

## **GUATEMALA:**

# **Violence and inequality still blocking solutions for IDPs**

A profile of the internal displacement situation

8 December, 2009

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## OVERVIEW

### Violence and inequality still blocking solutions for IDPs

*Structural inequality, restricted political participation and discriminatory state policies are at the core of Guatemala's challenges today as they were 50 years ago when its war started. 14 years have passed since the signing of the peace accord which marked the end of the country's conflict and promised durable solutions for those people displaced.*

*No profiling exercise has established the number or specific needs of internally displaced people (IDPs), and the government chose to address their needs within general (and generally ineffective) anti-poverty measures. In 2009, any effort to estimate the number of IDPs based on existing figures would be unreliable. What is clear is that the indigenous Maya population and rural peasants were more affected by displacement, and both are still disproportionately affected by extreme poverty and marginalisation.*

*Many of the country's IDPs have returned or resettled in areas where they live under similar conditions as before they were displaced. But they face continuing poverty and new struggles to access land to farm; thousands of peasant farmers and smallholders have been forcibly evicted by businesses interested in large-scale export agriculture. Others fled to the capital and other cities, where they have struggled to integrate culturally and where they compete with economic migrants for poorly paid jobs in the informal sector. In cities, widespread violence by criminal gangs has caused new intra-urban displacements.*

*The current government has enacted policies to address some of these problems, offering dialogue and programmes to organised groups of war survivors, and reviving the National Reparations Programme.*

### Background

The Guatemalan civil war, which lasted from 1960 to 1996, was fuelled by racial discrimination, political exclusion and indigenous hunger for land. A growing insurgency was met by increasing violence from the US-backed army and subsequently by military governments.

Though the insurgency was never capable of defeating the army, many sectors of Guatemalan society called for political power and wealth to be redistributed; the government chose to crush these aspirations through military means. The majority Maya population was extensively attacked through the burning of villages, massacres and assassinations of leaders, in order to ensure that collective action became impossible. During the conflict, a total of 200,000 people were assassinated and 400,000 fled abroad (REMHI, 1998).

The conflict ended with several years of negotiation between the guerrilla coalition and the government, which led to the signing of 11 separate peace accords between January 1994 and December 1996. The ample consultation with civil society organizations, including those representing internally displaced people (IDPs), set a new standard in the involvement of such groups in the transition from war to peace (Fagan, 2009).

### Internal displacement figures and patterns

The number of people displaced in the conflict, and the number of IDPs remaining in 2009 are far from clear. The Arch Bishop's Human Rights Office estimated that a million people were displaced, while the Truth Commission reported that between 350,000 and 1,350,000 people were forced to flee between 1981 and 1983, when 80 per cent of the human rights abuses occurred (REMHI, 1998; CEH, 1999). More recently, the National Reparation Commission has found that many victims of forced displacement were not registered by the Truth Commission and so their real number could be much higher than previously thought (AFP, 2006).

A survey published by UNFPA in 1997 reported that over 320,000 people considered themselves internally displaced due to the armed conflict, of whom 25 per cent were members of collectivities such as the "Communities of Population in Resistance" (*Pueblos de Comunidades en Resistencia* or PCR). 79 per cent were displaced from communities in the provinces of Quiché, Huehuetenango, Alto and Bajo Verapaz, where the government's counter-insurgency campaign was most repressive (UNFPA, 1997; CEH, 1999).

In 1983 the large-scale forced resettlement began of displaced indigenous people to villages near their places of origin, with communities controlled by mechanisms including extensive indoctrination schemes and a sizable paramilitary intelligence network. However, many IDPs, did not immediately return or resettle, as they feared for their security in those areas.

Since the conflict ended, many people have returned to their place of origin. This is particularly true of members of the PCR and other organised displaced communities, who have returned with the support of national institutions and international agencies. Perhaps the majority of other IDPs, however, have resettled in other areas where they have lived under similar conditions as in their place of origin.

A significant number of IDPs who initially sought refuge in the capital have gradually integrated there in search of a better life than the rural areas permitted. While UNFPA documented fewer than 30,000 IDPs in the capital city and the southern coast, other associations used figures from the Truth Commission to estimate that 600,000 were living there (UNFPA, 1997; DiGeorgio-Lutz and Aaron Hale, 2004).

Many IDPs, particularly among those who fled to urban centres, have chosen not to identify themselves as displaced by violence and so have not been counted or recognised as such. This group includes people who were targeted during the 1960s and 1970s and also many who were displaced later but wanted to keep their identity hidden due to the stigma attached to the status or their fear of retaliation (REHMI, 1998).

### **Protection issues facing IDPs and others**

However, in 2009, more than 25 years have passed since the peak of the war and massive displacements of indigenous communities, and it is pertinent to ask whether the conditions which forced their displacement have changed, if those who were displaced still have particular needs resulting from their displacement, and whether their return or resettlement might represent durable solutions.

#### *Continuing insecurity and intra-urban displacement*

Insecurity is widespread in post-war Guatemala. While the international community has directed its attention elsewhere, Guatemalan society is still struggling to transform the state and the repressive elements which influence its policies. New displacements are difficult to document, but urban violence associated with gangs and the state's inability to protect its citizens has generated small-scale, intra-urban population movements.

The government has faced serious challenges for de facto control of Guatemala from illegal trade groups and drug mafias. The national murder rate was higher in 2008 than at any time during the war except the peak years between 1980 and 1984. Assassinations rose by ten per cent a year from under 2,700 in 1999 to over 6,200 in 2008, making Guatemala one of the most violent countries in Latin America (Alston, 2009). Whereas most victims are young men, killings of women and children have recently caught the attention of policy makers, prompting the passing of a law against gender-based violence (UNHCHR, 2009).

Gang-associated violence is the most eye-catching example. Loosely-knit *mara* networks have fought for control of small-scale drug trafficking and protection rackets in urban slums. In 2008 and the first six months of 2009, hundreds of bus drivers, taxi drivers and shop owners were assassinated in Guatemala City (GAM, 2009), prompting strikes which paralysed the city.

The *maras* have attacked and effectively put a halt to projects to develop the capital's shanty towns. For example, the implementation of a new water system in Colonia Mesquital was brought to an end due to extortion and threats. Ten of the 70 families in the neighbourhood had to flee in October 2009. A similar case was reported in La Colonia Limon. There is limited documentation of this phenomenon and its magnitude is unknown, but community leaders have estimated that five per cent of families living in Villa Nueva, Zonas 7, 6 and 12 have had to resettle in other urban areas over the past years due to the threats which followed their inability to pay the illegal taxes imposed by those groups (IDMC interviews, November 2009).

The number of attacks against human rights defenders has almost doubled in the last five years, and in 2008 there was on average an attack every other day. Fifty human rights defenders were killed between July 2002 and December 2007, including 23 killed between 2005 and 2007 (Hilani, 2009).

Defenders of economic, social and cultural rights and organisations working on justice and the right to truth are among the most frequent targets. Community leaders expressed deep concern that IDP organisations which have reported corruption within the National Reparation Programme have been threatened and prosecuted (IDMC interviews, November 2009). It is symptomatic that the national report on the situation for human rights defenders last year was entitled *Nobody Should Lose their Life or Freedom for Defending the Right to Land and Food* (UDEFEGUA, 2008).

#### *Land conflicts and forced evictions of small farmers*

The expansion of agro-industrial projects has led to the forced evictions of small-scale farmers, and drug trafficking to the forced sales of small landholdings in the north and east of the country. These events and related disputes remain a source of social tension and conflict; they contradict the spirit of the peace accords, and primarily affect food-producing peasant farmers.

Guatemala's economy continues to be largely based on agriculture. Access to fertile land is crucial for IDPs and was an important provision in the peace agreement. However, apart from financial and logistical constraints, the will of successive governments to implement structural changes has been very limited, and rural development policies have prioritised the expansion of an export-oriented production model, favouring agro-industrial projects at the expense of subsistence farming and the well-being of farmers granted land according to the peace accords (GOC, 2009).

The expansion of the production of sugar and African palm for biofuel, and the takeover of extensive areas for cattle grazing have provoked conflict with small farmers: 72 violent evictions of peasant farmers were registered between 2004 and 2007, with 44 registered in 2007 alone (AI, 2008). As happened during the civil war, intermediaries and private security companies operating

on behalf of larger companies have continued to approach peasants offering to buy the land at a reduced price, and have resorted to threats and violence if their offer is not accepted (IDMC interviews, November 2009).

The lack of consultation with indigenous peoples on the exploitation of natural resources in their territories has eroded communal autonomy over ancestral territories and led to direct confrontation between communities and external investors. In September 2009, peasants in Estor, Izabal were forcibly evicted while resisting the takeover of land by the *Compañía Guatemalteca de Níquel*. Armed men opened fire on the farmers, injuring several and taking others hostage, including one person who was later found dead (CERIGUA, 2009).

According to the national Committee of Peasant Unity (*Comité de Unidad Campesina*), such confrontations have taken place across large areas of the country (CUC, 2008). While the phenomenon does not qualify as forced internal displacement, thousands of peasants have left their home as a result of these practices since 2004, in what peasant leaders describe as an agrarian counter-revolution (IDMC interviews, November 2009). The calls of indigenous groups for protection against evictions have been echoed by the UN Special Rapporteur on the right to food (De Shutter, 2009) and more recently by the government, which has designed dialogue mechanisms to halt the use of disproportionate force against landless peasants.

#### *Extent of IDP exclusion and patterns of social inequality*

The structural inequalities in Guatemala remain at high levels: over 50 per cent of the population live under the poverty line, and 15 per cent are extremely poor (UNDP, 2008). Two factors reportedly make IDPs more vulnerable than other poor migrants: their loss of land in rural areas, which makes it impossible to go back even in time of extreme hardship, and their inadequate cultural and technical skills to compete for jobs in the urban environment (IDMC interviews, November 2009). However, there are no statistical indicators comparing their situation to that of the rest of the poor population. What is known is that poverty is concentrated in rural areas, and among the indigenous population, which comprises 61 per cent of the population but 76 per cent of the poor (UNDP, 2008)

Levels of under-nutrition were already at 16 per cent before an unprecedented food crisis hit the country in late 2009 (De Shutter, 2009). After scarce rain and the failure of government fertiliser-subsidy schemes, more than 500 people have died of starvation in 2009 and the situation of 54,000 families has been declared critical. The government declared a state of emergency as a means of securing funds from the international community, but civil society organisations have claimed that a durable response requires domestic policy changes. The country now has the highest rate of malnutrition among children under five in Latin America: nearly 50 per cent overall and close to 70 per cent among indigenous children (MRG, 2009).

32 per cent of women and 40 per cent of the indigenous population were still illiterate in 2006 (UNDP, 2008). While ten per cent more women and indigenous people could read and write in 2009 than in 1999, the UN's Special Rapporteur on the right to education noted that the promotion of indigenous culture, as explicitly laid out in the peace accords, has been whittled down to teaching Mayan languages in some primary schools (Munoz, 2009). The low self-esteem amongst indigenous people, in his opinion, continued to demonstrate the negative impact of their cultural exclusion.

Language barriers have also limited employment opportunities for Mayan IDPs, particularly those who were displaced to urban areas. According to accessible data, they not only continue to face insecurity and discrimination, but also find it very difficult to find work, in part due to their lack of Spanish (IDMC interviews, November 2009; USCR, 2005).

## **National government response**

### *A specific response to IDPs?*

The traumatic impacts of displacement were recognised in the 1994 Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (the Agreement on Resettlement), which confirmed that resettling the uprooted population was “an important component of a firm and lasting peace” and that IDPs merited “special attention” so that they might enjoy the same rights as other citizens without discrimination (IACHR, 2001).

The Agreement on Resettlement set out to reintegrate IDPs culturally, economically and politically, by creating the necessary conditions for them to engage in the development of the new Guatemalan society. In keeping with that goal, the government committed to combat poverty, to ensure the participation of IDPs in the development of state policies at all levels and to put in place mechanisms which recognised and reconciled different interests. Special consideration was given to women-headed households, widows, orphans and the cultural and organisational needs of indigenous communities.

More than 90 per cent of the IDPs were displaced by the state security forces, and so the realisation of IDP policies called for in the Agreement on Resettlement has been a good test of the government’s commitment to change. However, since taking over responsibility for the protection of IDPs and other conflict-affected groups after an interim period in which they were supported by the international community, the government has failed to realise these goals. For example, although an effective response and avoidance of new conflicts among vulnerable groups depend on their accurate profiling, the government ignored the particular situation and needs of IDPs and within two years of the signing of the peace accords announced that it would address their needs along with those of the rest of the war victims, through a national poverty alleviation programme (Fagan, 2009). No further IDP profiling took place.

To combat poverty, the current government has enacted a number of social programmes, most notably the cash transfer programme *Mi Familia Progres*a which currently reaches 136 poor municipalities (De Shutter, 2009). But despite some legal initiatives to address inequality, income from taxes has proven insufficient for the government to fulfill its obligations at 9.9 per cent of the total gross domestic product (GDP) in 2009, below the 12.5 per cent stipulated in the 1996 peace agreements.

### *The state of the reparations process in 2009*

The National Reparations Programme (*Programa Nacional de Resarcimiento* or PNR) for all victims of the armed conflict was set up in 2003. The PNR, largely funded by the international community, is mandated to provide reparation to the victims of the conflict, including IDPs. Unlike survivors of serious human rights abuses and their family members, IDPs are not eligible for individual compensation, and tailored individual responses are not achievable, particularly for those who are not within organised groups. But IDP groups have negotiated collective reparation measures, including memorials and subsidies to buy land and build shelters. The PNR’s mandate is due to come to an end in 2013.

According to government sources, significant progress has been made in the implementation of the peace accords in 2009, the most important being of legislative nature. In 2008, the Ministry of Agriculture resolved almost 460 land disputes cases involving over 38,000 families; the Land Fund, with a \$23 million budget and a role derived from the peace agreements, helped almost 2,000 families acquire titles to their land. Another 66,000 families accessed loans to buy or rent land in 2008, 400 received subsidies to buy land and 61,000 families to rent land (SEPAZ, 2009).

Spending through the PNR increased significantly in 2008, with the amount spent almost half that spent since the programme's inception in 2003. Over 10,000 survivors of the armed conflict received compensation as well as an official pardon for the injustices brought against them (SEPAZ, 2009). While IDPs have not been eligible for monetary compensation, reparation measures in their favour in 2008 included the construction of 900 houses (FONAPAZ, 2009). The PNR now hopes to draw up plans with some of the worst-hit villages for projects which will benefit the whole community.

Given the lack of a reliable register and practical selection criteria, however, it remains to be seen whether the government has the technical capacity to implement its policies (IDMC interviews, November 2009). While the PNR has received recognition for making progress despite a lack of collaboration from other state institutions (GTZ, 2007) it has also been criticised for corrupt and clientelist practices, and for generating competition and even conflict between victims' associations. When the 900 houses were built last year, for example, victims and non-victims alike reportedly had to pay up to \$600 each to access them (IDMC interviews, November 2009).

Such problems are compounded by the fact that NGOs and urban *ladino* groups, who are more adept in communicating with national and international bodies, dominate the victim's agenda at the expense of indigenous groups unable to make their needs and demands known and heard in the capital. The reparation policies have also been criticised for responding more to the logic of the donor than that of the receiver, with one leader reporting: "*There is an assumption that the survivors have psychological problems, and they are therefore offered mental health sessions. But the victims are poor and need land to cultivate and, to that, there is no response.*" (IDMC interview, November 2009).

#### *Government response to violence and insecurity*

Post-conflict governments have lacked the political will and the capacity to bring those responsible for human rights abuses and war crimes to justice. This is perhaps not surprising, as government agents were allegedly accountable for 93 per cent of these. The investigative units and the judges have been corrupted and have lacked the resources necessary to prosecute the high number of perpetrators. Moreover, activists' efforts to do so have been criminalised. In 2007, when 98 per cent of crime went unpunished, the International Commission Against Impunity in Guatemala (CICIG) was established to assist national institutions in the investigation and prosecution of crimes allegedly committed by organised criminal groups (CICIG, 2009).

Some analysts believe that today's violence is a continuation of practices developed during past counter-insurgency efforts and results from policy decisions taken since (ICG, 2009; Alston, 2009). They report that the inadequate response to unlawful killings has been due to insufficient budget allocations, inadequate witness protection and lack of judicial reform, and that attempts to reform the security forces, such as the dismissal of 1,700 police officers for corruption in 2008, have been insufficient. Other analysts recognise the involvement of influential parties including state institutions in the violence, and recognise the government's lack of will in confronting the problem, but believe that the current crime wave represents a marked change from the past (UNDP, 2008).

The *mara* violence is a clear demonstration of how the state is failing to protect its citizens. The influence of criminal networks in state institutions has moreover become a serious threat to political reform. Drug cartels control municipalities and local authorities across a broad swath of rural Guatemala that extends from the Mexican border to the Caribbean (ICG, 2009). According to a WOLA study, these "parallel forces" render legal mechanisms of social control inefficient and allow political violence to flourish (WOLA, 2007).

## RESUMEN DEL INFORME EN ESPAÑOL

# CAUSES AND BACKGROUND

## Background

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**While a series of authoritarian governments ruled Guatemala, guerrilla organizations emerged to obtain reforms, 1954-1996**

- In 1945 a new government introduced social and agrarian reforms but the country returned to authoritarian rule due to a US-backed military coup in 1954
- Between 1954 and 1986 a series of military governments known for being among the worst human rights violators, ruled Guatemala
- Guatemala has long been characterised by military oligarchies which established systems of exclusion and racism
- The Commission for Historical Clarification (CEH) concluded violence was directed by the state mainly against excluded poor and indigenous people
- In 1962 the first guerrilla force in Guatemala emerged, the Revolutionary Armed Forces (FAR), to obtain economic and political reform
- Other guerrilla groups developed in the 1970s and unified as the Guatemalan National Revolutionary Unit (URNG) in 1982
- The army became the most powerful economic actor in the country between the 1960s and the 1980s

**UN CHR, 24 February 2003, paras. 5-7:**

“The present status of the indigenous peoples in Guatemala is the result of a long process of colonial subjection of the Maya people starting in the sixteenth century, which was reinforced during the liberal period in the nineteenth century, when a governing class was formed that based its power and its privileges on large rural estates and the exploitation of indigenous labour, under authoritarian and property-based regimes.

A number of attempts to build a fairer society were repeatedly suppressed by force. A military coup in 1954 which overthrew the democratic regime that had been in power since 1944 triggered a cycle of violence that lasted almost half a century. During the 1960s, the revolutionary movement emerged against the background of a succession of military regimes and transitory civilian governments, nourishing a domestic armed conflict which continued for over 30 years until its formal conclusion with the Peace Agreements signed in 1996.

According to the Commission for Historical Clarification (CEH), which was set up under the Peace Agreements:

“The evidence for this, throughout Guatemala’s history, but particularly so during the armed confrontation, lies in the fact that the violence was fundamentally directed by the State against the excluded, the poor and above all, the Mayan people, as well as against those who fought for justice and greater social equality.”

“The anti-democratic nature of the Guatemalan political tradition has its roots in an economic structure, which is marked by the concentration of productive wealth in the hands of a minority. This established the foundations of a system of multiple exclusions, including elements of racism, which is, in turn, the most profound manifestation of a violent and dehumanizing social system.

The State gradually evolved as an instrument for the protection of this structure, guaranteeing the continuation of exclusion and injustice.”

“[...] Political violence was thus a direct expression of structural violence.””

### **ILO May 2000, "History":**

"Although Guatemala gained independence in 1821, until 1944 it was ruled by a succession of dictatorial governments, interrupted by short periods of constitutional rule. The decade that followed was a unique period in Guatemalan history characterized by less repressive rule, the introduction of social and agrarian reforms, and a new Constitution in 1945 which codified respect for civil liberties and acknowledged ideological pluralism. The communist Guatemalan Workers Party (PGT) became close advisors to the successive presidencies of Arbenz and Arévalo in matters such as the suppression of privileges for US companies, which angered the United States as well as the military and large landowners in Guatemala. In the rebel uprising that was to follow, a return to the reforms of this period was often cited as the guerrillas' objective.

After a US-backed military coup in 1954, a general was installed as President, the Constitution suspended and the country returned to authoritarian rule. Between 1954 and 1986 a series of military, and one civilian (but de facto military), governments ruled Guatemala. Over this period the army developed its own version of a Cold War doctrine of counter-insurgency against the "communist threat" posed by revolutionary guerrilla groups which first emerged in the early 1960s. Although a facade of democracy was constructed by holding elections, these were fraudulent and the country became known as the worst violator of human rights in the western hemisphere. The justice system lost its independence and became subordinate to counter-insurgency policies. In response to the worsening human rights situation the US suspended military aid for a short period in the late 1970s.

In the wake of the 1959 revolution in Cuba, the first guerrilla force in Guatemala, the Revolutionary Armed Forces (FAR), emerged in 1962. They sought economic and political reform through insurgent military action. In the early 1970s, another two guerrilla groups emerged -- the Guerrilla Army of the Poor (EGP) and the Revolutionary Organisation of the People in Arms (ORPA). Both these groups were based in rural areas populated mainly by indigenous communities, the stage for most of the military confrontation. By the late 1970s, the revolutionary movement was becoming increasingly militarized and had wide support from the urban and rural population; combatants at this time numbered some 12,000. In 1982, the guerrillas announced their unification as the Guatemalan National Revolutionary Unity (URNG). URNG was composed of the former ORPA, EGP, FAR and a section of the PGT.

During the 1960s, in attempting to suppress the insurgency, the army established themselves as the dominant political force in Guatemala and the most powerful and nationalistic military force in Central America. Over the following two decades the Guatemalan military also became the most powerful economic actor in the country, establishing its own bank, credit institutions, publishing house, as well as the means to take over productive resources. Concomitantly, high-ranking officers became large landowners. Thus the military was now no longer merely protecting the economic interests of the traditional oligarchic élites, but its own as well."

### **“La Violencia”:** The army intensified repression against indigenous peasants, 1970s-1980s

- In the early 1970s, a relaxation of political repression allowed grassroots organizations to re-emerged and consolidate, but the army became increasing intolerant of the social pressure for land reform

- Between 1978 and 1985 the military government conducted its 'scorched earth' policy known as "la Violencia" to defeat the guerrillas and its supporters
- 440 villages were destroyed, entire indigenous communities massacred and about 1 million people became internally displaced or fled the country
- The Commission for Historical Clarification estimates that the number of persons killed or disappeared as a result of the war reached a total of over 200,000
- Indigenous Mayans were targeted for their ethnicity and for being perceived as supportive of the insurgency
- Those who stayed behind were put in "model villages" and used as Civil Defence Patrols (PACs) by the army in 1982
- In 1986 there was a gradual return to civilian rule with a new progressive Constitution however the armed forces continued to exert considerable power

**CEH 1999, Conclusion I:**

"With the outbreak of the internal armed confrontation in 1962, Guatemala entered a tragic and devastating stage of its history, with enormous human, material and moral cost. In the documentation of human rights violations and acts of violence connected with the armed confrontation, the Commission for Historical Clarification (CEH) registered a total of 42,275 victims, including men, women and children. Of these, 23,671 were victims of arbitrary execution and 6,159 were victims of forced disappearance. Eighty-three percent of fully identified victims were Mayan and seventeen percent were Ladino. [...]

Combining this data with the results of other studies of political violence in Guatemala, the CEH estimates that the number of persons killed or disappeared as a result of the fratricidal confrontation reached a total of over 200,000."

**CEH, 1999, Ch.1, para.360:**

"En el Gobierno de Lucas García (1978-82), la estrategia contrainsurgente se concentró en eliminar al movimiento social tanto urbano como rural, el cual había crecido sensiblemente durante los años previos, así como combatir a la guerrilla. Posteriormente, Efraín Ríos Montt (1982-83) le dio continuidad a la estrategia de tierra arrasada, destruyendo cientos de aldeas, principalmente en el altiplano, y provocando un desplazamiento masivo de la población civil que habitaba las áreas de conflicto. Paralelamente el Ejército implantó estructuras militarizadas como las Patrullas de Autodefensa Civil (PAC) para consolidar su control sobre la población, buscando contrarrestar la influencia de la insurgencia y reducir las causas que generaban malestar entre la población organizando, los denominados polos de desarrollo."

**ILO May 2000, "History":**

"A relaxation of political repression in the early 1970s allowed grass-roots organizations such as agricultural cooperatives, peasant leagues and labour unions to re-emerge. During the 1970s, communities of campesinos consolidated to form large regional cooperatives. The army became increasingly intolerant of the success of these cooperatives and of the social pressure for land reform.

As the 1970s drew to a close, the conflict was intensifying and human rights were being violated on a massive scale. Large areas of the departments of Quiché, Huehuetenango and San Marcos were effectively in guerrilla hands. They controlled towns, destroyed infrastructure and carried out raids on other departments. This preceded what was the most critical time in the entire 35-year conflict when, between 1978 and 1985, the military Government's "scorched earth" policy in the northern and north western highlands aimed to drain the "sea" of peasant support in order to defeat the guerrillas. This period is often referred to as La Violencia, a reflection of the intense level of violence prevalent during these years.

Between 1981 and 1983, when this campaign was at a peak, it resulted in the destruction of 440 villages, the death or disappearance of some 75,000 people and the displacement of an estimated 1 million people. Massacres in this period are said to have left more than 75,000 widows and 250,000 orphans. [...] Although many of those who were displaced returned to their communities or resettled within months of their initial flight, at least 300,000 (some estimates put the figure much higher) remained displaced within Guatemala. Those who fled Guatemala sought refuge in Mexico (numbering at least 150,000) as well as in El Salvador, Honduras, Belize, United States and Europe.

This military assault was mainly targeted against rural indigenous peasants in the departments of Petén, Quiché and Huehuetenango. In its efforts to wipe out any kind of opposition to their authority, the military waged war against the entire civilian population but particularly the indigenous in rural areas who they had come to regard as generally supportive of the insurgency. Clearly, beyond their alleged political affiliation, indigenous people were targeted simply because of their ethnicity [...]. Entire communities were massacred; others fled en masse to avoid the same fate. Those who stayed behind and survived, or had returned, were put into Vietnam-style "model villages", where the army was able to monitor and control most aspects of daily life through their monopoly on reconstruction and development projects and through the introduction of Civil Defence Patrols (PACs) in 1982.

Supposedly voluntary, paramilitary forces, most adult indigenous males in this region, were forced to contribute a number of unpaid hours per week in the PACs, which numbered around 1 million men at one point. They were the eyes and ears of military, required to seek out subversives and themselves became perpetrators of human rights abuses on a large scale, often in their own communities. The countryside had become highly militarized and any allegation of links or sympathy with the guerilla would invariably lead to the death of the accused. By 1984, the army was successful in almost completely annihilating the insurgency. Armed resistance did continue but it was at a much abated level."

"From 1985, the army began to allow the gradual and limited opening of political and civil space. However, despite the return to civilian rule in 1986 with the introduction of a new progressive Constitution and talk of democratization and national reconciliation, the armed forces continued to exert considerable influence on government and societal structures. The State also continued to employ extra-judicial execution, 'disappearance', torture and intimidation to contain those that it saw as a threat to its economic and political interests."

### **Serious deterioration of human rights situation and challenges facing President Berger (2004)**

- Deterioration of the situation of human rights over the past years: worsening security situation, impunity and attacks of human rights defenders
- President Berger was elected end of 2003
- Electoral year marred by violence which rose when general Ríos Montt presented his candidacy
- Human rights deterioration was due to control exercised by General Ríos Montt behind the scenes
- During President Portillo administration implementation of the peace agreements stagnated
- Some advances included: development of a national reparation programme for victims of human rights violations during the war, legislation against discrimination and redeployment of military units

- Although Civil Self-Defence Patrols had been formally dissolved, they continued to operate in indigenous regions and hold positions of power (2004)
- Tensions rose when government decided to compensate former civil patrollers for their services during the war
- Since 1996, MINUGUA reported 817 victims of lynchings and 215 deaths in municipalities mostly inhabited by indigenous people

**AI, January 2004:**

“It was widely believed that a major contributory factor in the upsurge in political violence and repression that characterized President Alfonso Portillo's administration (2000-2003) was the control exercised by General Efraín Ríos Montt behind the scenes. General Ríos Montt, a founder member of the *Frente Republicano Guatemalteco* (FRG), Guatemalan Republican Front, was head of state during one of the most repressive periods of the Guatemalan army's rural counter-insurgency campaign in 1982 and 1983.

During 2003 he faced lawsuits both in Guatemala and abroad in connection with army-led massacres carried out while he was head of state, which the UN-sponsored *Comisión para el Esclarecimiento Histórico* (CEH), Historical Clarification Commission, judged had constituted genocide. Despite provisions in the Constitution barring those who gained office through a coup from contesting the presidency, the Guatemalan Constitutional Court ruled in July that General Ríos Montt could stand as the FRG candidate in the presidential elections. This resulted in heightened tension and sparked off further violence and abuses.”

**IACHR, 1 January 2004, paras. 37, 38, 42:**

“The chapter devoted to the situation of the human rights defenders states that it has progressively worsened.

[...]

In the report's chapter on the situation of indigenous peoples, the IACHR remarks that they continue to be systematically excluded from the country's social, economic, and political life, to the clear detriment of their well-being and development, both as individuals and as a group. Although the trend of legislation in the past decade has been piecemeal laws for recognition and protection of indigenous rights, in practice this has not resulted in effective implementation of the legal provisions. This situation of social exclusion and marginalization is also evident in the indigenous peoples' lack of access to justice, and the impunity for violations of their human rights committed during the armed conflict. Compensation for victims is unfinished business. Social exclusion is also rife in terms of indigenous peoples' political participation, and the disputes over lands belonging to them.

[...]

The Commission actually noted a significant deterioration of several aspects it had reviewed before. Civil society and international organizations agree that the Guatemalan human rights situation has worsened. The Commission feels that impunity, corruption, organized crime, intolerance, and political violence, as well as the social exclusion of several sectors, pose a serious threat of backsliding in the effective operation of the rule of law and restrict the full enjoyment of the human rights that the American Convention recognizes for all people.”

**CERIGUA, 28 February 2004:**

“Uno de los temas más discutidos por los asistentes, fue el de seguridad, en donde predominaron críticas al gobierno y a la Policía Nacional Civil (PNC), por su ineficiencia en la creciente ola de violencia que diariamente azota a los guatemaltecos.

Isabel Can, dirigente de la Red de Organizaciones Mayas, dijo a Cerigua que es importante que profesionalicen a la PNC y que desde el gobierno se le dote del equipo necesario y actualizado, a fin de que el trabajo de esta instancia sea más eficiente y no se tenga que recurrir al ejército.”

**CERIGUA, 12 July 2004:**

“Para el pago de las ex PAC, el estado erogará 400 millones de quetzales, fondos que de acuerdo con activistas sociales debe destinarse a programas que beneficien a la población en temas prioritarios, como seguridad ciudadana, educación, salud y vivienda.

Según el informe de la Comisión para el Esclarecimiento Histórico (CEH) las PAC fueron las responsables del 18 por ciento de los hechos violatorios cometidos durante el conflicto; además participaron en al menos el 30 por ciento de las masacres registradas en el país.”

**IACHR, 1 January 2004, para.130,154, 177:**

“Además, la CIDH recibió información sobre la permanencia de bases militares en ciertas regiones en las cuales la presencia militar genera o favorece enfrentamientos con, e intimidación de, la sociedad civil. Estos actos de hostigamiento y los enfrentamientos están relacionados con el resurgimiento de las Patrullas de Autodefensa Civil que actúan con colaboración y/o aquiescencia de las Fuerzas Armadas [...]

Sin embargo, aun cuando las PAC o CVDC fueron formalmente disueltas el 29 de diciembre de 1996 con la entrada en vigencia en Guatemala de la ley del Congreso que derogó el decreto que había creado los CVDC, en la práctica las estructuras se ha mantenido en el tiempo y han continuaron ejerciendo poder en las comunidades locales.

[...]

Durante la visita la Comisión recibió información sobre más de 160 ataques y actos de intimidación contra defensores, testigos y dirigentes sociales registrados entre enero de 2002 y marzo de 2003.”

**UN GA, 11 August 2003, para.6,7,9,80:**

“Progress in implementation fell short of expectations and was insufficient to inject momentum into a peace process that had stagnated in previous years. Advances were verified in certain areas, such as the passage of legislation against discrimination, the redeployment of military units and the development of a national reparations programme for the victims of human rights violations committed during the armed conflict. But there was also inaction on many important issues. Moreover, progress was overshadowed by such negative trends as the worsening public security situation, persistent corruption, setbacks in the fight against impunity and an ongoing climate of intimidation against justice officials and human rights defenders.

Consolidating the vision of the peace accords will require greater political will, the involvement of all sectors of society and the continued engagement of the international community.

[...]

Tensions rose around the country in June 2002 as former civil patrollers blockaded the Tikal archaeological park and an airport and oil installations nearby to demand compensation for their services during the armed conflict. The Government’s decision to pay these groups prompted sharp criticism, in the light of their involvement in past human rights violations and the absence at that time of a reparations programme for victims of abuses committed during the conflict. Demonstrations multiplied around the country, including one protest in which a former patroller was shot and killed, apparently by police. In May 2003, expatrollers angry over delays in the delivery of the promised benefit payments burned down municipal buildings and a market in the town of Chicacao, department of Suchitepéquez.

Public security deteriorated further, prompting the Government to resort again to military patrols in the fight against common crime.

[...]

Guatemala’s electoral process has been marred by a number of unfortunate incidents, some of which have led to violence. Some followed acts of provocation, suggesting that some participants have not fully committed themselves to the fundamentals of democratic elections — tolerance, pluralism and non-violence.”

**UN CHR, 24 February 2003, para.41:**

"In conclusion, the Special Rapporteur has been informed about [...] the continuing impunity with regard to many of the violations of fundamental rights during the domestic armed conflict which affected many indigenous people and communities; and the persistence of violent acts which affect indigenous people and their communities, and would seem to be clearly associated with an unresolved conflict and the perpetuation of non-formal structures of control and oppression which have not been properly eradicated."

**UN CHR, 24 February 2003, paras. 38,45:**

"One of the phenomena which have caused most concern in the legal sphere in recent years is the persistence of lynchings and crowd violence which, according to MINUGUA, threaten the governability of the regions in which they are most frequent. Since 1996 MINUGUA has recorded 421 cases, with 817 victims and 215 deaths. In 2001 alone 75 lynchings were recorded, with 189 victims, of whom 27 died - an increase of 22 per cent over the previous year. These cases occurred in 140 out of Guatemala's 330 municipalities, the great majority of them indigenous. These human rights violations are a consequence of years of armed conflict and its aftermath, for example, the persistent culture of violence, the fact that unelected leaders linked to the former paramilitary groups known as the Civil Self-Defence Patrols openly operate in the communities, the lack of efficient administration of justice, the impunity enjoyed by the perpetrators of these crimes and the destruction of the traditional machinery of authority and justice in the indigenous communities, which was replaced by militarized structures during the years of conflict. [...] MINUGUA has, however, pointed to the lynchings as a sign of the worsening human rights situation, and considers the State's response to be very poor.

[...]

During his visit, the Special Rapporteur was repeatedly informed that although the Civil Self-Defence Patrols had been formally dissolved, they continued to operate in many indigenous regions as local power groups, that their presence hampered the restructuring of traditional forms of organization and the restoration of social peace, and that much of the antagonism currently regarded as a problem of crime and social breakdown - including a number of lynchings, of which much has been made by the mass media - is a result of the tensions generated by their presence."

**AI, January 2004:**

"However, there were claims that villagers were being manipulated and incited to attack targeted individuals whom local politicians or the security forces wished to have eliminated. The instigators of many of these lynchings were reported to be former members of the Civil Patrols."

**About PACs activity see [The Civil Defence Patrols Re-emerge by AI, 4 September 2002](#) [[External Link](#)]**

## **Causes of displacement**

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### **No forced displacements ten years after signing of peace accord (May 2006)**

- Common crime causes displacements, according to national IDP organisation
- People who were displaced by the civil war continue to move from one place to another

**CONDEG, 16 May 2006:**

"Respecto a desplazamiento interno por el conflicto armado ya no existe, pero sí se han dado desplazamientos por el fenómeno de la violencia que genera la delincuencia común. Un tema que ha estado generando mucha preocupación en la sociedad guatemalteca, principalmente la población indefensa que no tiene acceso a la seguridad por parte del estado. Independientemente de lo anterior vale la pena mencionar que actualmente no hay nuevos desplazamientos, pero la población desplazada producto de la guerra interna desde hace más de 36 años, sigue desplazándose de un lugar a otro, ya que no han sido atendidos por los gobiernos de turno."

### **Forced displacements associated with urban gangs (December 2009)**

- Common crime causes displacements, according to national IDP organisation
- People who were displaced by the civil war continue to move from one place to another

#### **IDMC Interview with CONDEG, 2009:**

"Las familias con tiendas de venta de productos domésticos son extorsionados mensualmente por los pandilleros. Como sube la extorsión, otros grupos también quieren lo suyo, y llega al momento de no poder pagarlo. Suelen tener que vender el negocio y abandonar la casa para irse a otro asentamiento donde se sienten seguros (...) En algunos casos las casas quedan en manos de los maras. Las asociaciones también reciben amenazas y son extorsionados. Hasta han habido secuestros."

#### **IDMC Interview with Coordinación de Pobladores de Guatemala, 2009:**

"Los maras operan en las zonas 18, 7, 6, 12, 21, 3, 5. Los más afectados son los jóvenes; asesinaron a cinco en La Limonada esta semana. Los jóvenes no consiguen trabajo porque se sienten estigmatizados por los comerciantes, entonces comienzan a ponerles presión, extorsionan a estos mismos comerciantes (...) No hay números exactos pero muchos se van; de cada 100 familias, cuatro o cinco se van. En Mesquital, donde viven 70 familias, 10 tuvieron que abrirse la semana pasada (...) Las comunidades están generando sistemas de seguridad propia para responder a la situación, para sacar esos jóvenes de ahí. También sacan a sus hijos mientras tanto para que no los maten los maras."

### **The army scorched earth strategy to re-establish control over areas of conflict caused massive displacements (1970s-1980s)**

- State forces and paramilitary groups were responsible for 93% of the violations committed during the war which mainly targeted Mayan civilians
- The state response was not only aimed at overthrowing the guerrillas but above all to destroy Mayan cultural values and social cohesion
- 750,000 mostly indigenous Mayan from the western highlands were internally displaced by the violence in the early 1980s
- The most affected region was the western highlands where 80 per cent of the inhabitants left their home temporarily between 1981-1982
- 440 villages were destroyed between 1978-1984
- Human rights organisations estimated the government was responsible for between 80-93% of the violations committed during the war
- Some 50,000 indigenous peasants, calling themselves the Communities of People in Resistance escaped to remote areas outside the control of the army

- According to the Commission for Historical Clarification (CEH), internal displacement in Guatemala has been caused by armed conflicts and internal strife as well as the systematic violations of human rights
- Civil Defence Patrols activity causes fear among the population five years after their official disbanding (2004)

**CEH, Ch.II Vol.3, 1999:**

"El desplazamiento masivo de los primeros años de los ochenta fue una consecuencia directa de los planes de campaña y operativos militares que el Ejército desarrolló para recuperar el control sobre la población civil en las áreas de conflicto. En un primer momento, se buscó aniquilar a la base social de la insurgencia, en su afán de destruirla, y evitar que otras comunidades se vieran tentadas a apoyarla. Con este objetivo, el Ejército desarrolló las operaciones de tierra arrasada, mediante las que masacró y arrasó comunidades enteras en las que había supuestos indicios de colaboración con los rebeldes. Estas masacres forzaron de diversas maneras a miles y miles de guatemaltecos a desplazarse de sus hogares, como única alternativa para conservar la vida."

**Inforpress Centroamericana 1998, p.103-5:**

"Violence peaked in the early 1980s when the army's counterinsurgency strategy forced the displacement of hundreds of thousands of civilians. Between 1978 and 1984, approximately 100,000 people were killed, 40,000 disappeared, 440 villages were destroyed and 750,000 people were internally displaced, while 250,000 fled the country. The most affected region was the western highlands where 80 per cent of the mainly Mayan indigenous inhabitants left their homes at least temporarily between 1981 and 1982. [...]"

A Guatemalan government study in the mid-1980s showed that at least 200,000 children had lost either one or both parents in the conflict. This violence was often accompanied by displacement."

"CEH concluded that the military response to the challenge posed by the guerrilla movement had been excessive, and that in that context the bulk of the country's indigenous population had been hard-hit by the violence and military repression during the long years of armed conflict. Through its investigation CEH discovered that:

"State forces and related paramilitary groups were responsible for 93 per cent of the violations documented by CEH, including 92 per cent of the arbitrary executions and 91 per cent of forced disappearances. Victims included men, women and children of all social strata: workers, professionals, church members, politicians, peasants, students and academics; in ethnic terms, the vast majority were Mayans.

"[...] The vast majority of the victims of the acts committed by the State were not combatants in guerrilla groups, but civilians.

"[...] The armed confrontation left a large number of children orphaned and abandoned, especially among the Mayan population, who saw their families destroyed and the possibility of living a normal childhood within the norms of their culture lost."

**UN CHR, 24 February 2003, paras. 8-9:**

"[There was] massive and indiscriminate aggression directed against [indigenous] communities independent of their actual involvement in the guerrilla movement and with a clear indifference to their status as a non-combatant civilian population. The massacres, scorched-earth operations, forced disappearances and executions of Mayan authorities, leaders and spiritual guides were not only an attempt to destroy the social base of the guerrillas, but above all to destroy the cultural values that ensured cohesion and collective action in Mayan communities.

"[...] CEH also concludes that the undeniable existence of racism expressed repeatedly by the State as a doctrine of superiority is a basic explanatory factor for the indiscriminate nature and particular brutality with which military operations were carried out against hundreds of Mayan communities in the west and north-west of the country, especially between 1981 and 1983, when more than half the massacres and scorched-earth operations occurred.

"A high proportion of the human rights violations known to CEH and committed by the Army of security forces were perpetrated publicly and with extreme brutality, especially in the Mayan communities of the country's interior."

For the reasons set out above and others indicated in detail in its report, CEH concluded that genocide had been committed against the indigenous peoples of the country."

**CEH 1999, "Conclusion I, para.65:**

"Unprecedented terror, provoked by the massacres and the devastation of complete villages during the period 1981 to 1983, led to the flight en masse of a diverse population, the majority of which was Mayan, but which also included a considerable number of Ladino families, especially in the newly settled areas close to the Mexican border."

**Costello, P. April 1995, para.2.3:**

"While most of those fleeing the army repression of the early 1980s escaped from the conflict areas, some 50,000 indigenous peasants escaped into areas of refuge as yet not under the control of the army. These communities, which called themselves the Communities of Peoples in Resistance (Comunidades de Poblaciones en Resistencia –CPR) remained hidden in [the country] [...]"

**KOFF, 1 February 2004, p.7:**

"For about a year now, the Civil Patrols ("Patrullas de Autodefensa Civiles", PACs) created under the military dictatorships of Romeo Lucas García and Ríos Montt have again been appearing in public. Five years after they were officially disbanded, they are still powerful enough to strike fear into the population once again."

**Archbishop's Human Rights Office analyses the main causes of displacement (1999)**

- Main cause of displacement was violence but other factors include the restriction of freedom of movement, the isolation of communities and the disruption in their daily life
- Communities who suffered massacres had to flee suddenly in life threatening conditions and many of those who did not flee did not survive
- At the same time, fleeing often meant being viewed by the army as supporting the guerrilla and therefore as enemies
- In some cases the guerrilla helped people to flee violence while in other instances, more rare, the army or the paramilitary informed the people of imminent dangers

**ODHAG 1999, Chapter 4, 1:**

"Aunque la mayor parte de las veces la violencia fue la causa directa de la salida, otros factores como la movilidad restringida, el aislamiento de las comunidades y la desestructuración de la vida cotidiana, han constituido una parte importante de la experiencia que se recoge en los testimonios. [...]"

El haber sufrido directamente los hechos de violencia, y el clima de terror imperante, llevó al desplazamiento masivo de población en algunas áreas del país. El conocimiento de lo que estaba sucediendo en comunidades cercanas, la presencia militar, los secuestros y asesinatos, o

en algunas ocasiones las actuaciones de la guerrilla, suponen un contexto habitual en las descripciones del origen del desplazamiento en los testimonios. [...]

En las comunidades que sufrieron masacres, la decisión de la huida fue en muchos casos abrupta y en un contexto de peligrosidad extrema. Muchas familias apenas pudieron llevarse algunos enseres en su huida, y la mayor parte lo perdieron todo.

En otros casos, la conciencia de peligro inminente ayudó a muchas personas a salvar la vida. Otras poblaciones se quedaron al no sentirse hostigadas o pensar que el Ejército no les haría nada. La resistencia a dejar su casa o a creer en las informaciones que llegaban de otros lugares, hizo que algunas familias o comunidades no se desplazaran, perdiendo muchos de ellos la vida. La huida durante unos días o los desplazamientos temporales fueron también intentos de enfrentar el peligro sin dejar su tierra. Esa experiencia es común a muchos procesos de desplazamiento posteriores a la ciudad, a la montaña o al exilio. [...]

El tener que huir fue sentido por muchas personas como una injusticia. Las familias se encontraron ante el dilema de huir para defender la vida, y a la vez pensar que si lo hacían el Ejército les señalaría efectivamente como parte de la guerrilla. Eso confrontó a las familias y comunidades con una paradoja en la que cualquier decisión que tomaran suponía una amenaza para su vida.

Sólo en una pequeña parte de los casos recogidos la decisión estuvo precedida de una evaluación más pausada de las condiciones de amenaza, la búsqueda de lugar seguro y planificación de la huida. [...]

En el área rural las informaciones sobre lo que estaba ocurriendo hicieron que mucha gente huyera. La necesidad de información sobre lo que estaba sucediendo era un requerimiento básico para poder tomar decisiones y salvar la vida en una situación en la que la difusión de rumores fue frecuente por las condiciones de tensión, aislamiento e incertidumbre sobre el futuro. En otros casos, fue la guerrilla la que orientó a la gente para que se desplazara a otros lugares o se fueran con ellos a la montaña. Sin embargo, en casos más selectivos incluso algunos soldados o miembros de las PAC avisaron a la gente de lo que se estaba preparando o les animaron a ponerse a salvo."

## **Peace efforts**

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### **Central America peace plan: Esquipulas II (1987)**

- Central America peace plan – Esquipulas II – signed in 1987 identified internal displacement as a priority area
- In 1986, the government established a Special Commission for the Assistance of Repatriates (CEAR) which included the IDPs in 1988
- In 1992, the government and representatives of the refugees in Mexico signed an agreement for a safe and assisted return to Guatemala

#### **Costello, P. April 1995, para.2.3:**

"New hopes were raised by the Central America peace plan signed in August 1987 in the Guatemalan town of Esquipulas by the five Central American presidents. *Esquipulas II*, as it came to be known, called for parallel peace processes in all of the Central American countries. The accord identified displacement as a priority area and point 8 urged that the needs of the displaced should be attended to with urgency.

[...]

*In 1986, the Guatemalan government established a Special Commission for the Assistance of Repatriates (Comisión Especial de Atención a Repatriados – CEAR) and in 1988, it broadened the mandate of the commission to include the internally displaced. However the government did not prove willing "to negotiate with the CPRs [Communities of People in Resistance] since it would have involved interfering directly with the military counter-insurgency strategy."*

**ILO May 2000, "History":**

"Crucial for the refugee population was the signing in October 1992 by the Government and the representatives of the refugees in Mexico, the Permanent Commissions (CCPP), of an agreement to allow for their safe and assisted return to Guatemala."

**Accord on Resettlement of the Population Groups Uprooted by the Armed Conflict (1994)**

- The Agreement on Resettlement signed between the GoG and the URNG targeted displaced people dispersed or in groups including the Communities of People in Resistance (CPRs)
- It ensures the voluntary return of IDPs to their places of origin or other places of their choice in dignity and security
- It ensures the relocation of IDPs and their full integration in the social, economic and political life of the country
- The government commits to provide IDPs with education, documentation and registration
- The state will ensure legal security in the holding of land and take legal steps to ensure that land abandoned during conflict was not "voluntarily" abandoned and compensate the victims accordingly
- Two entities created to implement the agreement: a Technical Committee (CTEAR) and a consultative assembly of the displaced (ACPD)

**GoG & URNG, 17 June 1994:**

"While neither the Agreement on resettlement nor the establishment of the Commission will come into force until the signing of a final peace agreement between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, the parties have agreed in both cases that preparatory work should begin earlier.

[...]

The Agreements on resettlement and on the establishment of the Commission are very encouraging developments which consolidate the prospects for an end to over 30 years of armed conflict in Guatemala. It is my hope that the momentum that has been created so far will result in a successful and timely negotiation of the remaining items on the Timetable for the Negotiation of a Firm and Lasting Peace.

(Signed) Boutros BOUTROS-GHALI

[...]

Definitions

1. For the purposes of this Agreement, the term "uprooted population" shall include all persons who have been uprooted for reasons connected with the armed conflict, whether they live within or outside Guatemala, and shall include, in particular, refugees, returnees and internally displaced persons, either dispersed or in groups, including popular resistance groups.

2. "Resettlement" shall mean the legal process of return of uprooted population groups and individuals to their place of origin or another place of their choice in Guatemalan territory, and their relocation and integration therein, in accordance with the Political Constitution of the Republic of Guatemala.

## Principles

The Parties agree that a comprehensive solution to the problem of uprooted population groups should be guided by the following principles:

1. Uprooted population groups have the right to reside and live freely in Guatemalan territory. Accordingly, the Government of the Republic undertakes to ensure that conditions exist which permit and guarantee the voluntary return of uprooted persons to their places of origin or to the place of their choice, in conditions of dignity and security.

2. Full respect for the human rights of the uprooted population shall be an essential condition for the resettlement of this population.

3. Uprooted population groups deserve special attention, in view of the consequences they have suffered from being uprooted, through the implementation of a comprehensive, exceptional strategy which ensures, in the shortest possible time, their relocation in conditions of security and dignity and their free and full integration into the social, economic and political life of the country.

4. Uprooted population groups shall participate in decision-making concerning the design, implementation and supervision of the comprehensive resettlement strategy and its specific projects. This participatory principle shall extend to population groups residing in resettlement areas in all aspects concerning them.

5. A comprehensive strategy will be possible only within the perspective of a sustained, sustainable and equitable development of the resettlement areas for the benefit of all the population groups and individuals residing in them in the framework of a national development plan.

6. The implementation of the strategy shall not be discriminatory and shall promote the reconciliation of the interests of the resettled population groups and the population groups already living in the resettlement areas.

[...]

6. The Parties request the United Nations Educational, Scientific and Cultural Organization (UNESCO) to elaborate a specific plan to support and provide continuity to efforts to educate the population groups in the resettlement areas, including providing continuity to the efforts being made by the uprooted communities.

7. The lack of personal documentation for the majority of the uprooted population groups increases their vulnerability and limits their access to basic services and the enjoyment of their civil and political rights. This problem requires urgent solutions. Consequently, the Parties agree that the following steps are necessary:

7.1. In order to arrange for the documentation of uprooted persons as soon as possible, the Government, with the cooperation of the international community, shall intensify its efforts to streamline the necessary mechanisms, taking into account, where appropriate, the registers kept by the uprooted communities themselves;

7.2. Decree No. 70-91, a provisional act concerning replacement and registration of birth certificates in civil registers destroyed by violence, shall be revised so as to establish a system adapted to the needs of all the affected population groups, with streamlined, free-of-charge registration procedures. For such purposes, the views of the affected sectors shall be taken into account. Personal documentation and identification shall be completed as soon as possible;

[...]

8. An essential element of the resettlement process is legal security in the holding (inter alia, the use, ownership and possession) of land. In that regard, the Parties recognize the existence of a

general problem which particularly affects the uprooted population. One of the principal manifestations of legal insecurity is the difficulty of producing evidence of landholding rights. This situation stems, *inter alia*, from problems concerning registration, the disappearance of the files of the Instituto Nacional de Transformación Agraria (INTA), the institutional weakness of specialized bodies and municipalities; the existence of rights based on customary systems for the holding and surveying of land; the existence of secondary occupants or the annulment of rights on the basis of the improper application of provisions concerning voluntary abandonment.

9. In the particular case of abandonment of land as a result of armed conflict, the Government undertakes to revise and promote legal provisions to ensure that such an act is not considered to be voluntary abandonment, and to ratify the inalienable nature of landholding rights.

In this context, it shall promote the return of land to the original holders and/or shall seek adequate compensatory solutions.

[...]

2. For its part, the Government undertakes to allocate and mobilize national resources in a manner consistent with its efforts at macroeconomic stabilization and modernization of the economy; and to reorient and target public expenditure towards fighting poverty and resettling the uprooted population.

[...]

The agreements contained in the comprehensive resettlement strategy shall be implemented through the execution of specific projects.

2. For that purpose the Parties agree to establish a Technical Committee for the implementation of the resettlement agreement, to be composed of two representatives designated by the Government, two representatives designated by the uprooted population groups and two representatives of donors, cooperating bodies and international cooperating agencies. The latter representatives shall have consultative status. The Committee shall draw up its own rules of procedure.

[...]

6. For the purpose of ensuring implementation of the resettlement strategy, the Parties agree to establish a fund to implement the agreement on resettlement of population groups uprooted by armed conflict essentially with contributions from the international community. The United Nations Development Programme (UNDP) shall be asked to administer the funds of each of the projects to be executed.

## **VI. FINAL PROVISION**

In accordance with the Framework Agreement of 10 January 1994, this Agreement shall be subject to international verification by the United Nations.”

### **Inforpress Centroamericana 1998, p.105:**

"The Accord on the Resettlement of Populations Uprooted by the Armed Conflict, signed on 17 June 1994 by the government and URNG, identifies the needs of the displaced people and gives specific guarantees for reintegration. The main necessities it identifies are the official acknowledgement of the uprooted population as civilians: provision of personal documentation; the purchase and/or titling of land; and recognition of informal education and training.

A Technical Commission for the Resettlement Accord (CTEAR), comprised of representatives from the government, the URNG and the uprooted population, was created to design and supervise resettlement projects. In addition, a Consultative Assembly of the Displaced Population (ACPD) was created to channel the needs and opinions of communities to CTEAR: in June 1997, the ACPD represented 104,200 displaced people. [...]

But the resettlement accord fails to target IDPs living in urban areas and places emphasis on rural IDPs, indicating that the resettlement areas are primarily rural."

**To access all the Guatemalan peace agreements click here [\[External Link\]](#)**

### **1996 Peace Agreement and other substantive agreements (1990-1996)**

- The government and representatives of the insurgency movements URNG, signed a peace Accord ending 36 years of war in 1996
- The peace accord include a substantive accord on resettlement and economic integration of IDPs
- In 1994 a Historical Clarification Commission was established to report on human rights violations committed during the conflict
- In 1994, the UN Human Rights Verification Mission in Guatemala (MINUGUA) was established to strengthen human rights organizations and end impunity
- In 1995 Guatemala's ethnic, cultural, and linguistic diversity and for the rights of indigenous people to live by their own cultural norms were recognized
- In 1996 an agreement promoted decentralization of government services and land reform
- The UN Secretary General created the UN Human Rights Verification Mission in Guatemala (MINUGUA), to monitor the implementation of the Accords in 1996
- According to MINUGUA a major part of the population still does not see the benefits of peace (2001)

#### **MINUGUA, Acuerdos de Paz:**

"This section contains a brief description of the significance of the Peace Accords signed between the Government of Guatemala and the Guatemalan National Revolutionary Union (URNG) in December 1996, bringing an end to the country's armed conflict. Links to the texts of each of the twelve Accords are also included below.

The Peace Accords which ended the thirty-six years of armed conflict in Guatemala were the result of negotiations which began formally in 1990. They came into force with the signing of the Firm and Lasting Peace Accord on 29 December 1996 by the Government of the Republic and the URNG. The sum of the Accords corresponds to a single, integral agenda oriented towards overcoming the causes of the armed confrontation and establishing a basis for new development. Emphasizing a national consensus, the Accords have been accepted by the diverse sectors represented in the Assembly of Civil Society and elsewhere. They are therefore Accords of and for the Guatemalan people, and as such require the united efforts of all Guatemalans to preserve and consolidate.

In 1996 the two sides concurred that international verification of the compliance with the signed Accords was essential in order to strengthen confidence in the consolidation of peace. As a result, the Secretary-General of the United Nations, with the approval of the General Assembly, established the United Nations Verification Mission in Guatemala (MINUGUA)."

#### **US DOS May 2000, "Guatemalan Peace Process":**

"On December 29, 1996, the Government of Guatemala and representatives of the URNG [Guatemalan National Revolutionary Unity] --an umbrella organization grouping four insurgency movements--signed the last of a number of Peace Accords, which brought to a close a 36-year long internal conflict, the longest in Latin America. Six of the accords are "substantive." Others focus on procedural matters.

The main substantive accords are:

*Human Rights*. Signed in March 1994: Aimed at strengthening human rights organizations and ending impunity. It established MINUGUA [UN Human Rights Verification Mission in Guatemala], the UN human rights monitoring entity, which has been a key element in the restoration of peace, and called for the disbanding of clandestine security forces.

*Resettlement*. Signed in June 1994: Established objectives for the resettlement and economic integration of displaced peoples into Guatemalan society.

*Historical Clarification*. Signed in June 1994: Establishes a commission to report on human rights violations committed during the conflict.

*Indigenous Rights*. Signed in March 1995: Calls for recognition of Guatemala's ethnic, cultural, and linguistic diversity and for the rights of indigenous people to live by their own cultural norms.

*Socioeconomic and Agrarian issues*. Signed in May 1996: Promotes decentralization and regionalization of government services, urges land reform, protection of the environment, and a more equitable budgetary and taxation policy.

*Strengthening Civil Authority and the Role of the Military in a Democratic Society*. Signed in September 1996: Calls for improvement, modernization, and strengthening of all three branches of the state. It contains an agreed list of constitutional reforms which the government will propose and limits the armed forces' role to defense of national sovereignty and territorial integrity."

**Brookings May 2001, p.7:**

"The peace accords of 1996 specifically provided for the formation of a national commission composed of government representatives and uprooted persons to design projects to assist the displaced return home. In mid-1997, the government signed an accord with representatives of displaced persons organizations that required the government to provide land and other services to the displaced."

**US DOS February 2001, Section 3:**

"The new Government's efforts [Government lead by Alfonso Portillo] to implement the Peace Accords were limited as it struggled to organize itself and set policy priorities throughout the year. By year's end [2000], the Portillo Administration established a new timetable for the implementation of the many elements of the Accords which had yet to be accomplished."

**MINUGUA September 2001, para.76:**

According to MINUGUA, as of mid-2001, "Por ello gran parte de la población, en especial los sectores más excluidos, como los pueblos indígenas, las mujeres y los campesinos pobres, no sienten aún los beneficios de la paz."

***To access the Guatemalan Peace Agreements between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca(URNG) click here [External Link]***

**The Commission for Historical Clarification (CEH) was created in 1994**

- The Commission for Historical Clarification (CEH) was created in 1994 by the UN and the signatories of the peace agreement (GOG and URNG)
- The CEH was mandated to investigate and clarify human rights violations and the history of events during the conflict

- In its final report in 1999, it concluded that 93% of the violations were committed by the government, 3% by the guerrillas and that over 200,000 people were killed
- The CEH concluded that the army had committed genocide against some indigenous people
- The CEH has no mandate to judge but to clarify the history of the events of three decades of war

**CEH 1999, Prologue:**

“The Commission for Historical Clarification (CEH) was established through the Accord of Oslo on 23 June 1994, in order to clarify with objectivity, equity and impartiality, the human rights violations and acts of violence connected with the armed confrontation that caused suffering among the Guatemalan people. The Commission was not established to judge – that is the function of the courts of law – but rather to clarify the history of the events of more than three decades of fratricidal war.”

**Assistance to the Guatemala CEH, 1997-1999:**

“The thirty-six year Guatemalan armed conflict ended on 31 December 1996 when the government signed a peace accord with the URNG insurgents. Part of the accords directed the United Nations to organize a Commission of Historical Clarification (known as the CEH by its Spanish acronym), similar to what in other countries has been called a truth commission.

[...]

The CEH report used the most advanced information management and analysis methods of any truth commission to date, and the report has been well-received in Guatemala. The CEH concluded that 93% of the violations were committed by the government, and 3% by the guerrillas; that more than 200,000 people were killed during the conflict; and that in certain regions and against people of certain ethnicities the army committed genocide.”

***See the full report of the Commission for Historical Clarification “Memorial del Silencio”, 1999 [External Link]***

***See the English version of the Recommendations and Conclusions of the Commission for Historical Clarification, 1999 [External Link]***

# POPULATION FIGURES AND PROFILE

## Global figures

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### No official IDP figures as of November 2009

- At the end of 2007 the government had not agreed on criteria to include IDPs in a national reparation programme and it is unclear how many people can still be considered as displaced, if any.
- Main challenge from the outset of the displacements was to distinguish people displaced by the violence from economic migrants
- The government did not recognise the existence of IDPs in between 1986 and 1996
- In 1997, the UN Population Fund and some national institutions censused a total of 242,386 dispersed IDPs, excluding organized IDPs
- Since then, no studies on IDPs have been conducted and exact numbers are difficult to establish
- A national IDP organisation estimate there are 1,000,000 IDPs as of May 2006, mostly indigenous people
- Most IDPs did not declare their status of displaced for reasons of physical security
- At the height of the conflict between 500 thousand and 1.5 million people were uprooted including IDPs and refugees (1981-3)
- Based on the analysis of victims' claims, the National Reparation Commission estimates that the real number of victims could be much higher than previously thought.

### IDMC, November 2009:

In interviews with the National Reparation Commission and national civil society organizations, references to figures were based on previous estimations.

### Agence France-Presse, 9 August 2006:

"The estimated number of victims during the Guatemalan conflict could be the double of those 200,000 previously estimated by the Truth Commission, stated the President of the National Reparation Commission, Rosalina Tuyuc (...) "According to conservative calculations, we could be talking of a duplication of the figures previously used given that the majority of the 7,638 cases analyzed by the Commission are neither registered by the Arch Bishop's Human Rights Office nor the Truth Commission," sustained Tuyuc in a press conference (...) Many victims are still afraid to tell about their experiences, as happened ten years ago during the elaboration of the previous reports."

### IDMC, October 2007:

In an interview with IDMC in October 2007, the director of the national reparation programme said no criteria existed to repair IDPs as victims of the conflict.

### CONDEG, 16 May 2006:

"Desde un principio hubo discusiones no por la cantidad, sino más bien sobre cómo identificar los desplazados. Es decir quienes son desplazados por el conflicto armado interno y quienes son desplazados por la pobreza (en busca de empleo, etc.) ya que el gobierno principalmente en los años 89 al 96 argumentaba que en Guatemala no existían desplazados internos por el conflicto

armado, sino por emigraciones económicas. Respecto a las cifras o números nadie tiene datos exactos de la cantidad de desplazados internos, ni el propio gobierno lo tiene. Aunque la Comisión Nacional de Resarcimiento –CNR- maneja una estimación de 1,000,000 (un millón) de personas. Mientras que la CEH en su informe estableció una estimación de 600,000 mil personas desplazadas. Sin embargo se maneja entre 500 mil a un millón y medio de desplazados internos en Guatemala. A esta cifra se incluye a los desplazados agrupados como las comunidades en resistencia (CPR-SIERRA, CPR-IXCAN, y CPR-PETEN con estos 3 bloques no llega ni siquiera a 5 mil familias desplazadas. En el caso de CONDEG únicamente aglutina entre 40 mil a 50 mil personas como miembros. Como CONDEG compartimos que la cantidad aproximada de población desplazada oscila entre el millón de personas que en su mayoría son de población maya e indígena"

**CEH, Ch.III, 1999:**

"La estimación de desplazados oscila entre 500 mil y un millón y medio de personas en el período de mayor afectación (1981-1983), sumando las que se desplazaron internamente y también aquellas que se vieron obligadas a buscar refugio fuera del país."

**UNHCR, 1 January 2003:**

"Between 1981 and 1983, during the height of the armed conflict, an estimated 1 million people were displaced internally or fled the country. In neighbouring Mexico, UNHCR registered over 46,000 Guatemalan refugees in the southern states of Chiapas, Quintana Roo and Campeche, although human rights organisations estimated the number of refugees in Mexico at approximately 100,000. The vast majority of displaced persons, however, remained inside the country, The majority of the IDP population returned to their homes shortly after being displaced, however, tens of thousands of IDPs remained displaced throughout the country during the late 1980s and 1990s. Some 50 000 indigenous peasants fleeing the most affected conflict areas, were displaced into three remote jungle areas: the Ixcán, the Ixil Triangle (both in Quiché) and the Petén. These IDPs organised themselves in the Communities of Peoples in Resistance (CPR), in order to escape army repression and control and to fulfil their basic needs. Beginning in the early 1990s, the CPRs began to demand national and international recognition of their status as civilians, requesting that attention be paid to their situation of continued internal displacement. In addition to the CPRs, an unknown number of displaced persons remained in shantytowns in the capital, while others fled to the Southern Coast where they engaged in farm labour. These IDPs were by-and-large unorganised and unidentifiable as a coherent group.

[...]

There are no exact estimates of IDPs in Guatemala today since no survey or registration was done during the conflict. However, during the period immediately following the signing of the Peace Accords in 1996, the Government of Guatemala cited the figure of approximately 200,000 persons internally displaced and still in need of a durable solution, through integration in the area of displacement, return, or resettlement to a new location within the country. A UN Population Fund survey conducted in May 1997 found that 242,386 IDPs were present in the country. Further complicating matters, there is no uniform definition of IDPs and many of them remained anonymous for fear of persecution during the conflict years. Today, UN agencies officially consider that there are no more IDPs in Guatemala while other experts disagree, saying that over 200,000 persons remain displaced and that only the Communities of People in Resistance (CPR) have resettled permanently. In 1997, the US Committee for Refugees stated that there were 250 000 displaced people, but reduced this figure to zero the following year, considering that persons displaced during the conflict were no longer prevented from returning home due to conflict or fear of persecution. The main cause for continued displacement is now related to the government's lack of will and resources to provide the displaced with the land and assistance they need to return home. Lack of personal documentation and poverty also affect IDPs, in particular those living in urban centres."

***Estimates in 2004***

**USCR, 2004:**

“Advocates for persons displaced from Guatemala’s civil war, which officially ended with peace accords in 1996, still fought for government compliance with the resettlement and compensation sections of the peace accords and tens of thousands have not regained their lands and not successfully been reintegrated.”

**UNICEF, e-mail, 6 July 2004:**

Both the Peace Secretariate (SEPAZ) and the National Council of Displaced People in Guatemala indicated that it is difficult to establish an exact number on how many remained displaced by violence, as no recent studies exist on the issue. The National Council of Displaced People, said that they were the only organization that had identified about 8,000 displaced families, out of which they had assisted around 3,500 as of July 2004. They estimated that there were around 100,000 displaced families in Guatemala, due to economic problems, lack of community development, lack of opportunities in the interior of the country and also due to the internal armed conflict.

**UNDP, e-mail, 26 November 2003:*****Estimates in 2003***

Official estimates of internally displaced in Guatemala have varied between 250,000 up to one million. However, there is no precise knowledge on numbers, partly due to the nature of the displacements which contributed to “invisibilise” the IDPs, particularly when they settled in urban areas.

**USCR, 2003:**

“The problem with dropping the IDP label is that it enables those who appropriated their properties to retain control over the property without providing restitution or compensation. [...] Even those IDPs who rent land continue to consider themselves displaced because they are deprived of ownership of property which is what they had before the displacement. [...] They are what one would call unremedied conflict induced displacement- and unfortunately this is not prioritized by donors or other actors”.

***Estimates in 2002***

“The conflict that caused much internal displacement in Guatemala ended in 1996, and many Guatemalan refugees have returned. Some formerly internally displaced Guatemalans seek land and assistance from the government to facilitate return to their former homes.”

**UNHCR, e-mail, 6 June 2002:**

For people working in the Technical Commission for the Verification of the Accord for Uprooted Populations, one of the main difficulties was to define who and until when a person could still be considered displaced.

IDP organisations estimated that over 400,000 people were displaced in the country, however they were unable to present statistics or maps to justify their estimates. IDPs often ended falling into the category of “poor”.

The government took the position that people who had returned, reintegrated or who settled in urban areas such as Guatemala City could no longer be considered displaced. The estimate of 250,000 IDPs could be the most acceptable .

***Estimates in 2000*****Bailliet, April 2000, p.16:**

“While organized collectives of IDPs, Comunidades de Pueblos en Resistencia (with a total of 15,000 members), have been able to gain international attention and purchase new land, the needs of the much larger number of dispersed non-organized IDPs have not been adequately addressed. The Guatemalan government admits the failure but denies the need to recognize an additional category of protection arguing that ‘the internally displaced person ... is not in a special

situation. ... he is in the same general situation as the rest of the population facing extreme poverty.'

UNHCR's Guatemala office maintains the position that there is no longer an IDP problem in Guatemala. They question the validity of the category itself, stating that it is difficult to prove who is an IDP due to the length of time and cyclical nature of internal displacement. Their attitude is shared by IOM and USAID representatives.

The general perspective is that it is a more holistic form of protection to provide socio-economic assistance to marginalized communities composed of diverse groups rather than focus on one category to the exclusion of others. The reality that CTEAR [Technical Commission for the Execution of the Accord on Resettlement of the Populations Uprooted by the Armed Conflict] and the various land institutions have lists and files of IDPs, and that additional information is continually being received from applicants, carries little weight with donors. Review of this data, combined with additional investigation, would enable a more accurate determination of the actual number of IDPs dispossessed of land.

Clearly, the Guatemalan state lacks sufficient resources to provide full reparation to all and has to design strategies which are practical to implement. However, I would argue that it is discriminatory to state that the identification of a refugee, which also often entails questions of proof, is somehow more legitimate than that of an IDP. We must not ignore the reality that IDPs were dispossessed of their property in like manner to refugees."

**ILO May 2000, "History":**

"Although many of those who were displaced returned to their communities or resettled within months of their initial flight, at least 300,000 (some estimates put the figure much higher) remained displaced within Guatemala."

**Fundación Arias September 2000, p.29:**

"La Asamblea Consultiva de la Poblaciones Desarraigadas (ACPD), que involucra a cerca de 15 organizaciones que se relacionan con la temática del desarraigo, hicieron ver públicamente en junio de 1999, que los avances que se han producido por parte del gobierno para el cumplimiento de los compromisos del Acuerdo de Reasentamiento, son todavía muy limitados. [...]

Tan sólo los refugiados-retornados y parte de las Comunidades de Población en Resistencia (CPR), se han reasentado en lugar definitivos [...]. Las comunidades y grupos de población desplazada interna todavía están al inicio del proceso luchando por el acceso a la tierra o legalización de sus terrenos."

***Estimates in 1998***

**USCR, 1999:**

" Two years after the signing of the peace accord, the Guatemalan government still categorized some 250,000 people as internally displaced. Most became displaced from their homes in the early 1980s; many are firmly resettled and do not plan to return to their areas of origin.

The December 1996 peace agreements called on the government to help the displaced find lasting solutions. In mid-1997, representatives of the displaced people signed an accord with the government that required the government to address their most important needs, especially land. However, the government has done little more. In June 1998, more than 1,000 displaced persons held a protest in Guatemala City, calling on the government to provide them land and housing.

Although many Guatemalans who were forcibly displaced in the early 1980s remained away from their homes in 1998, USCR no longer included them in its listing of internally displaced populations. The conflict that caused the displaced to flee ended in 1996, and virtually all of the Guatemalan refugees who intend to return home have done so. Displaced Guatemalans who wish to return home are no longer prevented from doing so by conflict or fear of persecution. For most, the barrier is the government's lack of political will and/or resources to provide the displaced the land and assistance they would need to return home."

### ***Estimates in 1997***

#### **Baillet, e-mail, 24 August 2001:**

"In 1997, the UN Population Fund, CEAR and CTEAR published a census of the displaced populations in Guatemala titled "La poblacion desarraigada en Guatemala: Cifras actualizadas y situacion socioeconomica." They calculated the total of dispersed IDPs to be 242,386. (Excluding collectivized IDPs, such as CPRs, who were counted separately).

To this date CTEAR admits that they have done almost nothing to assist dispersed IDPs due to lack of resources. All aid went to refugees and CPRs. Dispersed IDPs were ignored.

[...]

The truth is that the original 242, 386 dispersed IDPs are still there and still lacking a permanent integration solution".

#### **USCR, 1998:**

"A year after the signing of the peace accord, more than 250,000 Guatemalans remained internally displaced. Nearly half were located in Quiché Province. In June, representatives of more than 100,000 displaced people signed the "Accord on the Resettlement of Populations Uprooted by the Armed Conflict." The accord called for displaced peoples' most important needs, such as land and basic infrastructure in the areas where they intend to relocate permanently, to be addressed."

### ***Estimates in 1996***

#### **USCR 1997:**

The US Committee for Refugees (USCR) reported the government figure of 200,000 IDPs for 1996.

## **Geographic distribution**

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### **Majority of IDPs were indigenous farmers from Quiché, Huehuetenango Chimaltenango and Alta Verapaz (2003)**

- Although displacements started in the late 80s they peaked between 1981-1983
- 80% of the population fled from the departments of Quiché, Huehuetenango, Chimaltenango and Alta Verapaz
- Indigenous people represent about 60% of the overall population of Guatemala, including the Maya, Garífuna and Xinca people
- Very high proportion of population of Maya-Quiché origin from very poor provinces
- Department of El Quiché in the western highland had the highest number of IDPs representing half of the total national estimate in 1998

#### **CEH, 1999, Ch.II Vol. 3, para. 619:**

"El desplazamiento masivo empezó a registrarse a finales de los años setenta y llegó a su punto álgido entre 1981 y 1983, años en los que la violencia se generalizó. Se estima que durante este período en los departamentos más afectados por la violencia institucional, como Quiché, Huehuetenango, Chimaltenango y Alta Verapaz alrededor del 80% de la población tuvo que desplazarse de sus comunidades, cuando menos durante un breve período. En menor grado, también se produjeron desplazamientos en otros departamentos, como Baja Verapaz, Sololá, San Marcos, Petén e Izabal durante esos mismos años."

#### **UN CHR, 24 February 2003, par. 10:**

“At present, indigenous people account for over half the total population of Guatemala, or some 6 million persons. [2] The Agreement on Identity and Rights of Indigenous People, signed in 1995, acknowledges that the Guatemalan nation is multi-ethnic, multicultural and multilingual in nature, and that the indigenous peoples include the Maya, Garífuna and Xinca peoples. [3] The latter make up over 75 per cent of the population in 4 of the country’s 21 departments, and between half and three quarters in a further 6 departments. There are areas of high indigenous concentration and others with a mestizo majority.

[Footnotes: 2. Estimates of the size of the indigenous population vary, as there are no precise data. Interviewed by the Special Rapporteur, the country’s Vice-President confirmed that the figure used officially is around 60 per cent.

3. The Mayas are in turn divided into 21 linguistic groups, while the Garífuna are basically of African descent. The rest of the Guatemalan nation, from the ethnic standpoint, is composed of the Ladinos or mestizos and the population of European origin, or “Whites”. There are no rigid boundaries between these categories.]”

**ILO. May 2000, "History":**

"The majority [of the displaced] were rural indigenous from the south-west, north and north-west of the country. By the mid-1980s, the majority (54 per cent) settled in other communities of the same ethnic group, 16 per cent were settled in army-controlled model villages, 12 per cent fled to urban centers and 8 per cent went into hiding in the highlands."

**Mazariegos. 1999:**

"Si bien es cierto el conflicto armado afectó a todo el país, en el nor-occidente y las áreas fronterizas con México, donde se registran los más altos índices de pobreza y coincidentemente habita la gran mayoría de la población de origen maya-quiché, fue el escenario donde se produjo el desplazamiento de personas más importante dentro y fuera del territorio nacional. De hecho, Quiché, Huehuetenango y las Verapaces presentan los índices más elevados de pobreza (88%) y pobreza extrema (72%)."

**Inforpress Centroamericana, 1998, p.104:**

As of 1998, "The western highland department of El Quiché still has the highest number of IDPs, with about half the national total, particularly in the mountainous Ixil triangle and extensive low-lying Ixcán municipality. Apart from the capital and surrounding areas, other major concentrations are in the northern Alta Verapaz department, especially in the regional capital, Cobán, in the neighbouring department of Baja Verapaz, the northern department of El Petén and the south coast Suchitepequez department. Other regions affected by the displacement [...] are the central part of the department of Chimaltengo and the western department of San Marcos."

**ACCORD, 1997, "Reframing Citizenship":**

"Approximately 60 per cent of Guatemala's population is indigenous. The vast majority are Mayan, [...]. There are 21 Mayan linguistic communities in Guatemala, in addition to two other indigenous groups, the Xinca and the Garífuna. The rest of the population is mestizo or ladino (non-Indian), mixed race descendants of indigenous groups, Spanish settlers and other immigrants who colonized Guatemala after the sixteenth century. In many municipalities in the highland departments over 95% of the population is Mayan. While the touchstone of their identity remains the rural community, close to a million Maya now live in the capital, Guatemala City."

**IDPs remain anonymous by fear of persecution particularly in urban areas (2000)**

- It is difficult to establish how many IDPs fled to the cities as these economic centres attract many people for different reasons

- Many IDPs fled to urban towns in order to maintain their anonymity and escape repression
- Studies realised in the late 1980s reveal there were between 20 and 45 thousand displaced in Guatemala City, mostly from Mayan origin
- IDPs who did not want to declare themselves as such towards state institutions susceptible of providing them some humanitarian assistance have stayed in conditions of acute poverty
- Organisations representing IDPs like CONDEG have confirmed that these IDPs wish to stay in urban areas and need assistance to integrate
- With the passing of the years IDPs who chose to remain anonymous have mingled with the poverty-stricken populations living in urban slums

**CEH, Ch.III, 1999:**

"En general, es difícil precisar con exactitud cuántas personas, a escala nacional, se desplazaron a los cascos urbanos para huir de la violencia, ya que por ser centros de actividad económica y social atraen a muchas personas por distintas razones. Las cabeceras municipales y en mayor grado la capital, ofrecían la posibilidad a las personas para confundirse entre la población citadina y pasar desapercibidas.

[...]

Algunos estudios realizados en años recientes estiman que el número total de desplazados en la capital oscila actualmente entre 20 y 45 mil personas -en su mayoría mayas- experimentando poco crecimiento o cambio, debido a que la violencia que impulsó estos flujos de desplazamiento disminuyó en una proporción significativa en los años precedentes a la firma de la paz. [...] Uno de los estudios sobre desplazados a la capital sostiene que el anonimato y el silencio sobre su historia reciente han sido los principales recursos de éstos en la metrópoli para lograr incorporarse a esa nueva realidad social. Así, en la ciudad de Guatemala han permanecido como un fenómeno anónimo y sin rostro.

[...]

Si bien el silencio aseguró el anonimato que los protegió de la estigmatización y por ende, de la represión, éste también significó aislamiento social para las personas desplazadas. Este factor añade a la aguda pobreza económica que aún hoy constituye la realidad cotidiana para la mayoría de desplazados establecidos en la capital. Según los testimonios recogidos, las personas difícilmente superan el precario nivel de vida que enfrentan desde su primer día en la ciudad. La vivienda en asentamientos precarios, el desempleo y los ingresos mínimos que logran ganarse cuando se consigue trabajo señalan condiciones básicas que perpetúan los efectos devastadores de la violencia, aunque ya no exista la represión política de forma directa. Pero al no querer reconocer abiertamente su situación de desamparo ni la propia historia de desplazamiento ante las instituciones estatales de asistencia, las familias desarraigadas no pueden beneficiarse del escaso apoyo material que se ha ofrecido en distintos momentos.

En años recientes, organizaciones representativas de la población desarraigada como la Coordinadora Nacional de Desplazados de Guatemala (CONDEG), encabezadas en gran medida por personas que fueron líderes en sus comunidades de origen, plantean con firmeza el deseo de permanecer en la ciudad y la necesidad de apoyo para poder hacerlo. La particularidad de no querer regresar a sus comunidades con carácter definitivo contrasta con las demandas de los desarraigados que han permanecido en zonas rurales, cuyo anhelo principal es volver a ocupar las tierras que les pertenecían antes del enfrentamiento armado. Esta diferencia de prioridades realza la variedad de procesos que se dieron desde el momento en que la gente hubo de abandonar sus comunidades marchando hacia un futuro incierto, tanto como la transformación que produce la ciudad, el hecho urbano, en los migrantes que llegan a ella."

**Infopress Centroamericana 1998, p.104-5:**

"The lack of a uniform definition, blurred by the grey area of classifications that combine economic migrants and IDPs, complicates the collection of statistics. Objective estimations are made problematic by the relative invisibility of IDPs who, fearing persecution during the conflict

years, preferred anonymity. As a survival strategy, particularly apparent in the capital, IDPs – the majority of whom are indigenous – were forced to integrate quickly and shed ethnic markers of their identity."

**UNFPA May 1997, p.30:**

"El grupo que se considera más difícil de cuantificar es el de la población desplazada, debido a 'que cabe la posibilidad de incluir en ella, voluntariamente o no, al migrante económico, y porque aún cuando se la pueda identificar no es posible determinar en qué momento un desplazado deja de considerarse o de ser considerado como tal. Se considera que de todos los grupos de población residente desarraigado para los cuales se practican estimaciones, es este el que cuenta con el mayor nivel de error y aquel cuyas cifras es preciso considerar con mayores precauciones."

**Fundación Arias September 2000, p.xii:**

"En la ciudad de Guatemala y su área metropolitana existe población que migró a la capital por las razones del conflicto armado y se encuentra viviendo en diferentes asentamientos urbanos empobrecidos o marginales, en donde se confunde cada vez más con los pobres urbanos nacidos en la ciudad o producto de migración económica y tiende a reivindicar demandas de poblador marginal urbano y no de desplazado."

**The Communities of People in Resistance were found in Ixil, Ixcán and Petén (1999)**

- About 50,000 indigenous peasants stayed in the mountains because they refused military control and founded the Communities of People in Resistance (CPRs)
- 70% of the IDPs abandoned their refuge in the mountains, motivated by Ríos Montt "amnesty" declaration, continued military attacks, hunger and inability to survive in the jungle
- Military offensives continued and in 1992 there were an estimated 29,000 people still living in CPRs
- The CPRs were said to number about 15,850 as of 1998

**CEH, CH.III, 1999:**

" Invariably the life in the mountains obliged all the displaced to resort to new forms of life and work to face situations of the limit between life and death. It is calculated that 70% of the internally displaced pushed by hunger, precariousness and the incursions of the Army abandoned the refuges from the decree of amnesty approved during the *de facto* regime of General Ríos Montt. [...] Sin embargo, hubo quienes continuaron huyendo de la violencia, resistiendo a caer bajo el control militar. Pequeños grupos de desplazados que se alejaban de las aldeas arrasadas, de los rastros de las tropas y de las capturas, se fueron encontrando a lo largo de la escapada, compartiendo el desamparo y el hambre. Empezaron a unirse por la cruda necesidad común de sobrevivir, principalmente en tres áreas del país: las tupidas montañas del área ixil, las cálidas tierras de la cooperativa de Ixcán Grande y la selva de la Sierra Lacandona en el occidente de Petén. [...] Con los años, estos asentamientos se autodenominaron Comunidades de Población en Resistencia (CPR), resaltando su carácter de población civil que se negaba a ser subyugada por el control militar.

Un informe de la Organización de Estados Americanos (OEA), al tratar el desplazamiento, apunta que a principios de los ochenta: "la vida de cincuenta mil personas que buscaban refugio en las selvas y en las montañas del norte de Quiché se desarrolló en condiciones materiales infrahumanas pero a la vez creando un profundo vínculo organizacional. Una década después, aproximadamente, la mitad se mantenía aún allí. Las ofensivas del Ejército entre Amachel y Sumal, entre 1987 y 1989 hicieron salir de allí a unas cinco mil personas. Posteriormente otras se establecieron por su cuenta fuera de las CPR, al norte de Uspantán. A mediados de 1992,

según información de representantes de las CPR, quedaban unos 17 mil habitantes de las CPR de la Sierra y unos seis mil en Ixcán, o sea un total aproximado de 23 mil" [...] En Petén el número de personas que conformaban las CPR llegó a seis mil."

**Costello, P. April 1995, para. 2.3:**

"While most of those fleeing the army repression of the early 1980s escaped from the conflict areas, some 50,000 indigenous peasants escaped into areas of refuge as yet not under the control of the army. These communities, which called themselves the Communities of Peoples in Resistance (Comunidades de Poblaciones en Resistencia –CPR) remained hidden in three areas of the country: the jungle area of Ixcán in the north of Quiche province, the mountains of the Ixil triangle, also in Quiche, and the jungles of Peten province."

**Inforpress Centroamericana 1998, p.103:**

"The internally displaced Communities of Population in Resistance (CPR) number 15,850 [...]"

# PATTERNS OF DISPLACEMENT

## General

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### **Displaced people are either in rural areas near their place of origin or in urban shanty-towns in Guatemala City (November 2009)**

- People either scattered far from their villages in the capital and the southern coast or hid in mountains and jungles close to their homes and organized their communities
- In the 1960s and 1970s displacement was usually individual
- From the 1980s people fled in mass and in an unorganised way due to the start of a violent and indiscriminate repression
- In the 1980s entire communities were displaced when displacement was not only a consequence of violence but an objective of counterinsurgency strategies
- IDPs fled to the Southern Coast plantations to find work, to the capital or were moved to "model villages" by the army
- The Commission for Historical Clarification said that IDPs had to move constantly to evade military operations against them and to fulfil their subsistence needs
- Many IDP sought refuge in the shanty town of the capital city.

### **JoAnn DiGeorgio-Lutz, 31 December 2004:**

"The IDP situation is particularly acute in Guatemala City where a number of different types of IDPs are interspersed in marginalized communities. Compounding their predicament is the lack of cohesion among these disparate IDPs whose only basis of unity is the land issue. Also, many of the grassroots organizations that address the IDP issue often work at cross purposes making it difficult for IDPs to present a unified front before government. The IDPs in Guatemala City remain invisible (...)"

### **Displaced people either scattered far from areas of origin or hid in mountains and jungles near their home areas (2000)**

- People either scattered far from their villages in the capital and the southern coast or hid in mountains and jungles close to their homes and organized their communities
- In the 1960s and 1970s displacement was usually individual
- From the 1980s people fled in mass and in an unorganised way due to the start of a violent and indiscriminate repression
- In the 1980s entire communities were displaced when displacement was not only a consequence of violence but an objective of counterinsurgency strategies
- IDPs fled to the Southern Coast plantations to find work, to the capital or were moved to "model villages" by the army
- The Commission for Historical Clarification said that IDPs had to move constantly to evade military operations against them and to fulfil their subsistence needs

### **IACHR 12 March 1993, Chapter VII:**

"1. Displaced persons scattered within Guatemala: persons displaced by the violence generally scattered throughout the national territory in areas that are relatively far from the communities they left, principally the capital city and the southern coast; there are also those who left their village to live instead at the departmental seats. They hold on to their anonymity and it is difficult for support associations to reach them.

2. Displaced persons living in the Guatemalan mountains: People who, between 1980 and 1982 when there were so many politically motivated killings, took refuge in the mountains and jungles near their places of residence and for various reasons--fear being one--continue to live in isolated areas. Over the years, they have formed communities (unlike the scattered "displaced")."

**CEH, Ch.III, 1999:**

"A partir de 1981 la represión se volvió indiscriminada y proliferaron las violaciones sexuales de mujeres, así como los asesinatos de niños. La población entera reconoció pronto en estas atrocidades el destino inevitable de todo aquel que no lograra huir a tiempo. Con esto, la huida empezó a tornarse masiva. Eran grupos de pobladores los que buscaban lugares de refugio cada vez más distantes de la comunidad y progresivamente permanecían más tiempo fuera de su casa. Este desplazamiento espontáneo respondía al carácter sorpresivo de las incursiones del Ejército, que producían huidas caóticas, dictadas sobre todo por la inminencia de la muerte, con la consiguiente dispersión de familias y vecinos, que incrementó su vulnerabilidad en los refugios [...]"

**Fundación Arias September 2000, pp.xi-xii:**

"Si bien es cierto, se han identificado dos zonas como áreas receptoras de desplazados internos dispersos (ciudad capital y costa sur), esta población no sólo ha sido ignorada (entre las víctimas de la violencia, posiblemente son los más olvidados), sino que su disgregación por todo el país, ha obstaculizado su identificación como colectivo."

**ODHAG 1999, Chapter 4, 1:**

"El desplazamiento ha sido un elemento central de la experiencia que han sufrido las poblaciones afectadas por la violencia. Si bien ha sido un fenómeno constante a lo largo del conflicto, adquirió dimensiones masivas al principio de la década de los 80. Durante la década 60/70, el desplazamiento tuvo un carácter más individual. Posteriormente, el desplazamiento de la población no fue sólo una consecuencia de la violencia sino que se convirtió en un objetivo de la política contrainsurgente, especialmente en las zonas de grave conflicto social con presencia o influencia de la guerrilla. Pero también el desplazamiento es un mecanismo que distintas poblaciones utilizaron para defender la vida."

**CEH 1999, "Conclusion I", para. 67:**

"Many [IDPs] fled to the Southern Coast plantations where, as citizens without documentation, many were hired to work on farms at lower than even the small minimum wage. Others fled to the capital, swelling the numbers in the shanty towns and limited by linguistic and cultural barriers from finding work and housing. Still another group was moved into model villages by the army. [...]"

"Through its investigation, the CEH [Commission for Historical Clarification] has confirmed that those who fled were forced to move constantly while they remained in the country, mainly to evade military operations directed against them despite their being defenceless, and partly to search for food, water and shelter."

**Archbishop's Human Rights Office describes both short-term and long-term patterns of displacement (1999)**

- Generally long-term collective displacement of communities to territories not controlled by the government
- Short-term displacement of families to another community
- Mass displacements were recorded in Norte de Quiché, San Marcos, Chimaltenango, Alta Verapaz, Baja Verapaz and Huehuetenango
- Individual displacement mostly in urban areas occurred when one person was threatened

**ODHAG 1999, Chapt.4, 1:**

"a) Desplazamiento colectivo y comunitario, en general de larga duración hacia lugares que no estuvieran bajo el control del Estado.

b) Desplazamiento reactivo familiar, a otra comunidad y temporal." [...]

[...] en la mayor parte [...] el desplazamiento tuvo un carácter colectivo. En las áreas del Norte de Quiché, San Marcos, Chimaltenango, Alta Verapaz, Baja Verapaz y Huehuetenango, el desplazamiento adquirió una dimensión masiva, produciéndose auténticos éxodos de la población. [...]

Sin embargo, cuando la amenaza recayó exclusivamente en una persona, y su familia tenía suficiente apoyo social y condiciones de seguridad mínimas, el desplazamiento fue individual. Sin embargo, en muchos de esos casos al desplazamiento individual le siguió posteriormente el de la familia, en un intento de reconstruir los lazos. Este tipo de desplazamiento se dio en gran medida en el área urbana."

# PHYSICAL SECURITY & FREEDOM OF MOVEMENT

## Physical security

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### **Guatemala entered the ranks of the most violent countries in Latin America (2009)**

- Insecurity in marginal areas in Guatemala City where most IDP resettled is critical.
- Most victims are young men, but the killings of women and children are rising.
- Other affected groups include journalists, human rights defenders, IDP organizations, taxi and bus drivers

#### **UN GA, 2009:**

"(...) in 2008, the number of homicides had increased dramatically again, to 6,292 - making last year the deadliest year since the signing of the Peace Accords. This represents a 95 per cent increase between 2001-2008 (...) At least 687 of the victims were women, and 591 victims were children or adolescents. Over 10 per cent appear to have signs of torture.

A large threat to peace and security in Guatemala is the presence of regional organized criminal groups involved in the drug trade (...) weak institutions, combined with the near total impunity for serious crimes, leave it in serious danger of becoming a narco-State. (...) the Special Rapporteur indicated several particularly problematic types of killings that occur in Guatemala: social cleansing; lynching; femicide; attacks targeting people for being gay, lesbian, transgender or transsexual; attacks on human rights defenders; violence against those in prisons [and] attacks against conductors of public transit."

### **Harassment of organizations working with the displaced (2009)**

#### **UN GA, 16 February 2009:**

"(...) The number of attacks against human rights defenders increased and basically doubled in the last five years with an average of one attack against defenders every other day. Fifty defenders were killed between July 2002 and December 2007, of which 23 killings took place between 2005 and 2007 (...) Defenders working on economic, social and cultural rights are among the most affected groups (...) Other sectors of the defenders' community suffer attacks specific to their area of work. These are, among others, trade unions, journalists, women defenders, peasants' organizations, indigenous organizations and youth defenders, as well as international NGOs (...) impunity is the general rule for violations committed against defenders and is probably the major cause for the high number, continuity and intensity of such violations."

#### **Inforpress Centroamericana 1998, p.104:**

"Non-governmental organizations have found it dangerous to work with internally displaced populations. For example, Myrna Elizabeth Mack Chang, an anthropologist who was investigating the conditions of displaced populations in conflict areas, was stabbed to death outside her office in September 1990. The National Council of Displaced Guatemalans (Consejo Nacional de Desplazados de Guatemala – CONDEG), found in September 1989, is a grassroots organization working with the displaced, trying to gain identity documents, land and work for displaced communities all over the country. However, the leaders have received a good deal of harassment including threats and disappearances and it faced difficulties in trying to work in development poles given the army control over NGO activity in those areas."

### **The state massacred fleeing populations during the conflict (2001)**

- The Army persecuted fleeing populations and massacred many who had taken refuge in the mountains
- Once the army had re-established control they established highly militarised structures
- IDPs were proposed amnesties and forced to collaborate with the military and organised in Civil Defence Patrols
- Those who refused amnesties and to join the Patrols organised in Communities of Populations in Resistance (CPRs)
- The army persecuted the CPRs seeing their resistance as a support to the guerrillas rather than a right as civilians not to take part in the hostilities
- The state considered the IDPs state enemies and systematically violated their basic rights to life, freedom and security by killing, attacking, torturing and detaining arbitrarily
- The criminalisation and persecution of IDP resulted in their marginalisation and absolute denial of exercising their basic civil rights
- Those who sought refuge in Guatemala City sought anonymity out of fear of repression

#### **CEH, Ch.II Vol.3, 1999:**

*“Desde el momento en que la población tuvo que huir de sus comunidades para salvar sus vidas, el Ejército la persiguió y acosó sin cesar buscando su aniquilamiento en una primera etapa. Son numerosas las masacres y ejecuciones que los desplazados sufrieron durante el tiempo que permanecieron en las montañas. Asimismo, el Ejército destruyó por sistema cosechas, cultivos y viviendas para imposibilitar su supervivencia en la montaña.*

*En un segundo momento la estrategia del Ejército fue la de recuperar el control sobre esta población y reconstruir las estructuras sociales tan férreamente militarizadas. Para ello, se decretaron una serie de amnistías a las que se acogieron gran parte de los desplazados para quienes vivir en las montañas se había convertido en algo insostenible.*

*Los amnistiados fueron retenidos en centros donde se iniciaba un proceso de adoctrinamiento, para transformar el posible apoyo a la guerrilla en una colaboración constante con el Ejército, donde se combinaban la entrega de alimentos y medicinas con los interrogatorios y los malos tratos, así como se procedía a organizar las Patrullas de Autodefensa Civil. Posteriormente, la estrategia abarcó el realojo de los amnistiados en estructuras militarizadas, algunos en los polos de desarrollo y las aldeas modelo y otros en sus comunidades de origen. Al margen del lugar, la vida diaria de los retornados estaba sometida a un control absoluto por parte del Ejército.*

*Aquellos grupos que no se acogieron a la amnistía se vieron forzados a generar estrategias de supervivencia más desarrolladas, debido a la persistencia de las ofensivas del Ejército de Guatemala sobre ellos. Estos se organizaron en nuevas estructuras, como las Comunidades de Población en Resistencia (CPR), para poder enfrentar las arduas condiciones de vida en un medio hostil alejados de sus comunidades de origen. Para el Ejército esta organización, que surgió como resultado de las necesidades de supervivencia, fue vista como una prueba de la relación de estos grupos con la guerrilla, por lo que se intentó justificar así su persecución y acoso constante sin tener en cuenta la condición de civiles de los mismos.*

*La persecución de la población desplazada no se restringió tan sólo al territorio nacional, sino que se extendió en varias ocasiones a la población refugiada en México. El Ejército de Guatemala, en su afán de tener bajo control a la población desplazada y refugiada, llegó a incursionar en México y Honduras infringiendo todo tipo de acuerdos y convenios internacionales*

*relacionados con los refugiados y la soberanía nacional de otras naciones. El hecho de arriesgar, incluso, la relación con los países vecinos denota que para el Ejército de Guatemala el control y la desarticulación de la población desplazada era de gran importancia estratégica dentro de la política contrainsurgente.*

*Todos estos hechos violentan el concepto de un Estado que, según las leyes internacionales y nacionales, tiene el deber de proteger los derechos humanos y las libertades fundamentales de sus ciudadanos. Sin embargo, en el caso de Guatemala, fue el mismo Estado el que violó sistemáticamente los más básicos derechos, a la vida, a la dignidad y a la seguridad de dicha población. La población desplazada, como quedó mencionado, fue considerada como enemiga del Estado por vivir fuera del ámbito de las estructuras de poder estatal. A pesar de la condición civil de la población desplazada, ésta no fue reconocida por el Estado, que, por el contrario, la criminalizó y la sometió repetidamente a amenazas, ataques, bombardeos, ejecuciones extrajudiciales, persecuciones, detenciones arbitrarias, tortura y otras violaciones a sus derechos fundamentales.*

*El desplazamiento en si supone una grave violación por parte del Estado contra el derecho a la residencia y libre circulación de la población afectada, derechos que debían haber sido garantizados por el mismo Estado. Por otro lado, la principal intención del Ejército fue sujetar a la población para mantenerla bajo su control. En la consecución de este objetivo el Ejército violó por sistema los derechos a la vida, a la libertad, a la seguridad y a la integridad de la población afectada mediante el repetido acoso y hostigamiento y demás condiciones de inseguridad y falta de protección que afectaron a las víctimas durante el desplazamiento forzado.*

*La criminalización y la persecución de los desplazados los marginó privándoles de sus derechos civiles y políticos, negándoles en términos absolutos la posibilidad de participar en los asuntos de la vida pública del país y en el goce de sus derechos civiles más fundamentales, como son el derecho a un nombre, a la identidad y a la nacionalidad, ya que muchos de ellos, dadas las características de la huida, perdieron sus documentos; y al estar perseguidos no pudieron tramitarlos de nuevo ni registrar a los recién nacidos y los fallecidos.*

*[...]*

*Al mismo tiempo, las diversas normas internacionales establecen un esquema de protección aplicable a las diferentes fases: incluyen el amparo y la asistencia durante el período de la migración forzada y ofrecen garantías para el regreso o el asentamiento y la reintegración. Estos sistemas de protección internacional establecen que cualquier persona desplazada debe gozar, en condiciones de igualdad, de los mismos derechos y libertades que el derecho internacional y el derecho interno conceden a los demás habitantes del país."*

**CEH 1999, Conclusions, para.69-70:**

"The CEH [Commission for Historical Clarification] has confirmed that the stigmatisation by the State of the displaced population, in many cases, fomented and perpetuated divisions in their communities. In accusing the displaced people of being guerrillas or in spreading the message that they were responsible for the confrontation, their return to their places of origin was hindered and they were marginalised by those who had remained in these communities. For internally displaced persons detained during the course of military operations or those who gave themselves up to the authorities in order to return to their communities, the situation was even more complicated. Very often they were isolated for a time in special camps or in military bases, submitted to interrogation and to an intense re-education process.[...]

In the case of people who sought refuge in Guatemala City, the fear of being located and identified as a target of repression meant that they sought anonymity as a survival strategy, given that their place of origin, their name and even the lack of personal documents could have been reason to suspect them of ties to the insurgent movement."

**ILO May 2000, "History":**

"The army considered all those in hiding to be subversives and as a result these small groups, which were dispersed throughout the jungle areas, were pursued and attacked by military units. These groups began to collectively organize to defend themselves, not by taking up arms but by surveillance and sharing information about movements of the army and thus 'resisting' domination or annihilation by the armed forces. They called themselves the Communities of People in Resistance (CPRs) and decided not to go to Mexico but remained in hiding in Guatemala, despite the harsh and insecure conditions under which they were living.[...] After more than ten years in hiding, in 1993, they publicly declared that they were no longer willing to flee and wished to settle and reintegrate."

**Costello, P. April 1995, para.2.3:**

"[The CPR (Communities of People in Resistance)] refused to participate in civil patrols or to collaborate in any way with the army and for this reason they faced continuous army harassment, bombings and destruction of crops. Without the international protection afforded by refugee status, they were forced to live a semi-nomadic existence, ready to move their whole communities at a few minutes notice in response to army attacks."

**Costello, P. April 1995, para.2.3:**

"The refugees received a great deal of international attention and protection by crossing the Guatemalan border. The million or so internally displaced people were in many way more vulnerable."

**The Mayan population was the main target of massacres and scorched earth operations perpetrated by the armed forces (1999)**

- According to the Commission for Historical Clarification, the identification of Mayan communities with the insurgency was intentionally exaggerated by the State
- The Commission also said that indiscriminate aggression showed a clear indifference to the status of the non-combatant civilian population and an undeniable existence of racism
- The Commission concluded that the massive aggression against Mayan communities was not only to destroy rebel bases but above all to destroy the Mayan cultural values and organization

**CEH 1998, Conclusion I, para.31-33:**

"In the years when the confrontation deepened (1978-1983), as the guerrilla support base and area of action expanded, Mayans as a group in several different parts of the country were identified by the Army as guerrilla allies. Occasionally this was the result of the effective existence of support for the insurgent groups and of pre-insurreccional conditions in the country's interior. However, the CEH [Commission for Historical Clarification] has ascertained that, in the majority of cases, the identification of Mayan communities with the insurgency was intentionally exaggerated by the State, which, based on traditional racist prejudices, used this identification to eliminate any present or future possibilities of the people providing help for, or joining, an insurgent project.

The consequence of this manipulation, extensively documented by the CEH, was massive and indiscriminate aggression directed against communities independent of their actual involvement in the guerrilla movement and with a clear indifference to their status as a non-combatant civilian population. The massacres, scorched earth operations, forced disappearances and executions of Mayan authorities, leaders and spiritual guides, were not only an attempt to destroy the social base of the guerrillas, but above all, to destroy the cultural values that ensured cohesion and collective action in Mayan communities.

[...]

Through its investigation, the CEH also concludes that the undeniable existence of racism expressed repeatedly by the State as a doctrine of superiority, is a basic explanatory factor for the indiscriminate nature and particular brutality with which military operations were carried out against hundreds of Mayan communities in the west and north-west of the country, especially between 1981 and 1983 when more than half the massacres and scorched earth operations occurred. "

### **Plight of women and children during the conflict (2004)**

- One fifth of the victims of the war were children
- 60% of people who died as a result of forced displacement were children
- Large number of women and children were victims of arbitrary execution, forced disappearance, torture, rape and other human rights violations
- The Commission for Historical Clarification recognizes the exemplary role women played in the defence of human rights during the armed confrontation
- Many Mayan children were orphaned and abandoned during displacement

#### **IACHR, 1 January 2004, para.377:**

"El informe de la CEH señala que una de cada cinco víctimas durante el conflicto armado era menor de edad. Del total de víctimas registradas, 6.159 personas fueron desaparecidas forzosamente. De ellas un 11% corresponde a casos de niñez desaparecida. Además, el 60% del total de muertos por desplazamiento forzado corresponde a niñas y niños."

#### **CEH 1999, Conclusion I, para.28-30:**

##### ***"Children***

The CEH [Commission for Historical Clarification] has confirmed with particular concern that a large number of children were also among the direct victims of arbitrary execution, forced disappearance, torture, rape and other violations of their fundamental rights. Moreover, the armed confrontation left a large number of children orphaned and abandoned, especially among the Mayan population, who saw their families destroyed and the possibility of living a normal childhood within the norms of their culture, lost.

##### ***Women***

The CEH's investigation has revealed that approximately a quarter of the direct victims of human rights violations and acts of violence were women. They were killed, tortured and raped, sometimes because of their ideals and political or social participation, sometimes in massacres or other indiscriminate actions. Thousands of women lost their husbands, becoming widows and the sole breadwinners for their children, often with no material resources after the scorched earth policies resulted in the destruction of their homes and crops. Their efforts to reconstruct their lives and support their families deserve special recognition.

At the same time, the CEH recognises the fact that women, the majority of them relatives of victims, played an exemplary role in the defence of human rights during the armed confrontation, promoting and directing organisations for relatives of the disappeared and for the struggle against impunity."

#### **CEH 1999, "Conclusion I", para. 67:**

"Military persecution, being constantly on the move and the threat of death made their [of IDPs] subsistence extremely difficult. Living exposed to the elements, malnutrition and the severe emotional traumas that resulted from having witnessed numerous atrocities, left people vulnerable, especially children and the elderly, a great number of whom died during the flight and displacement."

# SUBSISTENCE NEEDS

## General

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### **IDPs live precariously ten years after the signing of the peace accord (2009)**

- IDPs live precariously ten years after the signing of the peace accord, according to a national IDP organisation
- The majority rent land and houses, work in the informal sector as domestic employees, factories (maquilas), at transport hubs as carriers or street-vendors.
- The Association of Teachers for Rural Education in Guatemala pressed the government to address the needs of the IDPs of Huehuetenango in terms of health care, housing and education
- Dispersed IDPs (not included in resettlement programmes) are the most vulnerable and least recognized and live in conditions of poverty and marginalization
- As of end 1999 many resettled communities did not have a clinic or a health post
- The Inter-American Commission on Human Rights said in 2001 that the creation of durable solutions for housing for those uprooted during the conflict remains a priority challenge

### **IDMC Interview with CONDEG, 2009:**

"Hay muchos desplazados en Ciudad Capital, Mixco, Chinauda, Villa Nueva, todo parte de la área metropolitana. La gran mayoría de los 500,00 desplazados ahí no están organizados. La gran diferencia entre estos desplazados y otros migrantes urbanos es que los desplazados internos no tienen un colchón de seguridad económica. Si algo pasa a los migrantes, tienen la tierra y los cultivos y pueden regresar. Pero esto no es el caso para los desplazados que tienen que aguantar todo. Ya que no tienen educación la mayoría de los desplazados alquilan casa y ganan muy poco como vendedores informales y cargadores en los terminales de transporte. Las mujeres trabajan en las maquilas."

### **CONDEG, 16 May 2006:**

"Esta [los desplazados internos] población se encuentra en condiciones difíciles, viven en arrendamientos de tierras, en alquileres de casas, trabajando en las fincas, trabajando en casas, en fábricas, con salarios miserables y malas condiciones de trabajo. Además hay miles de personas que son vendedores ambulantes, muchas familias viven en tierras no legalizadas, etc. Por esta situación no tienen acceso a créditos para la producción. La legalización de tierras es burocrática, no tienen vivienda, etc. Algunos grupos que les dieron tierra, pero fue bajo crédito y con intereses de mercado. Actualmente hay una fuerte demanda de vivienda, ya no solo de la población afectada, sino la población en general. Este gobierno como todos los gobiernos que han pasado no tiene ningún programa específico de inversión productiva a favor de la población desplazada. Varias familias retornadas y desplazadas se han emigrado a los EE.UU porque no tienen oportunidades en Guatemala."

### **CERIGUA, 25 March 2004:**

"La Asociación de Maestros de Educación Rural de Guatemala (Amerng), exigió al gobierno de la República, más atención en salud, educación y vivienda, para los habitantes de las poblaciones desarraigadas de Huehuetenango.

[...]

A decir de Pedro Alonzo, dirigente de Amerg, los hombres, mujeres y niños de las nueve etnias huehuetecas, desconocen las leyes que los protegen, por lo que no han reclamado los derechos constitucionales que garantizan su acceso a la salud, educación, vivienda digna, seguridad y bienestar.”

**IACHR 6 April 2001, Chapt. XIV, para.17, 31-33:**

"During its on site visit, the Commission [Inter-American Commission on Human Rights] traveled to Nebaj and met with hundreds of members of the local population, including many who had been uprooted by the conflict. Some had walked for hours to express their profound disappointment with the lack of improvement in their conditions of life following the signing of the peace. They highlighted, in particular, their concern that their children lack access to adequate education and health care, and that their communities lack development assistance and productive investment.

[W]ith strong assistance from the international community, the State has effectuated some positive measures to extend access to basic services in the rural areas inhabited by this population. Along with the initiatives of the land and social funds of the State, the UNHCR has provided important support through its Quick Impact Project, which deal with such basics as water, education, health and income generation. [...]

However, many communities do not have full access to such basic services as education and health care, or to basic infrastructure such as access roads, potable water, electricity or housing assistance. The Assembly of Civil Society has expressed great concern that the State has failed to ensure resettlement in conditions of dignity with sufficient access to basic services. Many continue to face hunger, disease and desperation. While the Agreement on Resettlement gives special priority to the needs of female-headed households, widows and orphans, due to the special losses they sustained by reason of the conflict and consequent uprooting, these groups continue to be especially disadvantaged in terms of their conditions of life. It must also be noted that the internally displaced who have not been incorporated in formal resettlement efforts, and who are dispersed in conditions of poverty and marginalization, are among the least recognized and most vulnerable members of this population."

**IACHR 6 April 2001, Chapt.XIV, para.36-7:**

"Health care is another priority area for the uprooted population, and a number of communities now have a clinic, health post or a team of trained health promoters. A series of additional projects was recently announced, the execution of which would extend coverage to additional communities [MINUGUA, Eleventh Report, supra, para.24]. [...] However, reports as of late 1999 indicated that many resettled communities didn't have a clinic or health post, and that the health promoters or midwives providing services lacked the necessary medicines or other resources to provide even minimum care. Those in the more isolated outlying villages generally have the least access to such services."

## **Food**

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### **Guatemala in a state of national calamity (2009)**

- More than 500 persons have died, 300,000 persons are at extreme risk
- Situation particularly critical for Women and Children
- North western corner of the country with a concentration of indigenous and displaced persons worst hit.
- Drought and failed government land and agrarian policies at the root of the crisis

**IFRC, 22 October 2009:**

“On 8 September 2009, the Guatemalan President declared a state of public calamity due to high incidence of malnutrition caused by drought and high food and fuel prices. At least 462 persons have died and approximately 54,000 families are at extreme risk (...) The Guatemalan government is implementing an emergency food assistance contingency plan.”

**UN Resident Coordinator, 20 October 2009:**

“Financial crisis is increasing unemployment and decreasing remittances from abroad affecting the most vulnerable (...) Draught and diseases affect the harvest for Guatemalan farmers (...) 25 children have been reported dead with numbers increasing.”

## **Shelter and non-food items**

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### **Many uprooted families still live in the most precarious houses (2004)**

- 172 families still living in houses made of sticks and plastic and lacking basic services called for the government to attend their needs (May 2004)
- Between 2001-2003, 5,700 houses for uprooted populations were built with a budget of \$25 million
- Many IDPs are now permanently squatting in urban centres where they lack access to basic services, including adequate housing

**CERIGUA, 20 May 2004:**

“Por lo menos 172 familias desarraigadas demandaron acceso a una vivienda digna, que satisfaga sus necesidades, peticiones que no han sido tomadas en cuenta, indicó Álvaro Juárez. [...]

Según el líder, las familias han realizado varios trámites para lograr una buena vivienda, sin embargo no han sido atendidas y continúan refugiadas en casas de madera, palos, de cartón y plástico, por lo que exigen al presidente de la República, Oscar Berger, que solucione la problemática.

[...]

El dirigente manifestó que es urgente que el gobierno impulse políticas de ordenamiento territorial y una planificación urbana con protección ambiental, acceder a una vivienda con servicios básicos y con condiciones higiénicas.

Juárez exigió al Ministerio de Comunicaciones, Infraestructura y Vivienda (Micivi), que lleve a cabo las transferencias económicas necesarias, que permitan disponer de recursos y que éstos sean dirigidos a los desarraigados.”

**UN GA, 11 August 2003, para. 69:**

“The construction of 5,700 homes for persons uprooted by the conflict was, however, a positive step. Various other commitments to the same groups — on land, productive development, health and education — did not advance.”

**UN GA, 10 July 2002:**

“The most significant advances have been made in the area of housing; the first phase of the programme, which earmarked 200 million quetzals (\$25 million) for the uprooted and demobilized populations has been implemented. In view of the lack of resources, there is some concern that the programme may not be able to continue in 2002.”

**ILO May 2000, "Executive Summary":**

"Many who are landless or uprooted by violence, are now permanently squatting in urban centers where they lack access to basic services, including adequate housing."

# ACCESS TO EDUCATION

## General

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### **Low access to education services particularly affects rural indigenous areas where IDPs came from (2009)**

- While 42% of school facilities are concentrated in the capital, indigenous-populated areas of the North and West regions have access to about 7% of the services
- Indigenous people from displacement areas reported that they lacked teaching materials
- Indigenous and were discriminated against for their difficulties in understanding Spanish and for wearing traditional indigenous dress
- Primary school attendance rate is 71% for indigenous people and 84% for non-indigenous
- The majority of the rural inhabitants of Huehuetenango are illiterate (2004)
- The Association of Teachers for Rural Education were pressing the Ministry of Education to officially recognise the teachers who have educated the IDPs for years
- Levels of exclusion are greatest in the rural areas inhabited by those uprooted during the conflict
- Ministry of Education has developed a specific plan of education for the uprooted population but many important aspects have not been financed
- The promotion of indigenous culture has been whittled down to teaching Mayan languages in some primary schools

### **UN GA, 28 April 2009:**

“El altísimo nivel de deserción y abandono escolar hace que Guatemala siga teniendo las tasas más bajas de finalización en primaria (72,5% en 2006) de toda la región<sup>1</sup>. Las tasas de matriculación en secundaria (34,7% para ciclo básico y 20% para diversificado) son las más bajas de América Latina<sup>1</sup> (...) se observan grandes disparidades interétnicas en cuanto al acceso a la educación. Las tasas de matriculación y finalización en primaria son particularmente bajas en los departamentos de Alta Verapaz y Quiché, dos de los departamentos con mayor proporción de población indígena. Igualmente se observa una desigualdad sistemática entre niños y niñas; según datos de 2003, el porcentaje de estudiantes inscritos que no logran finalizar la educación primaria a tiempo es mayor para niñas (43%) que para niños (37%) (...) (...) El derecho a la educación de los pueblos indígenas se ha reducido en la práctica a la cuestión del bilingüismo (...) para estudiantes de los tres primeros años de la educación primaria, en un número muy limitado de escuelas públicas y solamente para indígenas, pero no en la potenciación de las culturas, las cosmovisiones, las artes ni las tradiciones ancestrales de los primeros pueblos de este país (...) 54. La baja autoestima que el Relator Especial pudo constatar en algunos habitantes indígenas respecto de sus lenguas y sus culturas indica claramente el impacto de la exclusión.”

### **UN CHR, 24 February 2003, paras, 54,55:**

“Generally speaking, the indicators of access to education by the indigenous, rural and female population are extremely poor. The social organizations estimate that more than half a million indigenous children of both sexes remain outside the school system, and that 42 per cent of the services are concentrated in the central region (the capital city), while the North and West regions with a higher density of indigenous population have access to barely 7 per cent and 8.76 per cent

respectively. The net school attendance rate for primary education is 71 per cent for the indigenous population compared with 84 per cent for the non-indigenous population. [...]

In meetings with representatives of indigenous organizations during his field visits, the Special Rapporteur was repeatedly informed of the poor condition of the schools attended by indigenous children, the lack of teaching materials, and the discriminatory treatment to which they are subjected because of their difficulties in understanding and speaking Spanish correctly and their wearing of traditional indigenous costume.”

**CERIGUA, 25 March 2004:**

“En el marco de las protestas en contra del Plan Puebla Panamá (PPP) y el Tratado de Libre Comercio (TLC), representantes de las comunidades desarraigadas del departamento se unieron a los maestros para denunciar públicamente la falta de atención a las comunidades rurales, en donde sus habitantes son mayoritariamente indígenas y analfabetos.

[...]

Según el representante de Amerg, los gobiernos siguen incumpliendo los compromisos enmarcados en los Acuerdos de Paz, ya que no velan por solucionar las necesidades de las comunidades, principalmente en lo referente a programas específicos de educación.

Finalmente, Alonzo resaltó la importancia de brindar proyectos educacionales a las poblaciones de desarraigados, especialmente a los ubicados en los municipios de San Mateo Ixtatán, Santa Eulalia y Nentón.

Los maestros manifestantes exigieron a la Ministra de Educación, Maria del Carmen Aceña, que autorice sus nombramientos bajo el reglón 011 y contratos para los promotores educativos en proceso de profesionalización, ya que desde 1996 se han dedicado a educar a las poblaciones desarraigadas.”

**CERIGUA, 10 February 2004:**

“La construcción de un centro educativo, la asignación de docentes y el equipamiento mínimo en mobiliario, de manera inmediata, es la demanda de los campesinos de la comunidad Nuevo Corozal, del municipio de Sayaxché, departamento de Petén, ya que desde que se asentaron en el lugar, hace 21 años, no han recibido ningún apoyo.

[...]

Chocooj indicó que la aldea cuenta con una población de 32 niñas y niños, en edad escolar, quienes están condenados al analfabetismo, al carecer de una escuela que les permita superarse, razón por la cual demandan al gobierno de Oscar Berger y al Ministerio de Educación, que cumpla sus promesas de campaña.

Los habitantes de Nuevo Corozal son originarios de El Quiché, Alta y Baja Verapaz, sin embargo, en 1982 huyeron de sus comunidades y se convirtieron en desplazados internos, para evitar ser masacrados por el ejército, señaló el entrevistado.”

**IACHR 6 April 2001, Chapt.XIV, para.34-35:**

“Education is an issue of great importance for the uprooted population. While refugees and the internally displaced adopted innovative strategies to continue with education within the limits of their situations, a 1998 study indicated that 50% of returnees were illiterate. In terms of positive action, the Ministry of Education has provided a subsidy to amplify educational coverage in uprooted communities, distributed school materials and textbooks in communities with the greatest need, and developed a Specific Plan of Education for the Uprooted Population. In terms of pending challenges, this Plan has reportedly not been financed in many of its important aspects. Further, infrastructure issues remain pending, such as the need for additional schools and the upgrading of existing facilities to ensure students and teachers an adequate environment for learning and safety. Teacher training is another ongoing challenge. Bilingual education initiatives for indigenous communities offer important promise, but are extremely limited in coverage and require a great deal more support.

Most critically, some rural areas remain geographically excluded from the coverage of existing educational services. [...] Only 55% of Guatemalan children attend primary school nationwide,

and the levels of exclusion are greatest in the rural areas inhabited by those uprooted during the conflict."

## **Obstacles to education**

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### **Guatemala's Education budget lowest in the region (2009)**

- Financial crisis increases drop-out rate for the most vulnerable

#### **UN GA, 28 April 2009:**

"En Guatemala, el gasto público como porcentaje del PIB en educación se ha mantenido estancado en alrededor del 2,7% del PIB durante el período 2001-2007. Es el nivel más bajo de financiamiento de América Central (...) El gasto público per cápita por habitante, en términos reales, ha disminuido entre 2001 y 2007, al pasar de (...) 45 a 41 dólares.

#### **UNICEF/IOM, October 2009:**

"The decline in remittances force tens of thousands of children to leave school (...) 7.4% have been forced to find jobs to supplement the family income"

# ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

## Self-reliance

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### 51% of the Guatemalan population live in poverty, 15% are extremely poor (2009)

- 75% of indigenous people are poor and 40% live in extreme poverty
- The majority of the poor live in rural areas.
- Guatemala is among the countries with the highest land distribution inequalities in America: 4% of producers farm 80% of the land and the remaining 96% of producers farm only the 20% of the land
- This situation has been exacerbated with the war and expropriations of indigenous lands during the 1970s and 1980s
- The reintegration of uprooted populations has been impeded by lack of long-term rural development, access to land, security of tenure, access to resources and basic services
- Areas of resettlement characterized by isolation and scarce access to commerce and job opportunities

### United Nations Commission on Human Rights, 18 January 2006:

"A large number of initiatives were taken since the current administration took office in order to improve the situation of the poorest segments of the population (...) The Special Rapporteur is concerned that the current efforts are not enough. Inequalities in Guatemala remain at intolerably high levels, and the number of poor is unacceptable. 50.9 % of the population lives under the level of poverty, and 15.2 % are extremely poor. This results in very high levels of undernutrition, estimated at 16 % of the population. The poverty is concentrated in rural areas, where 72 % of the poor live, and among the indigenous part of the population, which are 75.5 % of the poor although they represent, according to the best estimates available, 61 % of the population (...)"

### IACHR, 1 January 2004, para.214:

"En Guatemala la marginación de los pueblos indígenas es innegable. Aproximadamente el 40% de los indígenas viven en extrema pobreza y cerca del 80% son pobres, padeciendo los índices de alfabetización y de ingresos más bajos de la sociedad guatemalteca."

### WB, October 2003, p. 189-190:

"En general, si bien el 56% de la población vivía en condiciones de pobreza en 2000, el 64% tenía más del 50% de probabilidades de caer en la pobreza en los años siguientes (el grupo denominado "vulnerable" a la pobreza del consumo). Los patrones generales que sigue la pobreza y la vulnerabilidad son similares: los habitantes de las áreas rurales sufren de mayor pobreza y vulnerabilidad en comparación con los habitantes urbanos, al igual que los indígenas en comparación con los no indígenas, los de bajo nivel de educación, los que dependen de los ingresos

agrícolas y así sucesivamente [...]

[...]

En Guatemala, la mayor parte de la pobreza y la vulnerabilidad surge debido a condiciones crónicas mas que transitorias.

[...]

La pobreza crónica predomina: Aunque el 56% de la población de Guatemala era pobre en 2000, la mayoría (79%) eran pobres crónicos (44% de la población total) y sólo un 20% eran pobres transitorios (12% de la población total), [...]  
[...]"

**UN CHR, 24 February 2003, paras. 11, 22-24:**

"One of the issues of greatest current concern is the close link between ethnic origin and poverty; the departments in which there is the highest concentration of indigenous people are also those which experience the greatest poverty and extreme poverty.[...] Those who are poor and destitute in Guatemala live predominantly in the rural areas, engage mainly in farming, are mostly illiterate, have school attendance levels below the national average, have no access to basic services and suffer various degrees of marginalization and social exclusion. Indigenous women experience the lowest levels of economic and social well-being. [...] Rural poverty among indigenous people has worsened in recent years as a result of the fall in world coffee prices, one of the traditional export products most widely grown by indigenous peasants.  
[...]

Agricultural resources are distributed very unequally in Guatemala, with cultivable land highly concentrated in a few estates. Ninety-four per cent of small farms (microfincas and fincas subfamiliares) occupy 18.6 per cent of the land, while 1.5 per cent of the large farms (those covering more than one caballería, or roughly 45.7 hectares) account for 62.5 per cent of the total. This reinforces the socio-economic polarization of Guatemalan society. [...] According to another source, 96 per cent of producers farm 20 per cent of agricultural land, while 4 per cent of producers farm the remaining 80 per cent. [...]

More recent information indicates that during the more than three decades of armed conflict, the fragmentation of peasant plots into minifundios increased, leading to growing conflict, largely due to the displacement and resettlement of the indigenous population and the misappropriation of communal and public land in various regions. This phenomenon was reported to be particularly acute in the area known as the Northern Transversal Strip, one of the main areas of confrontation during the armed conflict, from which many indigenous communities were displaced and where large estates were formed which are currently owned by former members of the armed forces. The Special Rapporteur has received many complaints on this matter.

The picture set out above is exacerbated by the fact that the laws and institutions for land titling, property registration and maintenance of the register of agricultural land are inadequate and ineffective, giving rise to a high level of legal uncertainty and many conflicts relating to boundaries and land tenure."

**ILO, May 2000, "History":**

"Guatemala's economy is dominated by commercial agricultural production. Large privately owned plantations, mainly located on the country's more fertile land, produce coffee, bananas, sugar and cotton for export. However, the majority of the population is dependent on the subsistence farming of maize, beans and rice cultivated mainly on small plots of land. The below-subsistence capacity of most of these plots, and the non-ownership of land for others, has led to many peasants becoming economically dependent on seasonal work (usually for substandard wages) on the agro-export plantations.

The sectoral composition of GDP has changed little since the 1960s. While agriculture's share has dropped from 30 per cent (in 1960) to 24.4 per cent (in 1994), it is still the most important sector; 49 per cent of the country's labour force is employed in the agricultural sector which accounts for more than half of total export earnings. This represents one of the highest levels of employment in agriculture in the western hemisphere. It is this abundance of low cost indigenous labour in the agricultural sector that has enabled Guatemala to become the dominant economic power in the region. [...]

In the country as a whole, 76 per cent of families live in poverty and 33 per cent in conditions of extreme poverty. Inequalities in the distribution of land are among the highest in the western hemisphere, with 2.2 per cent of landholders owning 65 per cent of the productive land. [...]

As well as a consequence of increasing poverty, communities have also become increasingly dependent upon wage labour because of declining fertility of the land combined with the inheritance system which divides land among offspring. More recently, the situation has been exacerbated by further expropriations of indigenous land during the 1970s and subsequent to that by conflict-induced forced displacement."

**IACHR, 6 April 2001, Chapt.XIV, para.3:**

"For the refugees and the internally displaced who have returned to their land, or who have voluntarily resettled, the end of the conflict marked a crucial transition toward a future in Guatemala with dignity and the potential for development. Those who fled the massive and gross human rights violations of the conflict are unequivocal in the value they attribute to the fact that their children no longer have to live in terror, or face the onset of night fleeing in the mountains. The advances they have realized, with the support of the State and the assistance of the international community, most especially the UNHCR, are, however, accompanied by tremendous challenges. The broadest challenge is that of reintegrating the social fabric torn by displacement. This process is, in turn, impeded by systemic problems with access to land and security of tenure, the lack of an integral and sustainable rural development policy, the scarcity of resources, and insufficient access to basic services such as health care and education."

**de Rivero, October 2001, p.11:**

"Perhaps one of the biggest difficulties that resettled people have confronted on their return is their economic and productive reintegration into society. Most communities are still dependent on subsistence farming and outside aid to survive. Their progress has been limited by the scarcity of alternative sources of employment in the regions of resettlement. These regions tend to be characterized by their inaccessibility and isolation, in geographic, commercial and political terms. Most communities lack access to commercial routes and centers, basic infrastructure and adequate state services (justice, security, health and education).[...]

The resettled communities of Guatemala have already gone a long way in the process of reintegration, beginning to confront and reconcile their differences while constructing the basis for future social and economic development. Beyond these achievements, their effective reintegration as citizens of an inclusive nation-state is still to be achieved. This is part of a wider process of transformation which the country as a whole should undergo if it is to heal the social, economic, ethnic and cultural divide which was at the heart of the conflict."

**IACHR, 6 April 2001, Chapt.XIV, para.28:**

"[T]here is an urgent need to develop and implement a long-term integral rural development policy in order to ensure the reinsertion of the uprooted population in conditions of dignity. One recent press report characterized the post-conflict era as marked by a climate of violence and 'an environment that appears to say no to development. The lack of productive investment in many of the resettled communities is threatening the principle of return with dignity, and has begun driving some of those who resettled to look for other opportunities."

## **Public participation**

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### **Indigenous and displaced people are not enjoying their full political and civil rights (2004)**

- IDPs without documents are not registered in electoral census therefore cannot participate in the elections

- Congress did not approve a law which would have expanded indigenous people's political participation
- Government eased access to cultural monuments for the practice of Mayan spirituality
- Congress passed a law to facilitate the use of indigenous languages in official spheres
- A legislation against discrimination was passed in 2003
- Indigenous people are not permitted to use their indigenous language in courts and interpreters are often untrained or not recruited in sufficient numbers
- Mayan customary law is not accepted or upheld in legislation and institutions
- Non-documentation of IDPs contributes to low level of voter participation in rural areas

**IACHR, 1 January 2004, para.275:**

*"A su vez, las tasas de abstención del electorado indígena son altas, hay muy pocas personas indígenas en cargos de elección o en funciones públicas de responsabilidad, y tienen muy poca incidencia en la toma de decisiones políticas. En el ámbito municipal, las altas tasas de personas en edad electoral no inscritas en el censo electoral, y la indocumentación de mujeres, refugiados y desplazados internos conduce a que la participación electoral en las áreas rurales sea especialmente baja."*

**UN GA, 11 August 2003, para.8, 38:**

"Congress was unable to obtain the two-thirds majority required to approve an electoral and political parties law that would have greatly expanded opportunities for participation, particularly by members of the Maya, Xinca and Garifuna indigenous groups.

[...]

While many aspects of that Agreement remain pending, several positive steps were taken. The Government eased access to national cultural monuments for the practice of Mayan spirituality. In May 2003, just prior to the Consultative Group meeting, Congress passed a new law that facilitates the use of indigenous languages in official spheres. Legislation was also adopted that penalizes discrimination in its many manifestations, including on the basis of gender."

**UN CHR, 24 February 2003, paras.36-7,42:**

"A restriction which was repeatedly mentioned during the Special Rapporteur's visit concerns the use of indigenous languages in legal proceedings and other related procedures. Litigation in an indigenous language is not permitted, even when the parties speak it. The provisions which require a properly qualified interpreter to be available are not complied with, and in practice interpreters are neither trained nor recruited in sufficient numbers. This situation leads to acts which are in breach of the rules of due process, to the detriment of the indigenous persons concerned, who furthermore have no adequate defence, especially because the few public defenders in indigenous areas lack training.

[...]

The leaders of the organizations interviewed attach special importance to recognition of and respect for a legal system specific to the indigenous peoples themselves, forming part of the Mayan Weltanschauung and rooted in the culture of the communities. Indigenous law is substantially different from official law; it has a set of culturally appropriate procedures, it is efficient in conflict resolution and the restoration of social balance at the least cost to the parties (victims and accused) and it has its own officers clearly identified in the system of traditional indigenous authorities. Although this customary law is mentioned in the Constitution, ILO Convention No. 169 and the Agreement on Identity and Rights (sect. IV-E), [...] it is not clearly accepted or upheld in legislation or institutions; judges are not familiar with it and do not apply it, and when the traditional indigenous authorities exercise this function they often incur penalties for substitution of authority or contempt.

[...]

The exclusion of the indigenous peoples from their role as citizens has been a characteristic feature of the political structure of Guatemala since colonial times and throughout the life of the Republic. This phenomenon traditionally involved the subordination of traditional forms of organization of the communities and peoples and exercise of their authority (indigenous mayors and guilds, for example); the belated granting of the right to vote; high rates of abstentionism among indigenous voters - continuing to the present time; the absence of indigenous people in elected posts or public offices of responsibility, including military commands; and in general scant influence on the part of indigenous peoples in decision-making concerning national life. Mention must be made of the high proportion of persons of an age to vote who are not registered in the voters' lists and the non-documentation of women, refugees and internally displaced persons, which contributes to low levels of voter participation in rural areas. These conditions worsened during the years of domestic armed conflict, inter alia as a result of the implementation of a strategy to destroy the rural social fabric, harass the traditional authorities, induce inter-community and inter-ethnic confrontations, and train and maintain paramilitary control groups (Civil Self-Defence Patrols and Comisionados Militares); and other associated effects of the displacement and subsequent resettlement of the indigenous population."

#### **IDPs and war affected populations pressure the state to comply with its responsibilities (2004)**

- In 2002 IDPs occupied offices of the Land Trust Fund demanding disbursement of funds to develop economic activities on the farms they had bought
- Victims of the conflict occupied the Peace Secretariat calling for the disbursement of funds for the programme of reparation (2004)

#### **UN GA, 10 July 2002, para, 37:**

"On 23 April 2002, a number of Land Trust Fund offices were occupied by members of the National Council for Displaced Guatemalans who were seeking access to land and disbursement of funds in order to revive economic activity on the farms that had already been bought. The Follow-up Commission became involved and decided to propose that the Land Trust Fund be assessed. At the same time, the Ministry of Finance and the Congress took steps to increase its budget."

#### **La Hora, 14 June 2004:**

"Víctimas del conflicto armado interno tomaron esta mañana las instalaciones de la Secretaría de la Paz (SEPAZ) como una medida de presión para exigir la asignación de fondos al Programa Nacional de Resarcimiento, PNR."

#### **IDPs organized into Communities of People in Resistance during the conflict (2001)**

- Organized IDPs developed high levels of political awareness through organization and participated proactively in local and municipal politics

#### **ACCORD 1997, "Key actors":**

"In the early '80s, tens of thousands of internally displaced Guatemalans organized into Communities of People in Resistance (CPRs) to denounce army terror campaigns in the north of the country."

#### **ILO May 2000, "History":**

The CPRs "developed collective means of production since this was safer and more efficient."

**de Rivero October 2001, p.9:**

"[O]rganized returnees and IDPs, who had developed high levels of political awareness through organization, also thought to participate proactively in local and municipal politics. The fact that they benefited from documentation programmes, which included women, quickly converted them into large numbers of potential voters and hence a population to reckon with at the local level. In municipalities with large numbers of returnees and CPR communities, these groups were able to define the results of local elections. In fact, a prominent leader of one of the CPRs was elected mayor in the last general election."

**Former IDPs wish that assistance programs took their needs more into account (2001)**

- While the Resettlement Agreement requires the affected population to be full participants in development plans, some said that their proposals have not been taken into account
- The Resettlement Agreement provides no mechanism to ensure IDP's participation
- Little participation of resettled women in the decision making process

**IACHR 6 April 2001, Chapt.XIV, para.29-30**

"The affected population has indicated the need that development projects be more closely linked to the specific needs of the community. [...] The UNHCR has highlighted the need for longer-term support for agricultural projects, as well as the promotion of other types of employment opportunities in areas where agricultural production is limited. [...]

Importantly, the affected population reports that, while the Resettlement Agreement requires that they be full participants in development plans at the local, municipal and regional levels, their proposals are not being taken into account and there are no specific mechanisms to ensure that this is done. With respect to the issue of women's participation in decision-making, reports indicate that the male leadership of most local organizations considers that organization by women is an independent effort that doesn't merit incorporation into the larger sphere of decision-making. Further, women report that they continue to face *de facto* barriers in joining local cooperatives and associations. Further, while there have been a few development projects targeted toward women, and these represent an important initiative, they have reached only a small fraction of those concerned, and need to be integrated into a larger policy."

# DOCUMENTATION NEEDS AND CITIZENSHIP

## General

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### Several thousands IDPs still lack personal identification documents (2002)

- Without documents they are unable to effectuate basic transactions, vote, have access to basic services or obtain identification documents for their children
- MINUGUA reports that those most lacking documents are the displaced and indigenous women
- Due to the stigmatization of IDPs many were forced to remain anonymous and therefore were unable to exercise their rights as any other citizen
- Nearly all returned refugees and demobilized members of the URNG have identification documents
- An estimated 10 per cent of the records of the country's civil registries are reported to have been destroyed during the conflict
- The problem of lack of identity documents affects especially displaced women

#### **UN GA, 10 July 2002, para.24:**

"Regarding documentation, the Special Temporary Act on Personal Documentation was extended until July 2002, although at the time of writing, the extension had not yet entered into force. Despite temporary measures for issuing personal identification documents, lack of such documents remains a problem affecting mainly displaced persons and indigenous women. Since such documents are crucial to the exercise of citizenship, it is essential that the Government seek a comprehensive solution to this problem."

#### **IACHR 6 April 2001, Chapt.XIV, para.39:**

"For many, the lack of personal identification documentation continues to constitute a serious obstacle to the exercise of basic rights, including access to State services. On the positive side, [...] almost all returned refugees and demobilized members of the URNG now have personal identification. This amounts to almost 50,000 people, and represents a substantial advance. This problem, however, is national in scope, and thousands and thousands of internally displaced persons still lack personal documents, and are accordingly unable to effectuate basic transactions, exercise their franchise to vote, gain access to a range of basic services, or obtain identification documents for their children. Further, notwithstanding the issuance of a manual on the application of the special law and some training activities of the UNHCR, some Civil Registries refuse to apply it. The State has demonstrated a very positive effort to date, which demonstrates that the problem may be resolved through the extension of the special measures in place and additional efforts to reach and serve those who remain undocumented."

#### **Mazariegos, 1999:**

"Uno de los graves problemas que enfrenta el país en general, y particularmente los desplazados, es la indocumentación, en parte debido a la destrucción de oficinas de Registro Civil durante el conflicto armado y en parte por la necesidad de anonimato que debieron enfrentar. Lo anterior ha llevado a que en la práctica, muchos desplazados (en especial las mujeres) no existan como sujetos de derechos como cualquier ciudadano. Esta situación deja a buena parte de la población desplazada en estado de indefensión jurídica."

**Worby December 1999, 2.d:**

"The internal armed conflict resulted in the destruction of records in approximately 10% of the country's civil registries, making it impossible to verify births, marriages or paternity for many who were once registered. In a society relying on official papers to exercise an array of human and civil rights, lack of personal documentation makes it impossible to have a legally-recognised name a nationality, to legally marry and register births of children, to vote and to be elected. Lack of papers also seriously hinders the right to work, to have access to education and health benefits through the social services system, to the justice system, to credit, and to own and/or inherit land and property.

Conservative estimates consider that between one and two million Guatemalans do not have documents (10-20% of the current population)."

**Special law to ease documentation procedures (2004)**

- The special law to ease documentation procedures extended until July 2002 but was not enough as many people stayed out of reach from the programme
- The Peace Accord on Resettlement recognized that IDPs' lack of documentation limited their access to credit, basic services and the exercise of their civil and political rights
- The government engaged to streamline documentation mechanisms and through Decree No.70-91 replace and register birth certificates destroyed during war free of charge
- In effect since 1997, the Special Temporary Law of Personal Documentation was extended until mid 2002 since many IDPs and others still lacked documentation
- In 2002, MINUGUA deplored the lack of progress in providing documentation papers witch particularly affected IDPs and indigenous women

**CERIGUA, 3 April 2004:**

"La ley temporal de documentación de la población desarraigada no llenó las expectativas que se esperaban, pues el tiempo de vigencia de esa norma fue insuficiente, ya que mucha gente quedó fuera de ese programa, agregaron los activistas."

**UN GA, 10 July 2002, para.24:**

"Regarding documentation, the Special Temporary Act on Personal Documentation was extended until July 2002, although at the time of writing, the extension had not yet entered into force. Despite temporary measures for issuing personal identification documents, lack of such documents remains a problem affecting mainly displaced persons and indigenous women. Since such documents are crucial to the exercise of citizenship, it is essential that the Government seek a comprehensive solution to this problem."

**Worby December 1999, 2.e:**

"7. The lack of personal documentation for the majority of the uprooted population groups increases their vulnerability and limits their access to basic services and the enjoyment of their civil and political rights. This problem requires urgent solutions. Consequently, the Parties agree that the following steps are necessary:

7.1. In order to arrange for the documentation of uprooted persons as soon as possible, the Government, with the cooperation of the international community, shall intensify its efforts to streamline the necessary mechanisms, taking into account, where appropriate, the registers kept by the uprooted communities themselves;

7.2. Decree No. 70-91, a provisional act concerning replacement and registration of birth certificates in civil registers destroyed by violence, shall be revised so as to establish a system

adapted to the needs of all the affected population groups, with streamlined, free-of-charge registration procedures. For such purposes, the views of the affected sectors shall be taken into account. Personal documentation and identification shall be completed as soon as possible; (GoG & URNG, 17 June 1994)

*One of the main components of UNHCR's documentation strategy for 1997 and 1998 was to "influence a change in legislation that would result in less cumbersome procedures for birth registration, death certificates and marriages (such a law was approved in October 1997 for a three-year period); [...]*

The general invisibility of IDPs in Guatemala (except for a finite number in organized groups) meant that many of these potential and intended beneficiaries were either not comfortable with identifying themselves as such or simply did not think of themselves as 'displaced'. In municipalities that were overwhelmingly affected by war and displacement, it was more effective to simply target every inhabitant as qualifying for the special documentation procedures under the law (by nature of having lived in a region that was uprooted in social, political and economic terms)."

**MINUGUA June 2001, para.27:**

"En noviembre de 2000 fue aprobada una nueva prórroga por un año de la Ley Temporal Especial de Documentación Personal, debido a que persisten grupos de población desarraigada, especialmente desplazados internos y mujeres, que carecen de documentación y, por ello, ven impedido su acceso al crédito, a la tierra, a la vivienda y a otros beneficios sociales. Lamentablemente, los efectos de esta nueva prórroga no serán suficientes si las autoridades no promueven la documentación a través de las comunidades y las organizaciones vinculadas con el tema, instruyen a los registradores civiles y facilitan el acercamiento de la población a los registros. A cuatro meses de aprobada la ley, continúan las dificultades legales en su aplicación y, a pesar de algunos esfuerzos de coordinación, no se aprecia aún ningún avance sustantivo en la documentación de la población beneficiaria."

# ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

## General

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### Indigenous culture not respected despite Agreement on Identity and Rights (2003)

- The Agreement of 1995 contains measures to revive, protect and promote indigenous languages and reforming the education system accordingly
- The constitutional reform of the educational reform was never fully approved
- The main hindrances to complete the reform are lack of financial resources and lack of trained bilingual teachers
- There is no intercultural and bilingual education curricula adapted to the needs of indigenous people at country-level
- Contrary to the Agreements, indigenous people are often prevented access to traditional ceremonial and sacred places
- Contrary to the Agreements, indigenous people are sometimes discriminated for wearing traditional indigenous dress

### UN CHR, 24 February 2003, paras.51, 52, 54, 58, 60:

"The 1985 Constitution recognizes the value of indigenous languages (art. 58) and stipulates that "in schools established in areas of predominantly indigenous population, education shall be conducted preferably in bilingual form" (art. 76). The Agreement on Identity and Rights (1995, section III) contains a broad range of measures for reviving and protecting indigenous languages and promoting their development and use, and initiating a major reform of the education system in order to consolidate bilingual and intercultural education and guarantee access to education for indigenous people. A Joint Commission - made up of government representatives and indigenous organizations - was set up in 1997 and worked systematically on planning this reform up to 2000. Although the aspects of the educational reform which were supposed to be enshrined in the Constitution have remained pending since the reform of the Constitution was not approved in full, the Executive adopted the conclusions arising from the work of the Joint Commission as from 2001 and some of the measures are being put into effect, although only as "pilot programmes". A consultative committee attached to the Ministry of Education is monitoring this process.

[...]

These reports express unanimous satisfaction at the level of acceptance of the political approach which encourages bilingual intercultural education, as reflected in its steadily higher profile in the government apparatus. Various opinions exist concerning the most suitable technical and administrative solutions to the issue of Guatemala's linguistic diversity. All concur in noting the inadequacy of financial resources for carrying out the reform and in general for improving indigenous access to education. The lack of a sufficient number of well-trained bilingual teachers is repeatedly mentioned as a major difficulty.

[...]

As United Nations reports have noted, [...] and as the organizations participating in the National Council of Mayan Education and in the Third National Congress on Mayan Education have repeatedly said, [...] there is still no overall system of intercultural and bilingual education set out in curricula adapted to the language and the needs, values and systems of the indigenous peoples themselves and effectively reaching schools in small localities.

[....]

The Special Rapporteur was informed that, although progress has been made as regards tolerance of indigenous rituals by society as a whole - which has meant that these practices are no longer clandestine - a series of obstacles and threats still remain which impede enjoyment of this right. In particular, it was reported repeatedly that some members of the ecclesiastical hierarchy (Catholic and Evangelical) prevent the use of traditional ceremonial places in the immediate environs of Catholic and Protestant churches; that private owners of agricultural land hamper access to sacred places located within their boundaries; that law enforcement personnel track and confiscate the collections of natural products used in indigenous ceremonies (such as forest resins and medicinal plants); and that some water collection and distribution installations in rural areas affect the sources and springs which the indigenous population consider to be places of particular spiritual importance. The conflicts arising from these tensions are handled by judicial officials as criminal matters and frequently lead to violent clashes between those involved.

[...]

The wearing of traditional indigenous dress - mainly by women - is closely bound up with spiritual practices and is a very important element of social and ethnic identity. The Constitution (art. 66) and the Agreement on Identity and Rights (sect. III-E) guarantee the right to wear such dress and provide for measures to combat the de facto discrimination arising from the exercise of this right. The Special Rapporteur was informed of several cases of non-compliance with this principle, in particular relating to access to public places (such as restaurants and discotheques), the wearing of school uniforms and the ban on wearing indigenous dress on the premises of the industries in the export processing zones."

### **Socio-cultural consequences of displacement and of conflict on Mayan communities (1999)**

- A 1996 study showed that the main socio-cultural and economic impacts of displacement included the change of economic activity, breaking-up of families, change of cultural patterns (language, dress, religion, music) and less solidarity
- During the war, Mayans had to conceal their ethnic identity (language, dress rituals)
- Meanwhile the culture was degraded through the use of Mayan names and symbols for task forces and other military structures, and during the 1980s traditional Mayan authorities were generally substituted by delegates from the armed forces
- IDPs' resistance as a strategy to preserve identity took various forms, and in turn produced changes to their identity

#### **Mazariegos, 1999:**

"Una investigación realizada en 1996, en la región Kanjobal (Huehuetenango) reflejó que entre los principales impactos socioculturales y económicos se encuentran: cambios en la economía, desintegración familiar, cambios en la esfera cultural (idioma, vestido, religión, música), nuevos patrones de conducta, por lo general menos solidarios que los que existían anteriormente."

#### **CEH 1999, Conclusion I, para.62-71:**

"The CEH [Commission for Historical Clarification] concludes that the Mayan communities also became a military objective during the bloodiest years of the confrontation. In some regions and years, because of the terror and persecution, Mayans were obliged to conceal their ethnic identity, manifested externally in their language and dress. Militarization of the communities disturbed the cycle of celebrations and ceremonies, and concealment of their rituals became progressively more widespread. Aggression was directed against elements of profound symbolic significance for the Mayan culture, as in the case of the destruction of corn and the killing of their elders. These events had a serious impact on certain elements of Mayan identity and disturbed the transmission of their culture from generation to generation. Similarly, the culture was

degraded through the use of Mayan names and symbols for task forces and other military structures.

Beginning in 1982, traditional Mayan authorities were generally substituted by delegates from the armed forces, such as military commissioners and PAC commanders. In other cases, the Army tried to control, co-opt and infiltrate the traditional Mayan authority structures. This strategy caused the rupture of both community mechanisms and the oral transmission of knowledge of their own culture, likewise damaging Mayan norms and values of respect and service to the community. In their stead, authoritarian practices and the arbitrary use of power were introduced. [...]

The forced displacement of civilians in Guatemala stands out in the history of the armed confrontation because of its massive nature and its destructive force. It embodies the rupture of social fabric in its most direct and heart-rending form. Families and communities were fractured and cohesive cultural ties weakened. [...]

The testimonies of the internally displaced received by the CEH reveal an attitude both of resistance to military control and in defence of life, not only in its physical sense, but also with regard to cultural and political identity. Resistance as a strategy to preserve identity took various forms, and in turn produced changes in that very identity. Interactions with other ethnic groups, inhabitants of the city, people from other countries, other educational systems and different natural environments, as well as the experience of persecution and death, transformed relationships that constitute this sense of identity, producing a Guatemalan society marked by confrontation, but also potentially strengthened by its experience of diversity."

# PROPERTY ISSUES

## Law and policy

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### Land-acquisition by force amount to agrarian counter-reform (2009)

- Rural development policies prioritize an export-oriented production model, favouring agro-industrial projects at the expense of subsistence farming
- Agro-industrial activity for biofuel production and the takeover of extensive areas for cattle-grazing provoke conflict with small-scale farmers
- Intermediaries operating on behalf of larger companies resort to threats and violence to acquire land.
- Exploitation of natural resources on indigenous territory erodes communal autonomy over ancestral territories.

### IDMC Interview with CONGCOOP, 2009:

“El progreso logrado antes del 2004 se ha revertido por dos razones y continúan hoy en día una contra-reforma agraria: El primero está vinculado a la expansión del cultivo de palma y azúcar en Ixcán y Petén (...) Se usa gente a sueldo de las empresas que hacen uso de hostigamientos para apropiarse de la tierra. Si no quieres vender dicen que la alternativa es comprar [la parcela] de la viuda. Mucha gente tiene que dejar su tierra presionada por los intermediarios de las empresas de agrocombustible. Esto genera un nuevo desplazamiento o hacia el Petén o hacia la ciudad, sea Guatemalteca o extranjera (...) El otro tema en Izabal y Petén son los narcoganaderos que expulsan campesinos para usar el territorio para el ganado (...)”

### El Periodico, 9 August 2009:

“A pesar del discurso oficial de ser un gobierno con rostro maya, declaramos que no se ha enfrentado el racismo estructural, continúa la vulneración de los derechos específicos de los Pueblos Indígenas, así como el despojo de nuestras tierras y territorios por intereses económicos transnacionales que buscan a toda costa la expropiación y explotación desmedida de los bienes naturales; los desplazamientos que provoca la falta de oportunidades que traen consigo el desgaste de las formas de vida que están modificando los relacionamientos dentro y entre nuestras comunidades (...) existe una brecha entre la poca legislación vigente y las prácticas institucionales, locales y nacionales que se aplican.”

### UN Special Rapporteur on the Right to Food, 5 September 2009:

“(…) Considering the stark inequalities in access to land that exist currently and the further pressures towards concentration that result from the boom in agrofuels, the elements of the policy that seek to limit excessive concentration of land ownership (...) are particularly important ; so should be the protection of indigenous communities against evictions from the land on which they depend for their livelihoods (...) The Special Rapporteur is also particularly concerned that disproportionate force continues to be used against landless workers who resort to forms of protest against unpaid wages or other abuses that include the occupation of fincas. Resort to force cannot constitute a substitute for mediation and dialogue. And it cannot be a substitute for the adequate protection of the rights of workers, which currently still faces a number of important obstacles.”

## **Measures to grant land and property rights agreed in the Peace Accords have not been executed (2003)**

- The absence of a national land registry system is the main obstacle to conflict resolution
- The Presidential Office for Legal Assistance and Dispute Settlement in Land Matters was not assigned any funds in 2003
- The government committed through the Peace Accord on Resettlement to ensure legal security in the holding of land
- IDPs's difficulty in providing evidence of landholding is due to registration problems, disappearance of files of the INTA, institutional weaknesses and customary law
- The most serious obstacle to IDPs land legal security are secondary occupants, and annulment of their land rights on the basis of improper application of "abandonment" criteria
- The government committed to take legal measures to ensure that IDPs' land abandoned during the conflict cannot be considered "voluntary abandonment" and to compensate the victims accordingly
- The government recognised the importance of land as a key source of economic and productive integration and therefore committed to implement sustainable agricultural development projects
- A Technical Committee was set up to implement the agreement and UNDP was asked to administer the fund set up to implement the resettlement strategy
- In accordance with the Framework Agreement of 10 January 1994, the Resettlement Accord would also be subject to international verification by the UN MINUGUA

### **UN GA, 11 August 2003, para.56,58,59:**

"The absence of a national land registry system continues to be a serious obstacle to rural development and the resolution of land conflicts. Actions taken in this area have been erratic, and donors, who have contributed significant bilateral and multilateral funds for cadastre projects, expressed increasing frustration.

[...]

The Presidential Office for Legal Assistance and Dispute Settlement in Land Matters, which played an important role in helping to resolve peacefully some of the country's nearly 2,000 registered land disputes, was not assigned funds in the 2003 budget. Stopgap funding provided by the Government in April 2003 forestalled the closure of the institution, but was insufficient to prevent severe staff cuts and the closing of several regional offices.

[...]

The budget allocated to the Land Trust Fund was again below the amount prescribed in the executive decree that created the fund in 1998 as a key mechanism of the peace agreements. The fund has relied largely on multilateral loans and foreign aid, and has made only modest progress in securing land for needy populations. Still pending are the creation of a guarantee fund to help mobilize private resources for land credit and the recovery of vast tracts of lands, particularly in the Petén and Northern Transversal regions, which had been irregularly adjudicated by previous Administrations."

### **GoG & URNG, 17 June 1994:**

"8. An essential element of the resettlement process is legal security in the holding (*inter alia*, the use, ownership and possession) of land. In that regard, the Parties recognize the existence of a general problem which particularly affects the uprooted population. One of the principal manifestations of legal insecurity is the difficulty of producing evidence of landholding rights. This situation stems, *inter alia*, from problems concerning registration, the disappearance of the files of the Instituto Nacional de Transformación Agraria (INTA), the institutional weakness of specialized bodies and municipalities; the existence of rights based on customary systems for the holding

and surveying of land; the existence of secondary occupants or the annulment of rights on the basis of the improper application of provisions concerning voluntary abandonment.

9. In the particular case of abandonment of land as a result of armed conflict, the Government undertakes to revise and promote legal provisions to ensure that such an act is not considered to be voluntary abandonment, and to ratify the inalienable nature of landholding rights.

In this context, it shall promote the return of land to the original holders and/or shall seek adequate compensatory solutions.

[...]

1. The resettlement areas are predominantly rural. Land, which is a finite resource, is one of the alternative sources of economic and productive integration. Sustainable agricultural development projects are required, in order to offer the population the means to break the vicious circle of poverty and degradation of natural resources and, in particular, to allow for the productive and ecologically sound protection and development of fragile areas.

[...]

4. The development of the above-mentioned areas in conditions of justice, equity, maintainability and sustainability shall involve, in addition to agricultural activities, the creation of jobs and income from agro-industry, industry and services, under systems that are appropriate to the rural environment and to the preservation of natural resources. To this end, it is essential to develop basic infrastructure for communications, electrification and production. Public investment shall be geared primarily to this purpose, and a system of investment incentives for rural development in the areas in question shall be established.

5. To improve the quality of life, the objectives of rural development should include: (i) local food security and basic service infrastructure for the population groups, including housing, sanitation, drinking water, rural storage, health and education; (ii) an increase in production and productivity and promotion of local and regional markets for agricultural, agro-industrial and non-industrial products and inputs; (iii) generation of jobs and income; (iv) sustained and sustainable use of the available natural resources, through management of resources at the local level.

[...]

9. The solving of each of the problems involved in resettlement and development of the affected areas shall take as a point of departure the study and design of resettlement conditions and the advice, views and organized participation of the uprooted groups and resident communities.

[...]

The agreements contained in the comprehensive resettlement strategy shall be implemented through the execution of specific projects.

2. For that purpose the Parties agree to establish a Technical Committee for the implementation of the resettlement agreement, to be composed of two representatives designated by the Government, two representatives designated by the uprooted population groups and two representatives of donors, cooperating bodies and international cooperating agencies. The latter representatives shall have consultative status. The Committee shall draw up its own rules of procedure.

[...]

6. For the purpose of ensuring implementation of the resettlement strategy, the Parties agree to establish a fund to implement the agreement on resettlement of population groups uprooted by armed conflict essentially with contributions from the international community. The United Nations Development Programme (UNDP) shall be asked to administer the funds of each of the projects to be executed.

## **VI. FINAL PROVISION**

In accordance with the Framework Agreement of 10 January 1994, this Agreement shall be subject to international verification by the United Nations."

**Costello, P. April 1995, para.4.1:**

"[O]n 17 June 1994, an agreement on resettlement of the population groups uprooted by the armed conflict was signed. This accord refers to the refugees and the displaced, including the CPRs. It provides a series of guarantees for the security of resettled populations, most significantly with respect to land rights. The government agreed to promote judicial security of land tenure by the displaced including the recognition that land abandoned during the violence was not abandoned voluntarily. The accord also set the terms of reference for a resettlement strategy involving the provision of land (either land owned by the displaced or alternative land provided by the government), credit facilities and the development infrastructures to enable a successful reintegration of the displaced population. The execution of this strategy was put in the hands of a technical commission composed of representatives of government, the displaced populations and international donors."

**For an in-depth analysis of land and conflict in Guatemala see *Tierra, Identidad y Conflicto en Guatemala*, by FLASCO, MINUGUA and CONTIERRA, (30 December 2003) [[External Link](#)]**

**See also *Between Conflict and Consensus: Conciliating Land Disputes in Guatemala*, Cecilia Bailliet, November 2002 [[External Link](#)]**

**Government repealed a decree which allowed to give away land belonging to IDPs (2000)**

- Decree 1551 allowed the state to regain under its jurisdiction "voluntarily abandoned land", thus the lands of IDPs were sold to new owners by the INTA
- This created conflicts since several people had several titles to the same land in addition to complicating the return process
- In 1989, the government recognized the involuntary nature of displacement and repealed decree 1551
- In 1992 the government said in an agreement it would check the claims of the refugees who lacked the necessary documents to their land
- In 1994 this agreement was extended also to IDPs when the Agreement on Resettlement of uprooted populations was signed
- In general, the farms bought for the uprooted population belong to the community and not to the individual
- The army granted some 2,000 land titles on so-called "abandoned" lands mostly left by those who fled the conflict, in the most conflict-ridden areas
- The National Institute of Agrarian Transformation (INTA) allowed the resettlement campaign, arguing that the land had be 'voluntarily abandoned'
- By 1985 some 2000 land titles were awarded to peasants in the most conflict-ridden areas

**Fundación Arias September 2000, p.9-11**

"[...] el Decreto 1551 [...] permitía que las tierras nacionales bajo su jurisdicción [of the State] regresaran al Estado en la eventualidad que fueran abandonadas 'voluntariamente' por más de un año (artículos 114 y 115). Está cláusula de 'Abandono Voluntario' fue la utilizada por el INTA [Instituto Nacional de Transformación Agraria] para justificar la entrega de tierras de la población desarraigada a nuevos ocupantes, creando las bases para nuevos conflictos por la doble o triple titulación o asignación de las mismas tierras. Ninguna institución tomó en cuenta los derechos de los parcelarios desplazados, que fueron vistos desde la perspectiva militar como los causantes y no como las víctimas de la violencia.

*Esta situación deliberadamente, se convirtió en un obstáculo para la repatriación de grupos familiares al no estar en posesión de sus propiedades, pues muchas de las comunidades abandonadas, tenían nuevos ocupantes. Fue hasta 1989, cuando el INTA reconoció la naturaleza no voluntaria del desplazamiento y dio marcha atrás a esta política.*

*No es de extrañar entonces, que la primera demanda de la población desarraigada fuera la recuperación de sus tierras, aún cuando no pudieran comprobar ser los legítimos propietarios, pues otras personas habían titulado a su favor las tierras que aparentemente fueron 'abandonadas'. También se perdió una gran cantidad de documentación, cuando poblaciones enteras fueron quemadas y los archivos que amparaban la tenencia de la tierra se perdieron. El Programa de Desarrollo para Desplazados, Refugiados y Repatriados en Centroamérica (PRODERE) detectó casos de 3 títulos extendidos sobre una misma parcela, emitidos durante diferentes gobiernos.*

*La solución para el problema de tenencia de la tierra de la población desarraigada se enfrentó a partir de 1992, con los Acuerdos del 8 de octubre que básicamente indicaban que el Gobierno se compromete a comprobar los derechos de posesión de los refugiados que carecieran de la documentación respectiva.*

*[...]*

*Con la firma del Acuerdo de Reasentamiento de las poblaciones desarraigadas por el enfrentamiento armado, en junio de 1994, los beneficios de la tenencia de la tierra, se extendieron a los diferentes grupos de población desarraigada. [...] [E]ste acuerdo no entró en vigencia sino hasta la firma de la Paz (29/12/1996), [...]*

*La forma de tenencia de la tierra en los casos de las poblaciones desarraigadas, varía dependiendo del tipo de organización de que se trata, pero en términos generales es la figura jurídica de la comunidad (Asociación, Cooperativa, Comité) a quien se adjudican las fincas compradas. La comunidad paga la finca. Pero el sistema de producción, continúa siendo colectivo."*

**Costello, P. April 1995 para. 2.1:**

"Army control extended to the land itself. The army prohibited the cultivation of large tracts of land located in conflict areas. In other areas, farmers were allowed to travel to their fields to plant crops but were not allowed to resettle in their villages. Sometimes they were accompanied to their crops by civil patrollers. In addition, the army began an extensive campaign to resettle abandoned lands. Resettlement improved the army's image: some 2,000 land titles were awarded to peasants in the most conflict-ridden areas by the end of 1985. Most of the land being resettled was national land previously colonized and belonging to peasants who were now in refugee camps or internally displaced. The National Institute of Agrarian Transformation (Instituto Nacional de Transformación Agraria – INTA) allowed the resettlement, arguing that the land's previous owners had 'voluntarily abandoned' their land. The resettlement helped to cover up physical evidence of the large-scale violence."

**Difficult access to credit and land for uprooted women despite new law (2003)**

- Despite the provisions of the Peace Agreements, widowed or separated women or those who married for a second time do not succeed in gaining title to their property
- Land disputes are heard in criminal courts which often conflicts with indigenous leaders who have traditionally regulated access to land and settled land disputes
- Land has traditionally been registered only in the husband's name
- The Law of the Land Fund recognized in 2001 the right of uprooted women to own land or to be co-owners with their husbands

**UN CHR, 24 February 2003, paras.28:**

"Access to land for indigenous women is problematic. Despite the provisions of the Peace Agreements, widowed or separated women or those who have married for a second time do not succeed in gaining title to their property (communal or personal), recovering family property or acquiring new land under cooperative or other programmes. Such problems are growing in complexity, but there is no land court or other formal machinery for settling land disputes, which are increasingly heard in the criminal courts in the form of proceedings for dispossession or illegal seizure. This also leads to serious tension and conflicts between those responsible for law enforcement (the courts, the public prosecutors and the police) and the leaders of the indigenous peoples, who have traditionally played a role in regulating access to land and settling land disputes."

**UN GA, 10 July 2002, para.23:**

"The process of reintegrating both population groups has not received the support of the Productive Projects Trust. Even though the Trust was set up in October 2001, the Government has still not allocated the necessary financial resources. The situation of the displaced, especially women, is all the more serious because the process of providing access to land is proceeding slowly, despite the priority accorded to this population group in the Agreements."

**IACHR 6 April 2001, Chapt.XIV, para.23-26:**

"A further advance is the juridical recognition of the right of uprooted women to own land, or to be co-owners with their husbands, reflected in the Law of the Land Fund. [...]

[But] women [...] remain hindered in their ability to own and administer land by *de facto* barriers within their communities, particularly with respect to access to credit."

**ILO May 2000, Chapter 13:**

"The issue of land ownership, one of the root causes of conflict, can particularly be a problem for women. In practice, they have access to credit and land only as members of a family group, which essentially makes women invisible since land is registered only in the husband's name. Since these practices are culturally rooted and appear to be "normal", women tend not to claim ownership rights. When they do, there are no administrative mechanisms to enforce them.[...]

Although a man's wife generally takes over his land when he dies, her in-laws may try to deprive her of her full inheritance rights."

## **Restitution**

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**Alvaro Colom's government promote dialogue and offer mitigating programs to access land for war-victims (2009)**

- 230,400 persons were assisted in 2008 according to government figures
- 10,477 victims received monetary compensation and an official pardon.
- Subsidies to help IDP and other peasants buy and rent land made more than 40,000 ha available for their use in 2008

**SEPAZ, 2009:**

"El PNR (programa Nacional de Resarcimiento) cuenta con una asignación presupuestaria de Q300 millones anualmente, de los cuales Q270 millones son inversión directa en medidas de resarcimiento integral y Q30 millones se destinan al funcionamiento del programa. En el 2008 el

PNR otorgó resarcimiento por un monto de Q 235 millones, el 45.9% de lo otorgado hasta a fecha (...) Se iniciaron tres experiencias piloto para la implementación de la metodología de diagnósticos comunitarios y de construcción de planes comunitarios para el resarcimiento integral (...) Resarcimiento monetario a 10,477 sobrevivientes del enfrentamiento armado, así como el desarrollo de talleres comunitarios previos a la entrega de resarcimiento (...) Entrega de 10,477 cartas de perdón signadas por el Presidente de la República a personas beneficiarias (...) en proceso la construcción de 900 viviendas para víctimas de desarraigo (...)"

"Doce años después de haberse firmado este Acuerdo [de Paz], aún presenta importantes incumplimientos por parte del Estado guatemalteco, especialmente en lo referente a la situación agraria y el desarrollo rural. Álvaro Colom (...) fijando el mecanismo de diálogo como el instrumento metodológico para arribar a acuerdos. Destaca en este proceso, la instalación de dos mesas de diálogo: a) la mesa de Desarrollo Rural integral cuyo objetivo es la creación de una Ley de Desarrollo Rural Integral; b) la mesa de Conflictividad Agraria, en dirección de crear políticas en materia de la conflictividad agraria y ambiental (...) En el ámbito del desarrollo rural el gobierno ha creado distintos programas con el fin de abatir la problemática que afecta a la población guatemalteca especialmente del área rural. Se creó el Consejo de Cohesión Social y el Consejo de Desarrollo Rural y se discutió y consensuó con distintos sectores sociales el anteproyecto de Iniciativa de Ley de Desarrollo Rural Integral, así como la propuesta de Política Nacional de Desarrollo Rural Integral.

(...) De los casos de conflictos de tierra atendidos durante el 2008, fueron finalizados, es decir casos en los que la SAA termina su intervención, 459 casos, de los que 342 son casos de arrastre de años anteriores (97-2007) y 117 casos ingresaron y finalizaron en el presente año. La resolución de estos casos implicó la atención de 38,401 familias, equivalente a 230,400 personas, de las que 112,896 (49%) son hombres y 117,504 (51%) son mujeres.

(...) El Fondo de Tierras cuenta con dos programas para atender la problemática de la tierra en el país: Regularización de Tierras del Estado y Acceso a la Tierra (...) El programa de Regularización de tierras ejecutó durante el presente año Q 14.43 millones, para cumplir con el proceso de entrega de certeza jurídica sobre los derechos de posesión, uso y propiedad de la tierra a las familias del campo. Además, el Fondo de Tierras emitió 1,953 resoluciones de adjudicación de tierras beneficiando a igual número de familias (...) El Programa de Acceso a la Tierra benefició durante el presente año a 66,100 familias, con el otorgamiento de crédito por un monto total de Q.135,646,583.78 millones, de estos Q.13,246,583.78 se destinaron a compra de fincas y Q.122,400,000.00 para arrendamiento de tierras, accedando en total a 41,905.12 hectáreas. En lo que corresponde a subsidios se benefició a 404 familias con compra de fincas de grupos por un monto de Q.14,810,640.00; a 4,496 familias con subsidio de asistencia técnica, por un monto de Q.5,550,729.21, a 61,200 familias con un subsidio para arrendamiento de tierras por un monto de Q.30,600,000.00. En total se invirtió un monto de Q.50,961,369.21 en subsidios. El monto total de inversión del Fondo de Tierras, en el programa de Acceso a la Tierra, asciende a la cantidad de Q.186,607,952.99."

### **The National Commission for Reparations set up in 2004 dysfunctional (May 2006)**

- The National Commission for Reparations spends most of its limited resources on its own bureaucracy
- The Commission has no registry of victims as a basis for its work
- Civil society organisations have been excluded from the Commission
- Forced displacement gives right to compensation

**Claudia Paz y Paz Bailey:**

"The PNR,[The National Commission for Reparations] as modified by Executive Decree 619-2005, includes the following as crimes to be repaired: forced disappearance; extrajudicial execution; physical and psychological torture; forced displacement; forced recruitment of minors; sexual violence and rape; violations against children; massacres and 'other violations.[...]

The PNR considers as victims and beneficiaries those who directly or indirectly, individually or collectively, suffered human rights violations and crimes against humanity. This is a comprehensive definition, since people are considered victims not only if their rights were directly violated, but also if they suffered the indirect effects of violations, as did relatives of a disappeared or executed person. However, in practice, the definition of victim has been narrowed to those who directly suffered human rights violations. Family members will only qualify as beneficiaries if the victim has died or disappeared and if they are direct relatives (i.e. parents, children, spouses or partners, and, only if the latter are not available, siblings). This differs from the definition of inheritors under national legislation by including ascendants, who, under the said legislation, may only inherit if the deceased has no children."

**Guatemalan Congress, 25 May 2006:**

"Me es grato dirigirme a usted para informarle por este medio, de observaciones de la Comisión que presido, con relación a la situación de los Derechos Humanos en Guatemala, de acuerdo a la información a su alcance, lamentando que esta Comisión, que tiene dentro de sus atribuciones el seguimiento de los Acuerdos de Paz no haya sido considerada en las entrevistas que tiene previstas en su estancia en el País.

No pretendo abarcar todos los aspectos relacionados a los derechos Humanos, sino de los aspectos sobre los cuales la Comisión de Paz tuvo información e involucramiento. Dichas observaciones las resumo de la manera siguiente:

**SOBRE EL RESARCIMIENTO A LAS VÍCTIMAS DEL ENFRENTAMIENTO ARMADO INTERNO:**

A esta comisión se han apersonado en diferentes ocasiones, diversas expresiones de las víctimas del enfrentamiento armado interno expresando su inconformidad con el curso del programa de resarcimiento, que se puede resumir en lo siguiente:

Sin atención directa a las Víctimas: Desde su creación en el año 2004 hasta la fecha, el Programa Nacional de resarcimiento, -PNR- a penas ha atendido parcialmente a pequeños grupos de víctimas, ha destinado sus principales gastos en funcionamiento y no ha ejecutado los recursos que para el resarcimiento se le han destinado.

Falta de voluntad de Ejecución: Aduciendo diversas causas, el PNR no ha ejecutado los fondos para el resarcimiento. A finales del año 2005, una intervención gubernamental excluyó a la representación civil de la Comisión Nacional de Resarcimiento en el supuesto que era la causa de su falta de ejecución. Sin embargo, sigue la ejecución en estancamiento por lo que se revela falta de voluntad gubernamental.

Discriminatorio: Porque no incluye el resarcimiento a población no combatiente que habiendo sido miembro del ejército, de las Patrullas de Autodefensa Civil o de la URNG fue objeto de violación a sus derechos humanos.

No planificado: Porque no parte de un Registro Nacional de Víctimas, ni de prioridades, lo cual permite la atención sólo a la población que acude por su propia iniciativa a registrarse y de la población a discreción de las autoridades del PNR.

Desviación de recursos: Porque no ha ejecutado su presupuesto para el resarcimiento y sus autoridades aceptaron el traslado de Q260 millones para otros usos de gobierno. De no corregir sus defectos señalados, este año volverá a suceder lo mismo, mientras cientos de ancianos y ancianas que han luchado por un acto de justicia a su dignidad están muriendo sin conseguir resarcimiento.

Objeto de manipulación política: Desde su creación, a través de un acuerdo gubernativo, éste ha sido objeto de tres modificaciones, todas, ajustadas a los requerimientos de control gubernamental, y en contra de la participación de la sociedad civil en el mismo.

Ante tal situación esta Comisión ha demandado del PNR informes y medidas de agilización pero no observamos voluntad gubernamental para la misma, salvo el anuncio por los medios de prensa de una campaña de registro de 250 mil víctimas, publicado recientemente, del cual no nos consta sustento objetivo.

Ha sido recomendación de esta comisión lo siguiente para este año:

Registro Nacional de Víctimas: El conocimiento del universo nacional de víctimas permitirá una planificación seria de corto, mediano y largo plazo. Obviamente registro debe haber permanentemente pero debe haber un patrón inicial.

Uso exclusivo de los fondos para el resarcimiento: No debe permitirse que los fondos destinados al resarcimiento se desvíen a otras necesidades del gobierno central. Debe asegurarse la creación de un fideicomiso que resguarde el uso exclusivo de dichos fondos para el resarcimiento.

Prioridad en la atención de población discapacitada, ancianos y ancianas, víctimas del enfrentamiento armado.

Todo lo anterior, según se ha solicitado, plasmado en un plan conjunto, con cronograma de ejecución de todas las instituciones gubernamentales componentes de la actual Comisión Nacional de Resarcimiento que preside la Sra. Rosalina Tuyuc."

### **Violent evictions of campesinos from large land holdings (March 2006)**

- 70 violent evictions of campesinos from large land-holdings since president Berger came to power in 2004
- The government protects private property of transnational companies at the expense of campesinos' labour rights and rights to land
- 17 campesinos were executed in one of the evictions
- The government lacks policy to address the causes of land conflicts

### **Colectivo de Organizaciones Sociales, 30 March 2006:**

"Luego de dos años del gobierno de Berger se ha realizado más de 70 desalojos violentos en defensa de la propiedad privada de terratenientes y empresas transnacionales ejecutados con fuertes contingentes de la PNC y, en varios casos, con la participación del Ejército. Los casos de la Finca Nueva Linda y el Corozo son un claro ejemplo, en el cual fueron ejecutados varios campesinos (17 asesinatos), se realizaron secuestros, torturas, detenciones arbitrarias, desapariciones, destrucción de viviendas y cultivos, afectando los derechos humanos de mujeres, niños y ancianos. En las acciones de desalojo se privilegia la defensa de la propiedad privada y no se atiende las demandas de los trabajadores de pago de sus prestaciones

laborales y salarios, aunque exista orden de juez. “Junto a los desalojos se ha consolidado la criminalización de las demandas campesinas y una visión unilateral del orden legal del país que deja fuera a los trabajadores del campo. A tal grado que acciones de CONTIERRRA, no garantizan el cumplimiento ni la aplicación de los derechos laborales agrarios, los derechos de utilidad pública y beneficio social, los derechos de propiedad y/o posesión de las comunidades indígenas y las obligaciones de legalidad contempladas en el ordenamiento jurídico vigente para la resolución de conflictos, ni para las adjudicaciones de FONTIERRRA–OCRET y la gran propiedad privada. El bien común obligación del Estado se convierte en la protección del sector privado. Esto por la falta de una política que ataque las causas de la conflictividad, una legislación articulada e institucional que proteja los intereses campesinos”

### **Peace Accords had little impact on IDPs’ property and land restitution rights (2003)**

- 4% of producers own 80% of the land in Guatemala (2003)
- The Agreement on Identity and Rights including restitution, compensation, and acquisition of land for indigenous communities remains unaccomplished by the government (2003)
- To drop the IDP label, would enable those who appropriated displaced people’s properties to keep control over it thus undermining restitution and compensation to the displaced
- Although official census calculated a total of 242,386 dispersed IDPs, the government recognized only the restitution rights of refugees and organised IDPs from CPRs
- Agencies in charge of land restitution confirmed most of the claims come from dispersed IDPs
- The military and non-state actors continue to occupy land taken during the war and appropriate additional property by way of forced evictions
- Despite the resettlement agreement, IDPs have become labelled as poor rather than displaced with land restitution rights
- Without land, indigenous Guatemalan had great difficulty in retaining his/her identity as a member of the Mayan community and to sustain a livelihood

### **UN CHR, 24 February 2003, paras. 22, 25:**

“Agricultural resources are distributed very unequally in Guatemala, with cultivable land highly concentrated in a few estates. Ninety-four per cent of small farms (*microfincas* and *fincas subfamiliares*) occupy 18.6 per cent of the land, while 1.5 per cent of the large farms (those covering more than one *caballería*, or roughly 45.7 hectares) account for 62.5 per cent of the total. This reinforces the socio-economic polarization of Guatemalan society. [...] According to another source, 96 per cent of producers farm 20 per cent of agricultural land, while 4 per cent of producers farm the remaining 80 per cent. [...]

[...]  
The Agreement on Identity and Rights mentions the need to guarantee the land rights of the indigenous peoples, including: regularization of the land tenure of the indigenous communities; recognition and guaranteeing of the rights of indigenous people to use and administer their land and resources; restitution of communal land and compensation for dispossession; acquisition of land for the development of the indigenous communities; and legal protection for the rights of indigenous communities (sect. IV, F). MINUGUA has pointed out that all these commitments had to be rescheduled owing to lack of compliance. [...]

### **Baillet in NRC, A Global Survey, 2002, p.93:**

“The problem of internal displacement in Guatemala remains relevant because the majority of those displaced during the war have yet to attain recognition of their property restitution rights. According to a census sponsored by the UN Population Fund in May 1997, dispersed IDPs were calculated to total 242,386 persons. Although the number is substantial, the government chose

not to recognize restitution rights for dispersed IDPs, and instead focused on the restitution right of refugees and 'collective' IDPs (CPRs) who formed part of numerically smaller groups. The National Council for Displaced Persons (CONDEG) has accused the government of deliberately attempting to reduce the number of IDPs in order to avoid assuming responsibility for restitution. The land agencies in Guatemala state that many of the claims they receive are indeed from dispersed IDPs. Rather than being recognized as IDPs with a right to restitution, they are treated as part of the poor in general with no entitlement to property. In short, this group may be substantial in number but it has been deemed politically irrelevant in Guatemala by the state and international parties.

[...]

At the same time, the military and powerful non-state actors continue to occupy land taken during the war and appropriate additional property by way of forced evictions. There is a need for international efforts to assist IDPs in recovering their properties and thereby addressing the structural inequalities which are at the root of violence and displacement cycles."

**Baillet, e-mail, 26 November 2003:**

"IDPs become labeled as "the poor", the "landless", "homeless", etc. and thus denied restitution rights to land based on displaced status."

**Baillet, e-mail, 27 November 2003**

"The problem with dropping the IDP label is that it enables those who appropriated their properties to retain control over the property without providing restitution or compensation. MINUGUA has stated that it recognizes that the failure to prosecute those who engaged in violations during the war has resulted in an unsuccessful peace consolidation, this includes the property appropriation issue. [...] Even those IDPs who rent land continue to consider themselves displaced because they are deprived of ownership of property which is what they had before the displacement. [...] They are what one would call unremedied conflict induced displacement- and unfortunately this is not prioritized by donors or other actors".

**ILO May 2000, "History":**

"The implications of being landless or unable to produce corn goes beyond economic aspects for most indigenous people in Guatemala. Without a territorial claim in a community of one's ancestors and the means to secure part of one's own food supply, an indigenous Guatemalan has great difficulty in retaining his or her identity as a member of that indigenous group."

**ACCORD 1997, "Reframing citizenship":**

"Land for the Maya is a vital ancestral link and a site of religious communion. It is, therefore, a linchpin of cultural identity. Crucially, access to land also remains, for the vast majority, the key to economic subsistence.

The Guatemalan oligarchy's historical fear of agrarian reform, combined with the relative weakness of the URNG at the negotiating table, meant that the peace accords made little impact on a highly unequal land distribution."

***For an in-depth analysis of land and conflict in Guatemala see Tierra, Identidad y Conflicto en Guatemala, Carlos Camacho Nassar, FLASCO, MINUGUA and CONTIERRA, 30 December 2003 [External Link]***

***See also Property Restitution in Guatemala: A Transnational Dilemma, Cecilia Baillet, 30 Septembre 2002, see sources below.***

***See also Between Conflict and Consensus: Conciliating Land Disputes in Guatemala, Cecilia Baillet, November 2002 [External Link]***

## **Lack of legal security in the holding of land leads to serious social conflicts (2004)**

- Conflicts over land increased and the IACHR is pressing the government to take measures to solve conflicts over holding and provide legal guarantees of holding to indigenous people
- Expropriation of indigenous land is protected by confused and inadequate legislation
- The legal granting of supplementary titles often results in further dispossession of indigenous lands
- The establishment of protected areas and reserves together with the granting of mining and forestry rights have further eroded indigenous rights to land
- The State purchased four out of 23 of the promised farms for the resettlement of IDPs (1999)
- The Land Fund had not been allocated the necessary funding by the state to solve land problems
- The state argued the delays in purchasing farms for IDPs were due to: lack of land documentation, squatters, high land prices, outstanding mortgages and disagreement about eligibility for resettlement among the uprooted
- Without legalized land titles it is impossible to obtain loans for development projects
- Lands purchased by the National Land Fund and titled to the National Institute for Agrarian Transformation both of which no longer exist have problems with boundary demarcation, multiple titles and settlers
- IDPs have been reported to be prevented to return to their land by fear of physical attacks by current occupants

### **AI, January 2004:**

“The government’s failure to implement the land-related elements of the Peace Accords and the deteriorating economic situation of Guatemala’s rural poor contributed to widespread unrest in the countryside and continued violent disputes over land tenure. Numerous activists defending their communities against land claims by large landowners or agricultural corporations have been killed in recent years.”

### **IACHR, 1 January 2004, para.262:**

*“Durante la visita in loco la Comisión pudo constatar que no hay avances al respecto, sino más bien se ha agudizado la crisis perjudicando una vez más a los más desposeídos. Esta situación social aumenta la exclusión social y desfavorece el desarrollo de la mayoría del pueblo guatemalteco, impidiendo así la instauración de una sociedad verdaderamente democrática y el fortalecimiento del Estado de Derecho. La Comisión reitera la necesidad de que el Estado de Guatemala tome las medidas necesarias y establezca mecanismos rápidos y eficaces para solucionar los conflictos de dominio, garantice y de certeza jurídica a las comunidades indígenas respecto del dominio de sus tierras. Es también necesario que el Estado provea de tierras estatales a las comunidades que las necesitan para su desarrollo, en cumplimiento de la Constitución Política.”*

### **UN CHR, 24 February 2003, paras.26-27:**

*“Various Xinca communities in the department of Santa Rosa presented documentation to the Special Rapporteur concerning action allegedly taken by landowners with the support of local municipal authorities to dispossess them of their communal land.*

*The indigenous peoples from the north, east and north-east of Guatemala, meeting in El Estor, Izabal, gave the Special Rapporteur a report describing the present situation, noting that “land tenure and the conflicts arising from it constitute one of the most important current issues in the departments of Alta Verapaz, Petén, Chiquimula and Izabal, in particular because they give rise to serious social conflicts. The conflict stems not only from the shortage of land and lack of access to land for thousands of families, but, fundamentally, from the unreliability of the judicial*

*system and the fact that it is almost impossible to authenticate, register or regularize land tenure status”.*

[...]

In contrast, the landowners, protected by various laws and by the State authorities, took possession of indigenous land, and these and other attacks damaged and weakened the organic indigenous structure of many communities, as the CEH report has pointed out. The mechanisms used to expropriate the land of indigenous communities enjoy protection based on confused and inadequate legislation, which always results in punishment for a problem which is of social origin. The application of the law on the granting of supplementary titles may continue to result in dispossession, and hence in conflicts between landowners and communities, and between one community and another.

The machinery set up so far to implement the commitments enumerated in the Agreement on Identity and Rights, such as the Land Trust Fund and the programmes for the resettlement of displaced and returning groups, has proved inadequate to the task of modifying the existing situation, and, even to the extent that it has been used, has been unable to make up the accumulated backlog, deal with new demands for land, settle disputes and rectify inequalities in land distribution. New developments have worsened the situation in recent years: the establishment of protected areas or forest reserves, and the granting of mining and forestry rights. As a rule these measures exclude the indigenous groups who have settled in or near such areas from exploiting the resources, fail to take into account their impact on the needs of the communities, make no provision to address such impacts and have been drawn up without consultation with those concerned.”

**CERIGUA, 25 February 2004:**

“La Asamblea Popular de Petén, que aglutina a diversas organizaciones sociales de este departamento, manifestó que la temática de la tierra es un problema antiguo en Guatemala, pero que cada vez se vuelve más agudo, debido a la falta de voluntad política de las autoridades de gobierno para resolver las diversas crisis que afectan a este sector, lo que genera mayor pobreza, hambre y exclusión social en las comunidades rurales.

En un comunicado de prensa, la referida coalición dio a conocer que cada vez hay más personas que no tienen acceso a la tierra, mientras que mujeres, niños y hombres trabajadores del campo, son víctimas de amenazas por parte empresarios y las fuerzas de seguridad, quienes acosan a las familias que habitan en terrenos que les pertenecen por derecho ancestral y por reclamo al pago de sus prestaciones laborales.

[...]

La Asamblea Popular, integrada por más de 15 organizaciones campesinas, de mujeres, cooperativas, de refugiados y desplazados; familiares de víctimas del conflicto armado interno, ambientalistas y centros de investigación, entre otras, ejecutará acciones para evitar la consolidación de las estrategias neoliberales.”

**IACHR 6 April 2001, Chapt.XIV, para.23-26:**

“Access to land and security of land tenure continue to be priority challenges in the process of reintegration. [...] The program for buying farms for the resettlement of the CPR's was completed with the purchase of approximately half a dozen farms. These groups have access to land, which provides an indispensable first step in their quest to reestablish themselves. [...]

At the same time, many of those with land continue to face challenges concerning the sufficiency of the size and productivity of the land, as well as access to basic services.[...] [T]he situation with respect to other internally displaced persons [than the CPRs] is much more difficult. The State promised to purchase 23 farms for resettlement during 1999, but only purchased four. In its most recent report, MINUGUA expressed serious concern that the Land Fund had still not been allocated the funds necessary to purchase the remaining unquantified number of legal disputes

over land [see MINUGUA tenth report, para.9] as well as initiatives to compensate for land taken during the conflict. In a significant number of instances this is because the responsible State entities have not been allocated the necessary funding [see MINUGUA, Eleventh Report, para.26]. In its observations to the draft report, the State indicated that 'the delay in the purchasing of farms for the uprooted population has been influenced by various factors, many of which are beyond the power of the State to resolve. It mentioned, for example, the lack of probative documentation concerning land to be bought/sold, families who squatted on land to be bought/sold and who now refuse to leave, prices in excess of market value, the existence of outstanding mortgages, and disagreements among members of leadership groups about the transfer of some families.

The uprooted population itself has emphasized, among other things, the problem of the illegal occupation of land, in particular by families settled in model villages during the conflict, the deficiencies of the title registry system, the lack or insufficiency of funds to buy land, the insufficient productivity of the land, and unresolved claims for assistance. The Defender for the Uprooted Population and Migrants of the Ombudsman for Human Rights has indicated that the lack of legalized land title is one of the gravest problems affecting this population, pointing out that without legal title, it is impossible to obtain loans for development projects. The Defender also points out the situation of some farms in the Southern Coast purchased by the National Land Fund and titled to the National Institute for Agrarian Transformation – both of which no longer exist – and further notes problems with boundary demarcation, multiple titles and settlers. Other related issues concern problems caused by land speculation, insufficient access to credit and debt."

**Bailliet April 2000, p.16-17:**

"IDPs are deterred from returning to seized land by fear of physical attack by current occupants."

**MINUGUA 26 July 2000, para.25-26:**

"As indicated in my previous report [MINUGUA Report], access to land and legal security of tenure continue to be priority issues for the uprooted population. The purchase of agricultural estates for Communities in Resistance has been completed, but resources have yet to be earmarked for ensuring that the process of socio-economic reintegration is sustainable. For the internally displaced population, only two more estates were acquired in addition to the two previously purchased. It is a matter of concern that the Land Trust Fund (FONTIERRAS) does not have sufficient funds to purchase the remaining 19 estates needed to reach the target of 23 estates pledged in 1999. Moreover, for the estates already purchased, no specific funds have been allocated for moving in the new owners or providing basic services. This situation, in addition to revealing the inadequacy of the resources allocated to FONTIERRAS, shows how little has been done to comply with the commitment to devote special attention to the needs of the uprooted population.

Since the National Institute for Agrarian Reform was unable to complete the process of regularizing title to public lands awarded to the uprooted population, FONTIERRAS, through its Regularization Office, has assumed responsibility for the remaining cases. FONTIERRAS is preparing a priority project for those cases and hopes to complete the award of definitive title by November 2000. With regard to cases of compensation through the purchase of land for communities whose properties were occupied during the armed conflict, the inhabitants of the San José 20 estate were resettled during the reporting period and the National Peace Fund (FONAPAZ) is negotiating the purchase of an estate for the Cimientos Chiul community. FONTIERRAS has informed the Technical Commission for the Implementation of the Resettlement Agreement (CTEAR) that it does not have the funds to settle the three compensation cases pending to date. The Presidential Commission for Dispute Settlement in Land Matters (CONTIERRA) is handling six disputes that require the approval of specific studies

before they can be finally resolved. The process of surveying, registering and awarding undeveloped land occupied by the uprooted population has not yet been completed."

***For an in-depth analysis of land and conflict in Guatemala see Tierra, Identidad y Conflicto en Guatemala, by FLASCO, MINUGUA and CONTIERRA, (30 December 2003) [[External Link](#)]***

***See also Between Conflict and Consensus: Conciliating Land Disputes in Guatemala, Cecilia Bailliet, November 2002 [[External Link](#)]***

### **Organized IDPs obtained easier access to their land or compensation than dispersed IDPs (2001)**

- The Land Fund & the Presidential Office for Legal Assistance and Resolution of Land Conflicts (CONTIERRA) was responsible for providing credit for land purchase
- In 1998 IDPs obtained agreement providing them access to credit for land purchases but did not obtain agreement for land restitution
- Three categories for eligibility for Land Fund assistance: landless peasants, peasants with insufficient land, poor peasants, thus being internally displaced is not criteria considered
- The Technical Commission for the Execution of the Accord on Resettlement of the Populations Uprooted by the Armed Conflict (CTEAR) was responsible to process IDP claims for credit assistance from the Land Fund
- Many IDPs unaware about procedures for filing restitution claims
- Organized IDPs did obtain some credit assistance, the recognition of some titles to land and compensation claims

#### **Bailliet April 2000, p.16:**

The Land Fund & the Presidential Office for Legal Assistance and Resolution of Land Conflicts (CONTIERRA), "the institutions responsible for providing credit for land purchase and for resolving land disputes. [...] In February 1998 the Land Fund entered into an agreement to provide IDPs with access to credit for land purchases but refused to consider restitution. The Land Fund law recognizes three categories of eligibility for assistance: peasants without land, peasants with insufficient land and those living in poverty. IDPs seeking credit are eligible to apply under these criteria, and do not need to apply as IDPs. [...]"

As of April 1999, the Technical Commission for the Execution of the Accord on Resettlement of the Populations Uprooted by the Armed Conflict (CTEAR) was processing 20 IDP community claims (each on behalf of between 20-145 families) for credit assistance from the Land Fund. Also, under consideration were 30 IDP claims (125-100 families each) for recognition of title to land and three IDP claims (32-80 families each) for compensation. Most IDPs live in dispersed groups and do not know about assistance programmes and procedures for filing restitution claims. The government's failure to advertise its services and the absence of adequate legal aid worsen the problem."

# PATTERNS OF RETURN AND RESETTLEMENT

## Return

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### **Most of the IDPs are located on the southern coast (May 2006)**

- Most of the IDPs are located on the southern coast, in the capital, in Alta Verapaz, in Puerto Barrios and Peten
- Many IDPs did not move far, often to urban centres in their own municipalities
- IDPs who fled individually were generally not recognised by the authorities
- Organised IDPs had better chances of obtaining land for resettlement

### **CONDEG, 16 May 2006**

"Los desplazados se ubican principalmente en el área de la costa sur, ciudad capital de Guatemala, Alta Verapaz, Puerto Barrios y Peten. Sin embargo el desplazamiento se dio de un municipio a otro municipio, como también de una aldea a otra. Por ejemplo en una aldea del municipio de Uspantan, Quiche hay más de 60 familias desplazadas actualmente que son originarias de otra aldea del mismo municipio que por las masacres, las quemadas de casas y la pérdida de sus seres queridos tuvieron que desplazarse a otra aldea. Es decir en el momento crucial de la guerra interna hubo desplazamiento hasta de un 80% de la población, en algunos casos fue de manera temporal. De manera que la población desplazada está dispersa en todo el territorio del país. Razón por la cual a los desplazados internos no reconocidos se les llama DESPLAZADOS INTERNOS DISPERSOS."

"[T]housands of internally displaced persons (IDPs) remained anonymous due to their fear of persecution; whether they returned to their places of origin remains unknown. However, one distinct group of IDPs, known as the Comunidades de Población in Resistencia: CPRs) which organized themselves collectively while in hiding, also negotiated their collective resettlement. [...] The Guatemalan experience proved that those who organized themselves achieved better levels of assistance from the government, NGOs and international agencies than those who remained dispersed and/or unaware of the benefits of the accords. A clear example is that of the internally displaced CPRs who obtained land for resettlement and productive educational and economic reintegration programmes, as well as assistance for the documentation of their population, in contrast to the thousands of IDPs around the country who did not receive any assistance, on account of their anonymity." (de Rivero October 2001, p.9)

### **Returns hampered by lack of property rights and stigmatisation of IDPs (2003)**

- The return of most dispersed IDPs who have no property rights is jeopardised unless the Resettlement Agreement is implemented
- IDPs who have lived for two decades in urban centres are unlikely to return
- Following years of stigmatization by the State, both returnees and IDPs have been accused of having links with the guerrilla
- Competition over land between returnees and those who remained intensified community divisions

- While some who fled were persecuted, others were offered amnesties and settled in militarised “model villages” and many of those who stayed were forced into Civil Defence Patrols the return brings all their distinctive experiences together
- One of the principles of the Resettlement Agreement was to promote reconciliation between those resettled and those already living in resettled areas
- In the Ixcán municipality of Quiché, most returnees have been turned away on the pretext that the communities are full

**UNHCR, 1 January 2003:**

“Thousands of IDPs have not received assistance to resettle especially because most are not organised as the Communities of People in Resistance. Dispersed and unorganised IDPs have had much less success in obtaining restitution through land acquisition, and lack of property rights continues to constitute a main impediment to a durable solution for the IDP population. Competition for land exacerbates tensions between IDPs who may wish to return and those who stayed in areas of origins. Therefore the challenge is now to facilitate their reintegration, which is a difficult matter since the implementation of the 1996 Peace Accords regarding this aspect has been delayed.

Furthermore, it is unlikely that the majority of IDPs today, especially those living in urban centres, will ever return to their places of origin due to the fact that many have now been displaced for two decades.”

**IACHR 6 April 2001, Chapt.XIV, para.18-22:**

"The principal challenge for many communities is reintegrating those who have returned or resettled into local life, and establishing a viable situation of coexistence. The disintegration of community life, manifested in the phenomenon of internal displacement, was pursued by the State as part of its counterinsurgency policy during the early 1980's and beyond. As the Commission for Historical Clarification confirmed:

the stigmatisation by the State of the displaced population [during the conflict], in many cases, fomented and perpetrated divisions in their communities. In accusing the displaced people of being guerillas or in spreading the message that they were responsible for the confrontation, their return to their places of origin was hindered and they were marginalised by those who had remained in these communities.

The deeply-rooted fear and mistrust sown by this policy will not be easily overcome. The communities affected by displacement, including both those who fled and those who remained, had been targeted for military control and repression, including through the commission of massacres and other atrocities. Survivors watched as family members and neighbors were sacrificed to the violence of the scorched earth policy. Those who fled were subject to military persecution, deprivation of basic needs, and the loss of their homes and communal life. The CPR's [Communities of People in Resistance], in particular, were subject to harsh military persecution, exposure to the elements, malnutrition, and the deaths of the vulnerable among them unable to withstand the conditions.

The objective of the Army was to assert military control over those who remained in the communities as well as over those who fled to other areas. For those who stayed, service in the PAC's [Civil Defense Patrols] was first a legal, and then a *de facto* requirement. Service was forced on some; others took advantage of the link with military power to persecute their fellow citizens. The Army offered amnesties to those who fled, and settled those who accepted in highly militarized communities (model villages or development centers) where they were subjected to military control and “re-education. The process of return and reintegration brings these people, formed as a result of their distinct experiences, back together.

As noted above, one of the principles of the Agreement is that the resettlement strategy will promote the reconciliation of the interests of those resettled and those already living in the resettled areas. In fact, many communities have dealt very successfully with return and resettlement. For many people, this involved the reintegration of close-knit family groups and communities, with great fulfillment for all concerned.

However, in other cases, return and resettlement has generated serious social conflict. Many of the difficulties in this regard are caused or exacerbated by conflicts over land -- between those who have returned or been resettled, and those who stayed, or who arrived or were settled there under the auspices of the State during the conflict. This Commission, for example, has been tracking the situation in Los Cimientos, in Chajul, El Quiché, in relation to its processing of case 11.197. The case was brought on behalf of the segment of the population forcibly displaced by the Army in 1981 that returned and has been unable to vindicate its claim to the land that was taken from it. As is widely recognized, the inability to clearly define the property claims within the community is both a cause and a consequence of the conflictive situation in the area."

**ILO May 2000, "Impact of the conflict":**

"Refugees and other displaced people have returned in large numbers, either settling in existing communities or establishing new ones. They may return to find the land they fled now occupied by people they view as military sympathisers. Returnees themselves are often treated with suspicion and hostility, not just by security forces and officials, but by the local population as well and may be accused of having links with the guerrillas. Although such accusations do not have the devastating consequences they used to, it is still an alienating and traumatic experience, especially for those returning to their country having lived in refuge for many years.

People settling in communities after years of internal displacement often encounter similar hostility. To further complicate matters, there is general mistrust and sometimes conflict (over land and other resources) between groups returning from internal displacement and those from Mexico, as well as between groups returning from different parts of Mexico. A number of communities, particularly in the Ixcán municipality of Quiché, are experiencing deep divisions. Most returnees wishing to join these communities are turned away on the pretext that the communities are full. Although shortage of land is a major factor, the reasons are sometimes more about one side of the divided community seeing the new arrivals as potential allies to the other side."

**UNICEF, e-mail, 6 July 2004:**

***In terms of returned refugees, SEPAZ indicated that as of July 1999, when officially the return process ended, about 42,005 people had returned to the country, so an estimated 9,588 families. These refugees received 32 farms for a budget of about US\$26.2 million.***

# NATIONAL AND INTERNATIONAL RESPONSES

## National and International Response

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### Improvement in national responses funded by international donors (2009)

#### IDMC Interview with Carlos Fernandez, 2009:

“(…) reparar, resarcir y restituir a las víctimas de violaciones a derechos humanos durante el Conflicto Armado Interno –CAI-, se volvió una discusión más bien ideológica, que se prolongó durante toda la primera etapa de dicho programa lo que enlenteció la puesta en marcha de medidas de reparación a dicha población. Uno de los temas que se torno difícil y en el cual no se han logrado acuerdos, ha sido el tema de atención a las víctimas de desplazamiento. El subregistro existente en los documentos antes mencionado y la ausencia de un sistema de registro confiable y de un proceso de documentación de las víctimas sobrevivientes por parte del Resarcimiento, han tornado la atención a las víctimas de desplazamiento en un tema que tiene respuestas políticas, pero sin un respaldo técnico que permita ejecutar medidas de reparación ordenadas y consensuadas con las víctimas (...)

Algunas acciones se han encaminado para atender las demandas de los desplazados, pero creo que sin los resultados necesarios para intentar al menos, resolver las problemáticas que dicho colectivo presenta, que dicho sea de paso y como buen fenómeno social, no han permanecido estáticas.”

### Overview National and International response

The government of president Oscar Berger has taken some positive steps to implement the recommendations of the Commission for Historical Clarification, but none of them specifically target IDPs. The government has publicly recognised the state's responsibility for atrocities committed during the conflict and apologised to the victims. In 2004, it set up a National Reparations Programme to compensate the victims of human rights violations committed during the conflict. In May 2006, the government convened a National Dialogue to address some of the outstanding issues from the Peace Accord in which a national IDP organisation participates.

But none of this has been sufficient to mitigate scepticism and animosity against the state. Since its establishment in 2004, the National Reparations Programme has spent most of its limited resources on administration, according to the President of the National Peace Commission set up by the Congress to supervise implementation of the Peace Accord (CoG, 25 May 2006). Moreover, none of the IDPs have received compensation from the programme according to a national IDP organisation, despite the fact that forced displacement is included among the criteria to receive compensation (CONDEG, 16 May 2006).

The inclusion of forced displacement among the criteria to receive compensation does not amount to a comprehensive IDP policy or response by the government. IDPs have been gradually excluded from the limited attempts to implement the Peace Accord and, ten years after the signing, remain largely disregarded as a group with specific needs.

The recently established National Dialogue has had a mixed reception. While important sectors

of civil society, including a national IDP organisation, have decided to participate, they do so hesitantly. A large umbrella organisation representing farmers and indigenous communities has decided not to participate, claiming the government lacks credibility and the political will to implement the commitments of the Peace Accord (MICSP, 13 May 2006). The organisations' scepticism has been fuelled by the government's violent evictions of land occupants, its ties to the landowning elites, and apparent lack of means or capacity to address the deteriorating social and economic conditions. Moreover, national organisations established to implement the resettlement agreement and related land issues have not been allocated sufficient resources to ensure effective implementation. A Land Trust Fund set up to assist IDPs in gaining access to land has been under-financed and made little progress (RI, 12 July 2005).

Despite the worsening situation for human rights defenders, several grassroots organisations continue to advocate for and defend the rights of the displaced, the main one being the National Council of Displaced Persons (CONDEG) formed in 1989 to assist dispersed IDPs in obtaining access to land and housing. It plays a central role in the Consultative Assembly of Uprooted Populations (ACPD), an umbrella agency established in 1994 which represents both internally and externally displaced people.

No international organisations were working specifically on the internally displaced in Guatemala as of June 2006. A UN Verification Mission in Guatemala (MINUGUA) set up in 1994 to monitor compliance with the 1996 Peace Accords including the 1994 resettlement accord, closed in 2004 without having fulfilled its mandate. The Office of the UN High Commissioner for Human Rights signed an agreement with the government in 2005 to set up an office which would emphasise monitoring of economic, cultural and social human rights.

The UN refugee organisation (UNHCR) which has a protection mandate for IDPs within a reformed UN response has not disregarded the presence of IDPs in Guatemala, but has no specific programmes defending their rights. UNHCR closed its office in the country after the massive return of refugees in the 1990s. The organisation assisted the return of large numbers of IDPs when it coincided with the areas of return for refugees. The main focus was on documentation and restitution of land rights.

Donors have expressed a readiness to assist Guatemala, provided it demonstrates a serious commitment to implement the peace agreements. However, the continued attacks on human rights defenders, the outcome of a referendum in 1999 which ran counter to many of the commitments in the peace accord and the violent evictions of land-occupants are all obstacles to increased support from the donor community.

Indeed, there is a widespread consensus that the government has not complied with the Peace Accords, including the resettlement and compensation sections and this – together with unresolved land issues – has prevented uprooted people from reintegrating and returning to their homes. Addressing the land issues affecting the displaced goes hand in hand with addressing the structural inequalities which are at the root of the violence, displacement and a deeply disintegrated society.

## **Reference to the Guiding Principles on Internal Displacement**

**Known references to the Guiding Principles (as of July 2004)**

**Reference to the Guiding Principles in the national legislation**

None

**Other References to the Guiding Principles (in reverse chronological order)**

The Inter-American Commission on Human Rights referred to GP 28-30 in a special report on Guatemala to assess the return conditions of the internally displaced and the state obligations.
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**Availability of the Guiding Principles in local languages**

The Guiding Principles have been translated into Spanish, but are not available in indigenous languages (such as K'iche', Kakchiquel, K'ekchi, and Mam).
Document: GP in Spanish [Internet]

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None

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