To Conform or to Confront? CSOs and Agrarian Conflict in Post-Conflict Guatemala*

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Abstract. This article is about the role of civil society after violent conflict. It argues that the transformations that civil society organisations (CSOs) make are more ambiguous than supporting donors and NGOs presume. The article analyses how, ten years after the 1996 peace agreements, Guatemalan CSOs deal with agrarian conflict. It discusses in detail the case of a church-related organisation assisting peasants with agrarian conflicts and the challenges it faced in defining its strategies. The article argues that supporting donors and NGOs should stop seeing the difficulties of organisational change in post-conflict situations exclusively in terms of the internal incapacities of civil society. Instead, they should re-politicise their analyses and focus on the importance of broader social and political processes in post-conflict settings for the strategic options open to CSOs.

Keywords: post-conflict peace building, civil society, agrarian conflict, peasant movements, societal transformation, Guatemala

Introduction

This article addresses the roles played by civil society after violent conflict. Current conventions present peace building as a long-term process of transforming a society, with neither clear beginnings nor endings.[1] The signing of a peace agreement does not automatically imply an end to societal conflict.

[1] Jonathan Goodhand and David Hulme, 'From Wars to Complex Political Emergencies: Understanding Conflict and Peace-building in the New World Disorder', *Third World Quarterly*, vol. 20, no. 1 (1999), pp. 13–26.

Moreover, there may be a lot of continuity between situations characterised as civil war and 'normal' development.[2] Although direct violence may have come to an end, structural violence may continue in the form of marginalisation or exploitation.[3] What do the end of violence and the signing of peace agreements imply for the roles and strategies of civil society organisations (CSOs)? And what do they imply for supporting donors and international NGOs? This article argues that the transformations that CSOs make are more ambiguous than their donors and NGOs presume. This implies that donors and NGOs should re-politicise their analysis of post-conflict organisational change.

This article examines the roles and strategies of Guatemalan CSOs ten years after the 1996 peace agreements. Although the peace agreements represent a comprehensive programme for societal transformation, their effectiveness is mixed. Optimists see enormous changes in the economic outlook of the country, and they highlight a reduction in discrimination against and social exclusion of the largely indigenous Maya population, and an increase in political participation among that group.[4] Critics underline the fact that poverty, inequality and a lack of effective law enforcement have made Guatemala one of the most violent countries in Latin America, and that the human rights situation there remains deplorable. They point out that major parts of the peace agreements have not been implemented effectively, and that many issues covered in the agreements have proved difficult to manage or plan around in practice.[5] The limited success of the agreements is attributed to a lack of political will and the failure of the international community to enforce their accomplishment.[6]

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[2] David Keen, 'War and Peace: What's the Difference?', in Adekeye Adebajo and Chandra Lekha Sriram (eds.), *Managing Armed Conflicts in the 21st Century* (London, 2001); Paul Richards, 'New War: An Ethnographic Approach', in Paul Richards (ed.), *No Peace No War: An Anthropology of Contemporary Armed Conflict* (Athens and Oxford, 2005); Christopher Cramer, *Civil War is Not a Stupid Thing; Accounting for Violence in Developing Countries* (London, 2006).

[3] Johan Galtung, *Peace by Peaceful Means: Peace and Conflict, Development and Civilization* (Oslo/London, 1996/2003).

[4] Dinorah Azpuru, 'Strengthening Human Rights in Guatemala', in Jeroen de Zeeuw and Krishna Kumar (eds.), *Promoting Democracy in Postconflict Societies* (Boulder, 2006).

[5] Alessandro Preti, 'Guatemala: Violence in Peacetime; A Critical Analysis of the Armed Conflict and the Peace Process', *Disasters*, vol. 26, no. 2 (2002), pp. 99–119; United Nations Verification Mission in Guatemala (MINUGUA), *Informe de MINUGUA sobre el estado de cumplimiento de los compromisos de los Acuerdos de Paz en materia de tierras; informe de verificación* (Ciudad de Guatemala, 2000); William Stanley and David Holiday, 'Broad Participation, Diffuse Responsibility: Peace Implementation in Guatemala', in Stephen Stedman, Donald Rotchild and Elisabeth Cousens (eds.), *Ending Civil Wars* (New York, 2002).

[6] Manuela Leonhardt, Patricia Ardón, Njeri Karuru and Andrew Sherriff, *Peace and Conflict Impact Assessment (PCIA) and NGO Peacebuilding – Experiences from Kenya and Guatemala: A Briefing Paper* (London, 2002), p. 2.

This article analyses how CSOs operate in this context by focusing on one particular theme of the peace agreements: agrarian conflict. Agrarian conflict and related economic inequality were important issues in the 36-year civil war between the leftist guerrilla movement and the government. The 1996 peace agreements included detailed policies to restructure the unequal pattern of landholding and to enforce labour laws.[7] In 2006, many CSOs considered the resolution of agrarian conflict a critical condition for a lasting peace. Yet CSOs addressing agrarian conflict were divided ideologically and politically and had difficulties in redefining their roles.

International and Guatemalan observers alike frequently noted the way in which civil society's organisational incapacities and problems hindered it from moving 'from protest to proposal'. In contrast, this article argues that the impasse of Guatemalan civil society was strongly related to the political context and the slow and partial implementation of the proposed agrarian reforms. This context put great pressure on CSOs to follow the route of conformism, even though they could have opted for a more confrontational strategy. The article concludes that policymakers, and especially international funders, need to stop seeing civil society's post-conflict failings through a purely technocratic lens. Instead of focusing on the internal incapacities of civil society, they should be concerned about the context of structural violence and institutional constraints that fragments civil society and reproduces the status quo.

To make this argument, the article is organised as follows. Firstly, it describes how CSOs in Guatemala were perceived by international and local observers, and assesses their recent evolution. Secondly, it introduces the issue of agrarian conflict in Guatemala, and how it was addressed in the peace agreements. This is followed by an analysis of the challenges to CSOs working in this area, and what these challenges imply for their strategies. To illustrate the dilemmas faced by CSOs in defining their strategies in post-conflict Guatemala, the article discusses in detail the work of *Pastoral de la Tierra de San Marcos* (PTSM), a Catholic Church development organisation assisting peasants involved in agrarian conflicts.

The findings presented here are based on fieldwork carried out in Guatemala from January to September 2006, which formed part of my doctoral research into civil society and peace building.[8] At the request of PTSM, I conducted research into its strategies and practices for assisting peasant associations in conflict. This included two weeks of fieldwork and

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[7] Hilde Salvesen, *Guatemala: Five Years After the Peace Accords; The Challenges of Implementing Peace*, report for the Norwegian Ministry of Foreign Affairs (Oslo, 2002); Amnesty International, *Guatemala: Land of Injustice?* (London, 2006).

[8] Mathijs van Leeuwen, *Partners in Peace: Discourses and Practices of Civil Society Peacebuilding*, PhD diss., Wageningen University, 2008.

follow-up visits in the communities around the *finca* San Luis Malacatán, as well as participation in the daily activities of PTSM over a six-month period.[9] The article further builds on visits to projects and interviews with representatives of 32 Guatemalan CSOs and 14 donor and international organisations in Guatemala.[10] Also included are observations made at meetings between farmers' representatives, PTSM and the *Comisión Presidencial para la Resolución de Conflictos de Tierra* (Presidential Commission for the Resolution of Land Conflicts, CONTIERRA), events organised by peasant and labour movements, and meetings and conferences of Guatemalan and international NGOs.

Images of Guatemalan CSOs

'Civil society' is commonly defined as the public space between the state and its citizens, populated by organisations operating autonomously from the state that promote the interests and values of particular groups of citizens.[11] In Guatemala, civil society is constituted by a rather diverse range of actors, including peasant and labour movements, media, human rights organisations and platforms of indigenous communities, as well as church organisations and local farmers' or development associations. While some of these operate like NGOs, having a clear institutional structure and implementing development activities with external funding, others are more fluidly organised, with relatively autonomous local chapters. The Catholic Church is a prominent player in civil society, yet it can hardly be described as a unified actor with common strategies. Rather, certain individuals within the Church take up roles in political debate, while in other instances offices within the Church operate like development NGOs.

The first cooperative movements and community organisations in Guatemala emerged in the 1960s, including labour and student unions and peasant organisations.[12] As in other Central American countries, the Catholic Church played an important role in their development. Inspired by

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[9] Mathijs van Leeuwen, *Estrategias y experiencias de Pastoral de la Tierra San Marcos con el programa de la conflictividad 2001–2006* (San Marcos, 2007).

[10] The former included research institutes such as AVANCSO, FLACSO, and ASIES, NGOs such as CALDH and CONGCOOP, labour movements such as UASP, peasant movements such as CONIC and CUC, and diverse *pastorales de la tierra*. The latter included donor agencies such as UNDP, GTZ, and the Dutch embassy, and international NGOs such as CARE, Cordaid, IBIS, and Trócaire.

[11] Alison Van Rooy, 'The Art of Strengthening Civil Society', in Alison Van Rooy (ed.), *Civil Society and the Aid Industry: The Politics and Promise* (London, 1998); Kees Biekart, *The Politics of Civil Society Building: European Private Aid Agencies and Democratic Transitions in Central America* (Utrecht and Amsterdam, 1999).

[12] Leonhardt et al., *Peace and Conflict Impact Assessment*, p. 13.

'liberation theology', parishes established Catholic action groups to organise the poor, while local priests contributed to the formation of peasant associations. Military counterinsurgency activities in the late 1970s and early 1980s dealt a heavy blow to these social movements, however.

Unlike the highly organised and mobilised grassroots movements of the late 1970s, the organisations that emerged over the 1980s were issue-organisations, or 'new social movements'.[13] Pearce and Howell describe the way in which Guatemalan organisations adopted the term 'civil society' to create space for political discussion and to express their longing for democracy and a new social order. Although some of them had roots in the resistance movements, to these new entities the notion of 'civil society' represented autonomy from both political parties and the guerrilla movement. In practice, civil society came to include both popular organisations, rooted in the leftist movements, and cultural organisations that focused on the ethnic dimensions of oppression and exclusion.[14] Initially, most groups focused on promoting democracy and human rights, supported by international donors. Gradually, they also gained a role in the peace process. The Catholic Church took a leading role in this, fomenting public support for the national dialogue that it instigated in 1989. This paved the way for wider civil participation in the peace negotiations. United in a Civil Society Assembly, in 1994 CSOs participated in UN-mediated talks between the government and the URNG (*Unidad Revolucionaria Nacional Guatemalteca*, Guatemalan National Revolutionary Unity), the umbrella organisation formed in 1982 by the four main insurgency groups. Several of the assembly's recommendations were reflected in the final agreements.[15] After the peace agreements, however, Guatemalan CSOs found it difficult to define how the envisaged societal changes should be brought about and what their role should be. The unity of purpose and action reflected during the peace process faded away; as Pearce and Howell state, 'Fragmentation and division rather than cohesion and unity characterised the civil society of the 1990s'.[16] What challenges did the CSOs face?

Most of the analysts and representatives of international donors and NGOs that I interviewed attributed the CSOs' loss of their prominent role to

[13] Rachel Sieder, Megan Thomas, George Vickers and Jack Spence, *Who Governs? Guatemala Five Years After the Peace Accords* (Cambridge MA, 2002), p. 16; Mary Kaldor, 'The Idea of Global Civil Society', *International Affairs*, vol. 79, no. 3 (2003), pp. 583–93.

[14] Jenny Pearce and Jude Howell, 'Civil Society Discourses and the Guatemalan Peace Process', in Jude Howell and Jenny Pearce (eds.), *Civil Society and Development: A Critical Exploration* (Boulder and London, 2001), pp. 150–1.

[15] Enrique Alvarez and Tania Palencia Prado, 'Guatemala's Peace Process: Context, Analysis and Evaluation', in Catherine Barnes (ed.), *Owning the Process: Public Participation in Peacemaking* (London, 2002).

[16] Pearce and Howell, 'Civil Society Discourses', p. 158.

organisational problems and incapacities. In their experience, these organ-
isations had failed to make a transition 'from protest to proposal', and to
redefine their relationship with the state in the pursuit of societal change. The
interviewees noted how organisations had lost political strength, being suc-
cessful at institution building and fundraising but weak at developing long-
term strategies and concrete policy proposals.[17] When invited to dialogues
with the government, CSOs often had little to say.[18] CSOs became deeply
divided over what they stood for, how to achieve their goals and how to
relate to government institutions.[19] A schism emerged between 'popular'
and 'cultural' organisations on the importance of the ethnic dimensions of
oppression and exclusion. Cultural organisations were again divided over
who represented indigenous people and whether to ally with the popular
organisations.[20] Often these divides were interpreted in terms of organis-
ational competition for donor funding. CSOs seemed to have lost force and
direction, and aimed primarily to ensure their own survival. In the words of
one Guatemalan analyst, 'A *burocracia de la paz* has come about, consisting of
city-based organisations that have lost contact with their bases.'[21]

Many did not take seriously, or disapproved of, the more activist stance of
some Guatemalan groups. As one international NGO representative ob-
served, 'Many CSOs are stuck in denouncing the government. This made
sense in the past, when it assured donor funding. Now it prevents them from
working effectively with the government.'[22] Worried about the difficulties
the organisations faced in redefining their agenda, international financial and
development institutions incorporated capacity building into their pro-
grammes, assuming this would help the organisations to get back on track
again. Donors, including the EU, insisted on collaboration with the
government as a condition for funding. 'It is now peacetime – time for a
normalisation of relations' was an observation I heard various times in dif-
ferent guises.[23]

The 'loss of momentum', as both international and local organisations
put it, experienced by CSOs after the conclusion of the Guatemala peace
agreements has also been described in other settings. Discussing Latin

[17] Interviews with representatives of FLACSO, the Dutch Embassy, IBIS, GTZ, CATIE, and
Cordaid.   [18] Sieder et al. (eds.), *Who Governs?*, p. 18.
[19] Interviews with representatives of FLACSO, AVANCSO, ASIES, UNDP, GTZ, Trócaire,
HORIZONT3000 and *Veterinarios sin Fronteras*.
[20] Kay B. Warren, 'Indigenous Movements as a Challenge to the Unified Social Movement
Paradigm for Guatemala', in Sonia Alvarez, Evelina Dagnino and Arturo Escobar (eds.),
Cultures of Politics, Politics of Cultures: Re-Visioning Latin American Social Movements (Boulder and
Oxford, 1998); Pearce and Howell, 'Civil Society Discourses', pp. 150–1.
[21] Interview with a representative of a Latin American research institute, 16 Feb. 2006.
[22] Interview, 17 Feb. 2006.
[23] Interview with a representative of a donor agency, 15 Feb. 2006.

American social movements, Biekart notes that a sudden increase of social movement activity is often followed by an equally sudden slump. Social movements may be able to mobilise large numbers of people for political change, but after these changes have been accomplished, their support base fades rapidly.[24] Organisations that have been strong in demanding change from the government during conflict often prove weak at implementing change themselves in post-conflict reconstruction. Conflict may provide a unity of purpose among civil society that is lost after conflict, when organisations differ as to how to accomplish societal transformation or are divided by competition for donor funding and affiliation to political parties.

Such analyses, however, disregard the pace of societal transformation in post-conflict settings. The impasse of CSOs in Guatemala is neither an internal or a relational issue, nor a problem simply of legitimisation. It is about the difficulty of defining a role and strategy in a post-conflict setting where political and social change is extremely slow and unsatisfactory. This puts organisations in a dilemma that is seriously divisive. Should they try to make the best of the existing status quo, with far from satisfactory results? Or should they request radical change by confronting the state and thereby forfeit the only consensual agenda for change, represented by the peace agreements, however limited it may be? Hence, rather than understanding the limited effectiveness of Guatemalan CSOs in terms of a failure to make a post-conflict transition from protest to proposal, analysts and donors need to appreciate the tensions between conformism and confrontation that these organisations face. Before demonstrating how this works out for CSOs dealing with agrarian conflict, we first turn to the issue of *conflictividad agraria*.

Conflictividad agraria in Guatemala

Contemporary disputes about land in Guatemala are highly diverse and of different orders. Many land disputes have a local character and concern the legal status of communal land or the use of natural resources, or are boundary disputes between communities. Many disputes go back over a hundred years, because until recently the land registry was neither legally binding nor precise in its description of land ownership.[25]

At the same time, a large number of disputes are an expression of what in Guatemala is called conflictividad agraria. This generic but also highly

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[24] Kees Biekart, 'Seven Theses on Latin American Social Movements and Political Change: A Tribute to André Gunder Frank (1929–2005)', *European Review of Latin American and Caribbean Studies*, no. 79 (Oct. 2005), p. 90.

[25] Michael J. Brown, Jorge Daly and Katie Hamlin, *Guatemala: Land Conflict Assessment*, report submitted to the United States Agency for International Development (Washington DC, 2005), p. 4.

politicised term refers to the historical and structural character of land con-
flicts in Guatemala. Conflictividad agraria encapsulates a discontent with the
extremely unequal distribution of agricultural land, past usurpation of terri-
tories of the largely indigenous rural population and a system of exploitative
labour relationships.[26] It was fuelled by the agricultural policies of consecu-
tive governments and the violent responses to demands for change.
Conflictividad agraria refers, for example, to attempts by communities to
reclaim indigenous properties now occupied by large landowners or to claims
by landless people. It also points to disputes over the *prestaciones laborales*
(labour entitlements), the additional payments to which labourers on fincas
are legally entitled, such as bonuses and paid holidays. Often, such disputes
are not directly about land itself, but land may become an issue in their
escalation and resolution. Conflictividad agraria was an important element in
the civil war and the peace agreements, and continues to play a role in
present times.

Between 1944 and 1954, the elected nationalist and reformist governments
of Arévalo and Arbenz made efforts to break with the unequal division of
land and wealth and the semi-feudal labour relations that were prevalent at
the time. They implemented a land reform in which 600,000 hectares were
expropriated and redistributed to 100,000 peasant families. This resulted in
resistance from large landowners and the Catholic Church. With support
from the CIA, the government was overthrown in a military coup in 1954. In
subsequent years, land reforms were reversed and most land returned to its
former owners or to the state. In response to the military takeover and the
reversal of the land reforms, the first resistance movements developed. Over
the same period, various political parties, *sindicatos* (labour movements) and
ligas campesinas (peasant movements) came into existence. The government
reacted fiercely towards such resistance, and during the 1970s intensified the
repression of the largely indigenous peasants. Although the ensuing civil war
was often presented as a fight against communism, much of the violence
between 1978 and 1982 directly targeted the rural development movements.
Many massacres by the army related directly to landowners' interest in ter-
minating occupations of their properties by peasants.[27]

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[26] In 2000, 18.6 per cent of land was in the hands of 94 per cent of landowners, while
62.5 percent was owned by only 1.5 per cent of the population (Amnesty International,
Guatemala, p. 4). On usurpation of indigenous territories and exploitative labour relation-
ships, see Carlos Canacho Nassar, Bettina Durocher, Juan Antonio Fernández and José
Vinicio Letona, *Tierra, identidad y conflicto en Guatemala* (Ciudad de Guatemala, 2003), p. 26;
FAO, *Situación agraria, conflictividad y experiencias en la resolución de conflictos de tierra en Guatemala*
(Rome, undated), pp. 14–15; and Annalisa Mauro and Michel Merlet, *Access to Land and
Recognition of Land Rights in Guatemala: Analyses and Perspectives* (Rome, 2003), p. 8.

[27] Nassar et al., *Tierra, identidad y conflicto*.

The 1996 peace agreements between the government and the URNG identified agrarian disputes and inequality in land distribution as central issues in the armed conflict.[28] The agreements included detailed policies for restructuring the unequal landholding pattern.[29] They aimed to increase land ownership of small peasants through credit systems and registration, improve access to justice, provide mechanisms for resolving land disputes and recognise traditional arrangements for managing natural resources. The government committed itself also to the enforcement of labour laws, by improving access to justice and providing labourers with more legal security.[30]

Nonetheless, at the time of the fieldwork carried out for this paper, many of the relevant commitments had not been implemented or had turned out to be ineffective.[31] Legislation was either not in place or not enforced.[32] Structural reforms that would advantage small producers and rural labourers had not been carried out.[33] The amounts of land transferred to small producers have been relatively meagre. Between 1997 and 2005, only 4.3 per cent of Guatemala's total agricultural land was reallocated. Among those applying for credit, less than 20 per cent received credit. Government institutions were able to deal with only 1 per cent of the total demand for land.[34] Despite commitments to enforce labour laws, many disputes continued to emerge between labourers and employers on the fincas, particularly with regard to labour entitlements. The lack or underpayment of such entitlements was common in rural areas.[35] Only 30 per cent of fincas respected the minimum

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[28] Mauro and Merlet, *Acceso a la tierra*.

[29] See in particular 'Acuerdo sobre aspectos socioeconómicos y situación agraria', signed on 6 May 1996.

[30] Salvesen, *Guatemala: Five Years*; Coordinación de ONGs y Cooperativas (CONGCOOP), *La acción política basada en la negociación y la protesta: las ocupaciones de campesinos/as e indígenas de fincas en la región sur de Guatemala* (Mixco, Guatemala, 2004); Amnesty International, *Guatemala*.

[31] A notable example of commitments that were not implemented was a progressive tax system (see Preti, 'Guatemala: Violence in Peacetime'). Regarding ineffective commitments, for instance, civil society representatives were disappointed with the national Land Registry that came into effect in June 2005. Landowners were given priority to claim those parts of their properties not yet properly registered in their name (the so-called *excesos*). Although many small farmers had started the procedure of registering land, they were still waiting for their titles. New legislation did not improve protection of communal lands, as long as authorities failed to check whether registered lands were indeed vacant (on this, see also Amnesty International, *Guatemala*; and MINUGUA, *Informe*).

[32] For instance, Amnesty International observed that international agreements to ensure that no forced evictions took place were not respected (Amnesty International, *Guatemala*).

[33] A 1999 referendum formally rejected the political and legal implementation of much of the agreements.

[34] Susana Gauster and S. Ryan Isakson, 'Eliminating Market Distortions, Perpetuating Rural Inequality: An Evaluation of Market-assisted Land Reform in Guatemala', *Third World Quarterly*, vol. 28, no. 8 (2007), pp. 1519–36.

[35] Amnesty International, *Guatemala*.

wage.[36] The most visible manifestation of conflictividad agraria was the continuing occupation of fincas.[37] Such occupations resulted from disputes over labour entitlements, or the failure of the authorities to resolve owner-ship disputes over those fincas. Occupation was also the last option for landless people who had failed to access land through legal procedures.

Fieldwork interviews and documentation point to various reasons why relevant commitments from the peace agreements regarding land failed to be implemented or to be effective. Firstly, the different state institutions established or restructured in accordance with the peace agreements were not effective.[38] The major two were the *Fondo de Tierras* (Land Fund, FONTIERRAS) and *Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos sobre la Tierra* (Presidential Office for Legal Assistance and Resolution of Land Conflicts, CONTIERRA). FONTIERRAS was supposed to facilitate the purchase of land through credit schemes, but the institution appeared to be slow, inefficient and corrupt, and lacked institutional and financial ca-pacities in relation to the scale of the problem.[39] It failed to provide technical assistance, and no credit was made available for necessary investments in newly acquired lands. Often, after peasants had acquired land through credit, the resulting debts were so high that they could hardly repay them, and some had to sell the properties they had so painstakingly acquired. Few *finqueros* (finca owners) were willing to sell land at the prices stipulated by FONTIERRAS, and the long delays in deals involving the credit institution were a further disincentive. CONTIERRA aimed to solve land disputes through reconciliation and legal advice. It was perceived as more credible than FONTIERRAS, but lacked funding. CONTIERRA was expected to play a role in facilitating political discussion about the land issue in general and in proposing alternative legislation. In practice, the organisation mainly proposed solutions for particular disputes, based on state legislation, and its proposals were not legally binding.

Secondly, as interviewees observed, the legal system was incapable of ad-dressing agrarian disputes thoroughly and evenly-handedly. Civil courts were slow, inefficient, overburdened and inaccessible; they lacked rules of evi-dence and expertise and were not perceived as neutral with regard to land issues.[40] Agricultural legislation was dispersed, overly theoretical, incoherent

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[36] Byron Garoz, 2002, quoted in CONGCOOP, *La acción política*.

[37] This was in addition to numerous roadblocks (including attacks on police stations and other public installations) and protest rallies.

[38] Interviews with CONGCOOP, FLACSO, CONIC, CNOC, HORIZONT3000, Seprodi and several pastorales de la tierra.

[39] MINUGUA, *Informe*; Eduardo Baumeister (ed.), *Entonces, sí hay avances. Tierra, territorios y reforma agraria: experiencias y propuestas en Bolivia, Ecuador, Guatemala, Honduras y Perú* (Guatemala, 2005).

[40] Brown, Daly and Hamlin, *Guatemala: Land Conflict Assessment*, p. 7.

and unfamiliar to both ordinary people and public functionaries.[41] It appeared that finqueros and small landowners were not treated equally by the juridical system. In particular, workers living on the finca as tenant labourers found it difficult to claim their rights, afraid as they were not to be rehired. In the experience of legal advisors from various NGOs, court procedures started by peasants could take years; eventually, exasperated groups of peasants would resort to occupying the fincas of their former employers. For landowners, on the other hand, it was relatively easy to ask the public prosecutor for an eviction, leaving labourers who had been living for years on a finca without anywhere to go.[42] Representatives of several peasant organisations saw that for many finqueros the legal system formed no threat at all. If they were ever convicted for not paying labour entitlements, the fines bore no relation to the amounts owed.[43]

A third reason why land- and labour-related conflicts were not adequately addressed was a persistent lack of political will. Interviewees regarded the peace agreements as having originated under international pressure, and not from within the government. Consequently, progress was slow and gradual. Major resistance came from the conservative agricultural private sector, which consistently opposed agrarian reforms and maintained a strong influence particularly during the Arzú (1996–2000) and Berger (2004–8) governments.[44] CSOs interviewed over the course of 2006 often perceived the administration of President Oscar Berger as primarily representing the interests of entrepreneurs and landowners. Following Berger's instatement in 2004, there was an increase in forced – and often violent – evictions of rural workers occupying fincas. The Berger government interpreted agrarian conflicts as being the result of poverty and lack of employment opportunities, to be solved through protection of private property rights and application of the law.[45] Many CSO representatives could see that private property was sacrosanct to power holders. Proposals for expropriation and redistribution were taboo subjects, and suggested land taxes met with fierce resistance from the government. At the same time, this lack of political will should also be understood as part of a more general paralysis of the Guatemalan government, with the political process being hijacked by the armed forces, former paramilitary groups and the expanding narco-criminal networks.[46] We should also be careful not to interpret resistance to societal

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[41] MINUGUA, 2003, quoted in Nassar et al., *Tierra, identidad y conflicto*.
[42] See also Amnesty International, *Guatemala*, pp. 10–11.
[43] Interviews with representatives of Pastoral de la Tierra Interdiocesano Quezaltenango, Pastoral de la Tierra Quiché, REDASCAM and MTC.
[44] Sieder et al. (eds.), *Who Governs?*.
[45] Brown, Daly and Hamlin, *Guatemala: Land Conflict Assessment*, pp. 8–9.
[46] Sieder et al. (eds.), *Who Governs?*.

transformation as exclusive to the political elite. Many ordinary Guatemalans looked with suspicion at the demands from peasants and labour movements for agrarian transformation, perceiving those as a threat to order and stability. That notwithstanding, there were some more progressive forces in the Berger government, in particular around the vice-president, who regularly expressed his concern about the agrarian question. When CONTIERRA came under his responsibility in 2005, this increased the institution's independence and its assertiveness in dealing with land disputes.[47]

Although failing institutions and a lack of political will were certainly part of the explanation, to what extent should the limited changes in Guatemala's agrarian structure be attributed to the peace agreements themselves? As Gauster and Isakson argue, the agreements encompass a strategy of market-assisted land reform, as promoted by the World Bank.[48] The major tenet of such a strategy holds that if distortions in land and credit markets are corrected, market forces will ensure access of landless and land-poor peasants to land, and promote efficiency and equity. Rather than through state intervention or expropriation, reform of land holding is to be achieved through the facilitation of a negotiated transfer of land from landowners to peasants.[49] Market-assisted land reform is also considered a conflict-prevention tool.[50] It was incorporated into the peace accords of several Central American countries in the mid-1990s.[51] The part of the Guatemalan peace agreements related to *conflictividad agraria* was the most contentious. According to Gauster and Isakson, the push for a market-oriented approach in the peace agreements was the combined result of lobbying of the Arzú government by the business- and land-owning elite, a moderate approach to negotiation adopted by the URNG, encouragement from UN facilitators to adopt an accord consistent with World Bank and IMF policies for Guatemala, and pressure from the 'Group of Friends', a group of countries providing international support to the peace process.[52] Gauster and Isakson assert that it is precisely this neoliberal character of the peace agreements that has

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[47] Formerly, CONTIERRA formed part of the Ministry of Agriculture, Livestock and Nutrition, which had a reputation for representing mainly the interests of the agricultural establishment.

[48] Klaus Deininger and Hans Binswanger, 'The Evolution of the World Bank's Land Policy: Principles, Experience, and Future Challenges', *The World Bank Research Observer*, vol. 14, no. 2 (1999), pp. 247–76.

[49] Edward Lahiff, Saturnino M. Borras and Cristóbal Kay, 'Market-led Agrarian Reform: Policies, Performance and Prospects', *Third World Quarterly*, vol. 28, no. 8 (2007), pp. 1417–36.

[50] Klaus Deininger, *Land Policies for Growth and Poverty Reduction* (Oxford and Washington DC, 2003).

[51] Saturnino M. Borras Jr., 'La Vía Campesina and its Global Campaign for Agrarian Reform', *Journal of Agrarian Change*, vol. 8, no. 2/3 (2008), p. 263.

[52] See also Susanne Jonas, *Of Centaurs and Doves: Guatemala's Peace Process* (Boulder, 2000).

ensured that the deep economic inequalities in the country have not been effectively redressed. Many of the organisations interviewed made the same argument: that the provisions of the peace agreements were incapable of bringing the much-demanded change. As the agreements were the only available shared political agenda, however, CSOs were hesitant to question whether they should be implemented or to demand that they should be cancelled.

Guatemalan CSOs Addressing Agrarian Conflict

The discourses and policies of Guatemalan social movements and other CSOs on the agrarian question have changed considerably over time. Before the peace agreements, claims for land formed part of wider demands to respect human rights and the rights of the indigenous population. One of the first movements established was the *Comité de Unidad Campesina* (Committee for Peasant Unity, CUC), which in 1978 brought together indigenous peasants from the highlands with poor *ladino* labourers on the fincas.[53] In its struggle to improve respect for the rights of labourers, land was a contextual issue. Towards the late 1980s, however, land increasingly moved to centre stage. Through the publication of a pastoral letter entitled 'El clamor por la tierra' ('The Cry for Land') in 1988, the Catholic Church put itself firmly in the debate on the land issue. In this letter, the Church identified the structure of land tenure as a key injustice and a root cause of the civil war. Since then, various dioceses of the Catholic Church set up *pastorales de la tierra* (pastoral land commissions) to assist peasants in their productive needs. These commissions also functioned as a sort of development bureaux. Also, the formation in 1992 of the movement *Coordinadora Nacional Indígena y Campesina* (National Indigenous and Peasant Coordination, CONIC) as a split-off from CUC helped to highlight the injustices in land tenure. Rather than focusing on the labour rights of rural labourers, as CUC did, CONIC emphasised the political and cultural rights of the indigenous Maya population, thereby emphasising their historical rights to land. Due to the efforts of these diverse organisations, land gained a central place in the negotiations for the peace agreements.

[53] Gálvez et al., 2000, quoted in Nassar et al., *Tierra, identidad y conflicto*, p. 50. Historically, the term ladino refers to those speaking Spanish and of mixed European and indigenous descent. Currently, although often used to frame social, economic and political differences in Guatemala, the opposition Maya–ladino is a simplification. Many people do not identify themselves with one group or the other, and economic differentiation does not coincide with this distinction. See Charles R. Hale, *Más que un Indio – More than an Indian: Racial Ambivalence and Neoliberal Multiculturalism in Guatemala* (Santa Fe, 2006).

After the peace agreements, many CSOs emphasised that land was indispensable for agricultural development.[54] Initially, the peasant movements had high hopes that the agreements would result in a change in land distribution, and there was a decrease in the occupations of fincas. When the credit and dispute-resolution institutions FONTIERRAS and CONTIERRA were established, peasant movements concentrated on assisting peasants in getting access to land through those institutions. Several pastorales de la tierra provided legal assistance to groups of peasants. They worked on mediation, conciliation and resolution of agrarian and labour conflicts. Increasingly, some of the pastorales got involved in lobbying at the national level, and for this purpose joined forces at the inter-diocesan level and in *Plataforma Agraria*, a platform of organisations working with farmers.[55]

As the new millennium dawned, however, it became increasingly clear that the credit and dispute-resolving institutions were hardly effective, while the coffee crisis resulted in an increase in occupations of fincas. Disappointing experiences with the acquisition of land through credit convinced the movements that other strategies were necessary. Rather than demanding land only, peasant movements and NGOs wrote proposals for integrated agrarian policies. While the government believed that liberalising the land market would stimulate equal development, the movements demanded more direct intervention by the government to redress inequalities. Since 2005, government policies on the liberalisation of trade and concessions to mining companies stimulated the movements to further broaden their concerns. Supported by international organisations, movements approached the agrarian question from a 'right to food' perspective, for which they held the governments responsible. Land reform thus moved from a contextual issue to a core issue in the demands of organisations.

The fragmentation of CSOs, described earlier, had an impact on organisations working on land and labour issues. Several peasant and labour movements had been established as part of the vanguard of the guerrilla movement.[56] Many of their leaders had not yet changed, and divisions from the period of the civil war had not yet been transcended.[57] An important ideological divide existed between organisations interpreting oppression

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[54] Next to the peasant movements and pastorales de la tierra, a number of NGOs and research institutes are analysing or advocating on agrarian issues, including CONGCOOP, CALDH and AVANCSO.

[55] Plataforma Agraria was established in 2000 and included the research institute AVANCSO, the human rights organisation CALDH, the peasant movement CONIC, and the pastorales de la tierra.   [56] Warren, 'Indigenous Movements as a Challenge'.

[57] Interviews and own interpretation of interviews with representatives of CONGCOOP, CNOC, CONIC and several pastorales de la tierra.

from a social or from an ethnic perspective. This divide was particularly clear between the *Coordinadora Nacional de Organizaciones Campesinas* (National Coordinator of Farmers Organisations, CNOC), which was fighting for the rights of labourers, and CONIC, which primarily promoted the interests of indigenous people. Past affinity with the guerrilla movement was still detectable in the hierarchical form of decision making within those organisations, providing limited space for dissenting voices or voices from the communities.[58] Movements were aware of the need for further democratisation and participation by their constituents, but the challenge was to achieve this without falling apart.[59]

Staff of the organisations interviewed for this paper also pointed out that the divisions among organisations partly resulted from their need to survive and to legitimise themselves. Many of the peasant movements had transformed themselves into formal NGO-like structures, depending to a large extent on outside funding for their daily operation. Differences between CONIC and other members of Plataforma Agraria were attributed to competition to establish themselves in particular communities. Various representatives from the Catholic Church maintained a noticeable distance from the peasants and labour movements. They thought that the Church had a special role to play because of its local presence in the rural communities, and considered the movements to be operating from outside those communities. Such 'politics of legitimisation and survival' made organisations hesitate to unite, out of fear of becoming superfluous.[60] If alliances between organisations were formed, it was out of a need for political weight rather than for ideological closeness.[61] The politics of survival were also evident in efforts to de-legitimise other organisations, which included questioning their effectiveness and intentions in the rural communities and disclosing their 'real' political interests to the public. Movements were accused of building 'constituencies' rather than establishing active community organisations. Stories circulated about fincas that were first occupied by one peasant movement and later by the other in the struggle for local supporters. Another common

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[58] Interviews with representatives of several pastorales de la tierra, parish priests, MTC and CONIC.

[59] According to the participating organisations interviewed, Plataforma Agraria had been formed precisely with this objective in mind – to establish a more open organisation and guarantee grassroots participation.

[60] Dorothea Hilhorst, *The Real World of NGOs: Discourse, Diversity and Development* (London, 2003).

[61] Examples mentioned include the 2005 participation of CONIC in Plataforma Agraria, the alliance between UASP and CONIC in March 2006, and the proposed alliance between Plataforma Agraria and CNOC in the same year.

strategy for discrediting movements was to accuse them of deals with the government.[62]

Fragmentation among organisations working on land and labour conflicts in Guatemala obstructed the formulation of collaborative political proposals. While in their discussions on possible strategies for agricultural development in 2005–6 they reached rather similar conclusions, these organisations came up with seven separate proposals. In March 2006, Plataforma Agraria and a consortium of peasant movements simultaneously organised public demonstrations, demanding land for peasants, legal reforms on the management of natural resources and assistance for the victims of Tropical Storm Stan. Participating organisations pursued their own agendas, focusing either on the indigenous population or on peasants in general, organising parallel sessions with different government institutions.

To a significant extent, however, the fragmentation of civil society was a direct result of the political context. In the first place, government practices stimulated fragmentation. The government established numerous round-table meetings and invited participants selectively, thereby promoting competition. The media in Guatemala had little sympathy for the demonstrations and occupations organised by the peasant movements and were keen to highlight their divisions.[63] They dismissed the potential political role of certain peasant movements and emphasised the social unrest that would result from the proposed policies.[64]

More importantly, the organisations had conflicting ideas about the appropriate roles for civil society at the time. A central question was how to address the current power holders: to confront them through protest, or to conform to the political status quo? Many of the peasant and labour movements chose protest. In contrast, Plataforma Agraria hoped to take advantage of the increasing political space and achieve political change through negotiation and proposal. Those organisations favouring one strategy were heavily criticised by those employing other strategies. The activist strategy was portrayed as 'breaking the logic of the peace agreements', which had resulted from a process of negotiation. Organisations favouring negotiation

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[62] In 2006, stories circulated about pre-electoral deals between CONIC and the government, which would account for CONIC's support for controversial government reconstruction plans after Tropical Storm Stan and its absence in the delicate discussions on the *Código Agraria*.

[63] For example, *Prensa Libre*, reporting on the demonstrations in March 2006, was more interested in the economic damage caused by the blocking of the capital's avenues by thousands of peasants than it was in their demands. Over the course of 2006, limited attention was given to the particulars of agrarian conflicts in the newspapers.

[64] Some newspapers condemned the demonstrations in March 2006, and suggested that protestors did not know what they were protesting against and had been paid to participate.

with the government were criticised for being 'talking shops' and for going along with the government to an unacceptable degree.

Again, the selection of strategies also related to the organisational politics of legitimisation and survival described above. The tendency of many labour and peasant movements to prioritise protest related to the need to please their grassroots. Hesitance to cooperate with the government was motivated by fear of criticism from other organisations. At the same time, for most organisations protest seemed the most appropriate response to the political context. Their members in the rural communities were increasingly disappointed with the slowness of the proposed political solutions for their problems. Movements had to balance pursuit of political change – which was a slow process – with rapid responses to the direct needs of their bases.

This precarious balancing of strategies could clearly be observed within the Catholic Church. Pastorales de la tierra of different dioceses varied substantially in their strategies, depending on the bishop in charge. The bishop of the diocese of San Marcos had become the Catholic Church's spokesperson on the agrarian problem. The pastoral de la tierra within his diocese was working on various types of land disputes, but still needed to be careful not to upset the Catholic landlords. In other Dioceses, bishops wanted to refrain from politics or were not interested in social work. In some Dioceses, bishops had good relations with finqueros and favoured an interpretation of agrarian conflict that placed responsibility on the state rather than local landlords. For instance, the earlier activist approach of the pastoral de la tierra in Quezaltenango was effectively brought to an end when a new conservative bishop was put in place and various staff members were fired.

Important in the choice of approach for organisations was the extent to which they assessed the government's openness for negotiation and willingness to change policies. Many organisations observed that the government was not interested in implementing the peace agreements. They witnessed how particular members of the government considered the agreements to be compromises without legal basis. In their experience, agrarian reform had turned from being an agreed-upon agenda to once more being a topic for fierce debate. Many social movements thus highlighted the need for an aggressive stance towards the government, including extralegal actions. As a facilitator of CONIC observed: 'We do not believe in the legal approach: in those cases where CONIC was successful this was the result of occupations.'[65]

Finally, international organisations also played an important role in the choice of strategies. Most donors or international NGOs were either not interested in agrarian conflicts or hoped that the agrarian problem would be

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[65] Interview, 5 May 2006.

solved through the regularisation and credit practices of the state institutions. In essence they supported the neoliberal posture, and few were willing to be associated with the more confrontational activities of some of their partners, let alone finance them.[66]

The political context thus put CSOs in the dilemma of having to either conform with or confront the political status quo. This divided organisations, and both approaches had their limits. Confrontation risked breaking the minimal consensus on an agenda for societal change, as expressed in the peace agreements. On the other hand, it was questionable that the route of conformism would ever result in the social justice sought by so many.

To illustrate this dilemma, and the difficulties CSOs faced in defining new roles and approaches in post-conflict Guatemala, the next section presents the case of the Pastoral de la Tierra de San Marcos (PTSM) and its assistance in a conflict on the finca San Luis Malacatán. The case illustrates how PTSM had defined a precarious strategy to assist peasants with land disputes, using the opportunities of the legal system and the newly established state institutions. This approach of conforming to the legal status quo, however, had important consequences for how PTSM came to understand the conflict on the finca and the appropriate solution to it. Their assistance did not produce the justice expected by the former labourers of the finca and thus did not result in the peace building to which PTSM aspired.

The Pastoral de la Tierra de San Marcos and the Former Labourers of the Finca San Luis Malacatán

The diocese of San Marcos has long encouraged peasants to organise themselves. Its bishop, Monseñor Alvaro Ramazzini, has been one of the most outspoken representatives of the Catholic Church on conflictividad agraria. In 1992, the diocese established PTSM to implement a programme for technical assistance to peasants and strengthen community organisations.[67] After the peace agreements, PTSM got involved in monitoring their implementation, particularly with regard to land disputes. From 1998 onwards, agrarian conflict became a central theme in the work of PTSM. The diocese considered the resolution of agrarian conflict an important step in the peace process, necessary for justice at the local level. PTSM participated

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[66] Although I could not confirm rumours about peasant movements rerouting donor funding to 'illegal activities' such as occupations, the existence of such rumours demonstrates the unwillingness of international NGOs to support more confrontational activities.

[67] Pastoral de la Tierra de San Marcos, *Sistematización de experiencias del programa de capacitación campesina* (San Marcos, 2002).

in a provincial commission on agrarian conflict and became part of the *Pastoral de la Tierra Interdiocesano* in Quezaltenango, and the national Plataforma Agraria.

Agrarian conflicts in San Marcos were diverse and locally specific, with labour conflicts taking place largely in the lowlands – where most fincas were located – and conflicts over natural resources more prevalent in the highland indigenous communities. PTSM dealt with conflicts between peasants and the state and its institutions as well as conflicts among different communities, and assisted groups of landless peasants demanding access to land. As labour disputes were numerous, a specialised organisation, semi-independent from the diocese, was set up.

In 2001, PTSM defined a 'methodology for transforming agrarian conflicts'. Charged with this work was a small team consisting of a social worker, a legal advisor, a historian and an agronomist. To ensure that peasants would make use of the provisions in the peace agreements for accessing land and resolving their conflicts, PTSM helped them to organise themselves. In 2006, eight peasant organisations had obtained credit to buy land from FONTIERRAS. In addition, PTSM provided legal assistance to 12 peasant groups involved in agrarian conflict. Three cases came to a conclusion in 2006, including the case discussed below. The approach of PTSM was strongly historical and legal, and reflected the expertise of the team members. A great deal of energy was invested in detailed historical research and the collection of historical and legal documents to prove the peasants' claims. On the basis of this detailed documentation, PTSM proposed possible resolutions to CONTIERRA.

This strategy, in fact, implied conforming to the legal status quo and the existing institutional set-up. In the eyes of PTSM staff members, a legal and conformist approach was not a choice but the only possible strategy. They had low expectations of the government's willingness to deal adequately with the agrarian problem, and believed that far-reaching reform was necessary to resolve the issue. At the same time, they felt that a more confrontational strategy was inopportune, for reasons similar to those mentioned above: organisational politics and donor pressure. The bishop of San Marcos was already walking a tightrope with his strong stance for the peasants within his diocese; he was often criticised by influential local landowners, many of whom were also his parishioners. At the national level, he could not ignore the criticism of more conservative bishops and needed to maintain good relationships with the state authorities. Hence, an important principle of PTSM was to stay within the boundaries of Guatemalan law. This implied, for example, that it could not support the occupation of fincas. PTSM searched for alternatives to violent and extralegal actions, through legal procedures and capacity building. But even such a moderate strategy did not

protect them from the landowners' criticism that their assistance contributed to the occupations by encouraging peasants to organise themselves.

The legal, conformist approach was also the consequence of the funding practices of international organisations. PTSM found it difficult to find funding to assist peasants in land disputes. International organisations favoured legal assistance rather than advocacy work. Illustrative of this funding climate was the insistence of one of PTSM's major donors on establishing a fund for buying land within the diocese to resolve land conflicts. Rather than supporting advocacy, this donor prioritised conformism to the current agrarian setting and was not interested in the question of whether or not the newly established state institutions properly fulfilled their roles.

Local-level conformism – legal assistance to peasants in conflict – became intertwined with a more activist approach at the national level. PTSM participated in various national platforms, advocating around the conflicts in San Marcos. After massive public demonstrations in various parts of the country at the end of March 2006, the government announced that it would speed up the resolution of agrarian conflicts through intervention by the office of the vice-president. As the cases assisted by PTSM were well documented, three of them were selected for this new procedure. One of those was the case of the finca San Luis Malacatán, located in the coastal lowlands of the diocese, where PTSM had been assisting a group of former labourers since 2002.

The struggle for the finca San Luis Malacatán

In February 2002, the finca San Luis was occupied by a group of 500 families. The occupiers had different demands. A first group of occupiers were those whose families had received usufruct rights to lands in 1952, when the state-owned finca was parcelled out to its labourers in the Agrarian Reform. When in 1954 the Agrarian Reform was reversed, the finca became state property again, and those people were chased away. Afraid of prosecution, they burnt their title deeds or fled to Mexico. Those that stayed became tenant labourers again, working for the state. In 2002, the occupiers demanded that those people finally be compensated for the loss of their land in 1954.

Among the occupiers were also people who had been fired from the finca in various waves of dismissals in the 1980s and 1990s. When the finca was taken over by a private company in 1974, a harsh labour regime was installed and labour movements were abolished. In 1981, sacked tenant labourers started claiming they had never received their due labour entitlements. Events were heavily influenced by the civil war. Leaders of the group received severe

threats and 12 members disappeared, later to be found murdered.[68] After a second wave of dismissals in 1990–5, 80 families were compensated for due labour entitlements with small plots of land. Those left out or dissatisfied organised themselves. Supported by various labourers' and peasant movements – such as the CUC, the *Unión de Acción Sindical y Popular* (Union of Labour and Popular Action, UASP) and the *Coordinadora Nacional Sindical y Popular* (National Coordinator of Labour and Popular Movements, CNSP) – they occupied the finca in 1996 and 1997 to demand compensation for the labour entitlements they were owed. This demand reappeared in the occupation of 2002.

To satisfy those two claims, the occupiers asked for a part of the property of the finca rather than monetary compensation. In particular, they argued that certain parts of the finca were not properly registered, and demanded that the so-called *excesos* (the remaining, non-registered parts) should be given in compensation for the 1954 loss of land and the unpaid labour entitlements. This demand for land motivated a third group of people to join the 2002 occupation, many of them from outside Malacatán. This group included people that had lost their jobs as farm labourers since the coffee crisis. Their hope of receiving a parcel of the finca was fuelled by the belief of the first two groups that the finca was state property and could thus be redistributed.

When the court declared the occupation illegal and demanded their eviction, the occupiers asked the Diocese to organise a round table at the provincial level. This meeting spurred the involvement of PTSM. It resulted in the cancellation of the eviction and the peaceful withdrawal of the occupiers. It was agreed that CONTIERRA would investigate whether and when the land had indeed been state or private property. This study, presented in 2003, concluded that the peasants should be compensated for the loss of usufruct rights in 1954. However, it also demonstrated that the finca had become private property in 1974, that its total surface was properly registered, and that thus no excesos could be claimed.

PTSM was interested in assisting the occupiers, as the conflict presented a typical case of the impact of the Agrarian Reform and the organisation hoped that its resolution might furnish a precedent for similar cases elsewhere. PTSM thus helped the occupiers to establish the *Asociación Integral de Desarrollo Malacateco* (ASIDM), which was included in its programme for organisational strengthening. In 2006, this association had a membership of 107 people, with a core group of eight leaders. Most members did not identify themselves as indigenous, and were born as tenant labourers on the finca. The association built on earlier organisation efforts on the finca during

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[68] Juan-Carlos Peinado, *Apuntes para la sistematización del conflicto agrario paradigmático 'Finca San Luis Malacatán'* (San Marcos, 2006).

the 1980s and 1990s, including an agricultural cooperative and a liga campesina, initiated by the residents of two hamlets close to the perimeters of the finca. In 2006, about 50 members of ASIDM belonged to this original group, while the others came from communities all over the diocese. Those 50 people represented only a fraction of the total number of those affected by the reversal of the agrarian reform or discarded without due payment of labour entitlements, however. Many people were afraid to join the association after the past violence or feared losing their jobs on nearby fincas. Members of the association could find wage labour only in nearby Mexico, having been blacklisted by fincas in the neighbourhood.

The programme for organisational strengthening resulted in ASIDM getting in contact with other, like-minded peasant associations. PTSM also facilitated ASIDM's participation in the activities of Plataforma Agraria. Most importantly, it accompanied ASIDM in its many meetings with CONTIERRA, demanding follow-up to the 2003 study, and arguing and providing evidence for ASIDM's claims. PTSM also started its own historical investigation, which brought to light various irregularities in the registration of the finca.[69] PTSM came to consider the conflict an exemplary case of agrarian conflict in Guatemala, showing the state's lack of interest in the agrarian problem in general and highlighting the failure of state institutions to deal with this particular type of conflict. It referred to the case in many of its advocacy activities at the regional and national levels.

To the occupiers, on the other hand, the support of PTSM was highly welcome. None of the Guatemalan peasant and labour movements had a presence in the region any more, and past support from the movements CUC, UASP and CNSP as well as from the political party *Democracia Cristiana* was not viewed positively. Representatives of those entities had used the conflict on the finca as a means for political mobilisation or had left the occupiers on their own after their interventions had failed. These interventions had made members very suspicious of outsiders' intentions in supporting them, and the diocese was seen as a neutral and trustworthy actor. When the support from PTSM started, the members of the association did not realise that this, in fact, implied choosing conformity over confrontation. Only after the conflict was brought to a final solution did the consequences of a legal approach become apparent.

Legal justice versus local justice

In June 2006, CONTIERRA produced a final proposal for solving the conflict. It confirmed the rights of those who had lost lands in 1954, but

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[69] Joel Hernández Sánchez, *Finca San Luis Malacatán, Departamento de San Marcos*, internal document, Pastoral de la Tierra de San Marcos (San Marcos, 2003).

considered only the claims of the 17 families still in possession of the original title deeds to be legitimate – only those families would be compensated. Furthermore, CONTIERRA argued that the deadline for claiming labour entitlements had since long elapsed. Anyone so deprived, as well as those looking for land for other reasons, should access land through the regular procedures, by requesting credit from FONTIERRAS. This solution was taken up by the office of the vice-president later that year.

The membership of ASIDM found this final resolution of the conflict hard to swallow. To them, it was a legal solution that did not take account of aspects of the conflict that they themselves regarded as important. According to the perception of 'justice' shared by the members of ASIDM, they had legitimate rights to the land of the finca. Almost all members interviewed insisted that the finca was state property, and that the state could decide its destiny. Based on this conviction, those claiming compensation for the 1954 reversal of the Agrarian Reform argued that the only just solution was that the finca be returned to them. The members of ASIDM considered the finca to be their land – it was the place where they had been born as tenant labourers, where their parents had died, and where they had invested their lives and energy. 'We lost our youth on the finca' was a remark made by many people.

Moreover, they argued that the finquero was personally responsible for the misery the former labourers had suffered, including their removal by force from the finca in the 1990s and the killing of their leaders in the early 1980s. Although they no longer experienced direct repression, many members continued to receive threats. After having participated in past occupations, members of ASIDM could no longer find wage labour at other fincas in the region and found it hard to make a living. To the members of ASIDM, the finquero should not walk away without punishment, and should give up part of his land to resolve the conflicts.

From a legal perspective, however, PTSM was not able to support these claims. The notion that the finca was state property was not supported by the evidence collected by both CONTIERRA and PTSM, which indicated that a leasing contract between the finquero and the state had been converted into a sale in the 1970s. Even if it had occurred in private, and for a price now considered a trifle, the transfer had been legal. This reduced opportunities for a solution involving land on the finca. At the same time, accepting the private ownership of the finca had far-reaching implications for the claims regarding labour entitlements. If the finca had been state property at the time of the dismissals in the 1980s, such claims could still have a chance. As the finca was private property, however, this was not the case: state legislation stipulated that such claims should have been made within 30 days of the end of a contract.

Advances made in the case through the interventions by PTSM during 2005 and 2006 implied further compromises in relation to the demand to use part of the finca as compensation. As mentioned, the case of the finca San Luis was one of the cases included in the negotiations by the office of the vice-president. To guarantee a fast resolution of the prioritised cases, rather than negotiating with the finqueros involved, the vice-president's office chose to make credits available for buying land. In the case of the finca San Luis, this implied that those able to substantiate claims to lost usufruct rights would get monetary compensation, and the other claimants would receive a credit to buy land. The peasants themselves had to identify people willing to sell their land. As the finquero of San Luis was not interested, it was unlikely that the members of ASIDM would ever get land on this finca. This was a disappointing result for many of the members. It may have reflected legal justice, but to them it implied that no justice was done.

Furthermore, the legal solution negotiated by PTSM confirmed the different legal positions of the different claimants in the conflict. It acknowledged the loss of usufruct rights, but negated claims on unpaid labour entitlements. However, members of ASIDM had always asked for a solution that involved *all* group members. To them, the different legal values of different claims had limited practical meaning. They considered it unfair that the claims of people who could not provide evidence of having received land in 1954 were not taken into account. After all, in 1954, many people had destroyed their title deeds out of fear of repercussions or had lost them in their flight to Mexico. They also considered it unfair that neither CONTIERRA nor the office of the vice-president took into account that people had not dared to reclaim labour entitlements in the early 1980s because of the civil war.

Finally, the conformist approach of PTSM precluded dealing with one grievance of the ASIDM membership that might have been included in a more confrontational approach. The proposed compensation for lost usufruct rights only took account of land for which written documentation existed, but the 1954 land distribution had included a distribution of the excesos, and because those parts of the finca were not properly registered, they were not specified in the titles. Consequently, in practice the reversal of the 1954 reform meant that people had lost substantially larger properties than their titles suggested. PTSM acknowledged the existence of excesos, but found it difficult to base a valid legal claim on this. Whenever it was found out that excesos existed on a finca, state legislation prioritised finca owners in claiming them, and this made it unlikely that a claim by the members of the association would be successful.

Hence the final solution was a compromise that was unpalatable to the peasants of the finca San Luis, as it neither considered most of their claims

nor met their expectations of justice. In the end, the ASIDM membership accepted the solution, but under protest. In early 2006, the president of the association had to employ all his leadership skills to restrain his members from occupying the finca again, convincing them that another occupation could stall all possibilities for arriving at a solution within a reasonable period.

The Challenges of a Conformist Approach

In defining its response to land conflict, PTSM was torn between its assessment of the political space and its commitment to assisting the peasants, and the need to protect the diocese from losing legitimacy among the local landowners. From the perspective of PTSM's staff members, a legal approach provided the middle road, and was also the approach for which they would get funding from their donors. It had some important consequences, however.

The legal approach framed conflict in a way that allowed for legal and organisational assistance, and took as much advantage as possible of the government institutions established to deal with land disputes. Consequently, the legal approach meant that PTSM focused only on claims that could be sustained legally, thereby reducing the conflict to its legal aspects. Initially, the PTSM team had been interested in the finca San Luis as a test case for dealing with the aftermath of the 1954 reversal of the Agrarian Reform. To PTSM, the labour disputes on the finca were a complication of the conflict whose full dimensions they only came to understand later. Those disputes could not be dealt with adequately through a legal approach, however, and required a more confrontational stance. Furthermore, this legal approach resulted in considerable differences between what the members of the association regarded as 'justice' and what could plausibly be achieved through the legal system.

Although PTSM staff members were fully aware of the disappointment of the ASIDM membership, to them there was no real alternative. Through their participation in national advocacy networks they hoped to contribute to legal changes and reforms that might result in solutions that better suited their local constituents' ideas of justice. At this level, talking in general rather than about specific cases, PTSM staff members could be more critical and confrontational of existing procedures and legislation. Nonetheless, such advocacy work could not reap results at short notice, and certainly not in a case as complicated as that of the finca San Luis.

As such, a legal approach was also a compromise, taking account of the fact that a confrontational approach would not produce short-term results. It was a response to groups of peasants approaching the diocese and

demanding urgent solutions to their individual conflicts, often after having waited for years. PTSM did not want to let them down, and thus designed a strategy to deal with this demand, but it came at a cost: it did not result in the justice expected by the members of ASIDM.

Moreover, the legal, conformist approach had consequences not only for the peasants assisted, but also for what PTSM as an organisation might ever achieve. PTSM staff members were well aware that their focus on individual cases contributed to maintaining the existing status quo. Their experience was that the high-level negotiations and the governmental institutions that had been installed after the peace agreements, such as FONTIERRAS and CONTIERRA, focused on the resolution of individual conflict cases rather than promoting legal change and reform at the national level. Addressing CONTIERRA with individual cases affirmed this institution in its role of using existing legislation to evaluate cases, rather than promoting legal change or criticising the belief in the market as a mechanism for changing the agrarian set-up. PTSM realised that legal assistance implied investing time in researching particular cases, at the expense of more general advocacy work. One representative of PTSM referred to this as the '*trampa institucional*' (institutional trap): as a result of the conformism of CSOs to the existing institutions of the state, they were sidetracked from their objective of re-forming it. Again, donor preferences played a role here – for instance, one donor was willing to support legal and accompaniment work with particular groups of farmers, but not PTSM's lobbying work at the national level on the very same cases.

Conclusion

In debates on post-conflict reconstruction and development, it has been observed that CSOs often lose political force and become fragmented after the peace agreements have been signed. A common assumption is that or-ganisations have to make a transition 'from protest to proposal'. In the case of Guatemala, international organisations and observers alike have pointed out that many organisations failed to make this transition. This case provides a clear example that CSOs do not develop in a linear fashion. While in times of civil war Guatemalan civil society suffered great repression, it was united in its struggle for societal transformation and was increasingly represented in the peace negotiations. After the peace agreements, funding agencies and international NGOs saw CSOs becoming divided by external fund-ing, the politics of legitimisation and survival, and internal organisational problems.

This paper argues, however, that the changing role of CSOs after peace 'breaks out' is not just an internal organisational issue, but is primarily

shaped by the slow pace of post-conflict societal transformation. Organisations in Guatemala willing to bring justice to the rural population are confronted with the dilemma of either settling for the status quo and making the best of the limited opportunities provided by the legal system and the newly established state institutions, or confronting the authorities and more aggressively pressing for societal transformation. This casts a different light on the concern with CSOs' capacity to change their roles and strategies. Focusing on the limited transformational capacities of Guatemalan CSOs misses the point if it does not acknowledge the context in which they have to operate. As the case of PTSM demonstrates, the choice for either a confrontational or a more conformist approach is more ambiguous than supporting donors presume. In this case, a conformist approach was a strategic choice, but the question remains as to whether it resulted in the justice and peace PTSM aimed to achieve.

The case of Guatemala shows that, despite the common conception that peace building is an ongoing process, the idea of a turning point implicitly continues to inform the way in which international organisations conceptualise interventions. After the signing of peace agreements, it is assumed that there is peace. It is supposed that conflict and political discussion on societal development and change are over, and the implementation of the agreements becomes a technical or legal affair. After the peace agreements, international development organisations and donors tend to assume that functioning state institutions exist, and that there are opportunities for civil society actors to effectively participate in the democratic process. Interveners imagine that CSOs may serve as a countervailing power that, in collaboration or at least dialogue with governments, influences development or proposes alternatives. On the basis of such an assumption, assistance to local CSOs focuses on those organisations that correspond to this image of conforming to the status quo. Furthermore, such a preconception results in concerns about the difficulties CSOs face in shifting 'from protest to proposal', as if this were a problem intrinsic to those organisations that cannot adapt to the new realities. This disregards the possibility that the new realities may actually be the problem.

As the case of Guatemala shows, such a strategy fails to take into account the long-term process of societal transformation. While challenges to CSOs have changed little, international attention for their efforts has faded rapidly. This case urges funding agencies and international NGOs to consider more carefully the process of societal transformation after conflict as well as its implications for their local partners. International actors willing to support civil society in redefining roles and strategies after conflict should not only be concerned about their partners' proper functioning as organisations. They should also support them in their role of promoting societal change, and

should be willing also to support the protest and confrontational roles of their partners. Policymakers and international funders need to re-politicise their analyses of post-conflict civil society development, and acknowledge the way in which structural violence and institutional constraints fragment CSOs and reproduce the status quo.

The case of Guatemala further raises questions on the overall roles of the international community in building peace. The international community is applying a double standard if it demands that CSOs adapt to a new status quo but does not pressure the government to carry out the promised political changes. As those promises for change were made under considerable international pressure, international engagement around their implementation would be appropriate. Furthermore, the particular stipulations within the peace agreements bear the strong neoliberal signature of some of those international actors. If those agreements do not result in the agreed-upon objectives of reducing economic inequality and creating a better life for the rural Guatemalan population, the question is whether those international actors might not also have some responsibility to ensure their revision. As such, the case of Guatemala is a vivid illustration of how global governance and civil society may exert an increasing influence on national processes of governance and peace building, but may also erode the very mechanisms that would enable the citizens of those nations to demand accountability for processes of change that are started but rarely delivered.[70]

Spanish and Portuguese abstracts

Spanish abstract. Este artículo trata del papel de la sociedad civil tras un violento conflicto armado. Se argumenta que la transformación lograda por organizaciones de la sociedad civil (OSCs) son más ambiguas de lo que suponen tanto donantes como ONGs. Se analiza cómo, diez años después de los acuerdos de paz de 1996, las OSCs de Guatemala han manejado el conflicto agrario. El artículo discute detalladamente el caso de una organización relacionada a la iglesia que asiste a campesinos en conflictos agrarios y los retos que enfrenta en definir sus estrategias. Indica que los donantes y las ONGs deberían de dejar de ver las dificultades del cambio organizativo en situaciones de posconflicto exclusivamente en términos de las incapacidades internas de la sociedad civil. Más bien, deberían repolitizar sus análisis y enfocarse en la importancia de procesos sociales y políticos más amplios en situaciones de posconflicto para identificar las opciones estratégicas abiertas a las OSCs.

Spanish keywords: posconflicto, construcción de la paz, sociedad civil, conflicto agrario, movimientos campesinos, transformación social, Guatemala

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[70] David Chandler, 'New Rights for Old? Cosmopolitan Citizenship and the Critique of State Sovereignty', *Political Studies*, vol. 51, no. 2 (2003), pp. 332–49.

Portuguese abstract. Este artigo trata do papel da sociedade civil após conflitos violentos armados. Argumenta que as transformações realizadas por organizações da sociedade civil (CSOs, sigla em inglês) são mais ambíguas do que presumem os patrocinadores e as ONGs que as apóiam. Analisa-se como CSOs guatemaltecas lidam com conflitos agrários após dez anos dos acordos de paz de 1996. Discute-se em detalhes o caso de uma organização relacionada à Igreja que assiste camponeses em conflitos agrários e os desafios ao definir estratégias. Defende-se que patrocinadores e ONGs ao apoiar tais organizações deveriam deixar de perceber as dificuldades de mudança organizacional em situações pós-conflito exclusivamente como consequência das incapacidades internas de sociedades civis. Ao invés, recomenda-se que suas análises se politizem novamente e que a importância de processos sociais e políticos mais amplos em situações pós-conflito deveriam ser focalizadas como opções estratégicas que se apresentam as CSOs.

Portuguese keywords: estabelecimento da paz pós-conflito, sociedade civil, conflito agrário, movimentos camponeses, transformação da sociedade, Guatemala