence than the other agreements, it fails to tackle many land questions which clearly affect the indigenous population.

Many of the proposals of COPMAGUA, the indigenous sector within the Civil Society Assembly, were contained in the ASC consensus document on the indigenous agreement and entered the final accord. These included reforms of the state and civil society, such as the recognition of Guatemala as 'multiethnic, pluricultural and multilingual', of the need for bilingual education for indigenous peoples and to respect indigenous names, spirituality, sacred sites, clothing, technology, and means of communication. Most indigenous organisations view the accord in a positive light, particularly the Academy of Mayan Languages of Guatemala (ALMG) and other culturally-oriented groups. Yet organisations which place more emphasis on land, such as CONIC, are less optimistic.

The relationship between COPMAGUA and the Assembly helps explain why the issue of land redistribution has little prominence in the accord. COPMAGUA's proposal to the Assembly called for 'the restitution of expropriated communal lands', titles for lands that 'Mayan's have historically occupied', and the general 'just redistribution' of property (Bastos and Camus 1995: 65). Yet these proposals were significantly diluted when compiling the ASC consensus document. Some sectors, such as the political parties, were unwilling to support proposals for land reform, viewing them within the context of demands by certain Mayan organisations for indigenous political autonomy. Other sectors within the Asamblea argued that land issues would be considered within the Socioeconomic Accord. Hence the ASC document, while calling for the recognition of the right to communal and individual land tenancy, does not mention reform of the land tenure system (ASC 1995: 41). Without the URNG and popular civil groups demanding radical agrarian reform, landowners in CACIF had little to fear from the accord.

Land thus enters the indigenous agreement in cultural, rather than economic structural form. The section on 'Identity of Indigenous People' states that a fundamental constituent of Mayan identity is:

'...a cosmovision which is based on the harmonic relation of all the elements of the universe, in which the human being is only one further element, the land is the mother which gives life, and maize is a sacred sign, a root of the culture.' (FUNDAPA ZD 1995: 68)

However, the agreement specifies the creation of a parity commission on land to make proposals for institutional reform regarding 'land problems of indigenous communities'. These 'problems' primarily concern access to the judicial system to clarify communal and individual

land titles, rather than land reform. Indigenous organisations, which are permitted to participate, have accused the government of giving low priority to the commission, which was set up more than six months after signing of the final peace accord.

*Possibilities of customary law*

The Indigenous Accord commits the government to developing legal mechanisms that recognise indigenous communities' right to administer their land according to customary law, on condition that there is no conflict with national law or international human rights standards. Although clearly inadequate for confronting broader structural inequalities, the use of customary law is one hope for settling land disputes within and between indigenous communities. Yet existing research reveals that it may be more useful for resolving problems including theft, property damage, matrimonial problems and disputes over domestic animals, rather than as a means of handling land disputes. Sieder's study of customary law in Alta Verapaz argues:

'Offences or problems which could not be resolved within the community include homicides, serious physical harm to people or property and land conflicts. A generalised perception exists that such problems should not be the responsibility of community authorities but rather should be taken to the regional mayor, the courts or the INTA. In some cases, conflicts between neighbouring communities over land boundaries were resolved without the external intervention of third parties. However, land conflicts generally required intervention on the part of state authorities' (Sieder 1997: 51)

The internal armed conflict has also affected application of customary law. According to Sieder, 'while *alcaldes auxiliares* [auxiliary mayors] were traditionally a customary means of conflict resolution, the counter-insurgency involved the imposition of new forms of authority, such as

military commissioners and civil patrols' (1997: 21). The militarisation of customary law during civil conflict has engendered uncertainty in local communities as to its efficacy. The nature of wartime displacement is also relevant. The mixture of different language groups in refugee camps and in newly-established communities may diminish the relevance of customary law amongst formerly displaced populations of indigenous origin.

In addition, customary law can leave open major questions of who shapes the relevant ideas and history which legitimate customary norms, and who has access to dispute mechanisms. In cases where groups make competing historical and cultural claims, a reversion to the state may be the only means of conflict resolution. In June 1997, an inter-community land dispute in the department of Sololá left ten people dead and fifty injured. The four communities involved, which were divided between Kaqchikel and Quiché indigenous groups, are fighting over land boundaries interpreted and reinterpreted since the nineteenth century. The communities have been requesting government mediation, but the failure of the authorities to act makes them partially responsible for the violence (CAR 17/7/97).

This reveals a dilemma. Customary law may not be able to resolve major land disputes between communities, and may be especially weak after a period of armed conflict. As a consequence, recourse to the state is necessary. Yet the government bureaucracy and judicial system has been traditionally biased against, or unresponsive to, the indigenous population. Hence land disputes cannot easily be resolved. They are a legacy of Guatemalan state formation.

## **Conclusions**

An assessment of the possibility of post-conflict recovery requires consideration of more than land tenure issues. Positive changes have been occurring in Guatemala: armed conflict has

officially ceased, the former-guerrillas are entering party politics, and human rights abuses have decreased with the presence of the UN Human Rights Verification Mission (MINUGUA). However, while the peace accords commit the government to reducing the budget and size of the armed forces, the evidence since December 1996 is that the army is continuing to play a significant role in internal security. Both the government and the military argue that the apparent post-accords crime wave requires army intervention. The Guatemalan transition can hardly move forward unless the armed forces changes its role exclusively to external security. The effects of structural adjustment, and the changing position of Guatemala in the international marketplace, are also causing difficulties. Insecurity of employment and the fluctuating cost of basic foodstuffs, many of which are now imported, introduce uncertainty into everyday life for large sections of the population. Other problems, such as deeply-ingrained racism, have not disappeared with the signing of the peace accords.

Analysis of the three agrarian-related accords suggests different interpretations of land and the peace process. The problem of land inequality, the role of the landed elite in preserving a system of traditional privileges, and the continuing struggles of the landless all become apparent through examination of the Socioeconomic Accord. Yet it is not clear that a major redistributive reform would be a sufficient solution for Guatemala's land problems. Discussion of the Resettlement Accord shows that factors such as credit, proximity to the military, soil quality, and land conflict with other *campesinos* help constitute the meaning of land issues for displaced populations. Elements of the Indigenous Accord encourage us to approach land as a cultural and historical issue, to appreciate the perspective of the Mayan cosmovision.

The preferences of many landless, displaced, and indigenous groups have been incorporated into few aspects of the accords, while the interests of elements within the business elite remain intact. The three relevant agreements all exhibit a gap between the principles in the accords and the

practice of implementation. Newly created state structures are yet to prove themselves responsive to Guatemala's rural population. With respect to land, as the peace accords provide no clear break with the past, they can do little to contribute to the future.

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