Guatemala:
The Context of Human Rights

Prepared for Goldcorp Inc.

Jim Handy, July 14, 2008

Introduction:

Guatemala suffers from serious human rights abuses and severe difficulties in attempting to solidify the social gains inspired by the signing of the Peace Accords in 1996. Many of these difficulties are related to high levels of poverty and inequality and to continuing discrimination against the indigenous populations of Guatemala. All measures of poverty, social exclusion, and inequality demonstrate striking correspondence to areas in which a large percentage of the population is indigenous. While large numbers of people live in poverty in Guatemala City and in other urban centres, poverty and social exclusion measures also increase dramatically in rural areas.

Human rights abuses in Guatemala are also related to an inadequate judicial system whose authority and legitimacy are not respected in large parts of the country and which is overwhelmed by high levels of criminal violence. Police and judicial officials are routinely implicated in corruption and criminal activity. Despite the promise of the Peace Accords, violence in Guatemala in recent years has eclipsed even those levels reached during many of the worst years of the civil war during the late 1970s and early 1980s. Significantly, there have been continuing attacks on both people and organizations working to expose human rights abuses, government corruption or to represent communities in struggles over land and compensation.

While Guatemala has enjoyed relatively free and democratic elections---both for the President and for Deputies in the Legislative Assembly---since the return of elections in 1985, elected politicians are routinely implicated in corruption and Guatemalans demonstrate little confidence in democracy. According to the United Nations, Guatemala has the second lowest voter turnout in Latin America for both presidential and congressional elections, and one survey in 2002 indicated that it had the lowest percentage of the population that thought democracy was the preferred system of government. Until the most recent presidential elections, Guatemalan national politics were dominated by a small group of closely related elites.

Guatemala's economy, although it has diversified significantly in recent years, is heavily dependent on agriculture, both internally and for exports. Sectors of Guatemala's business elite have been widely praised for promoting the institutional return of democracy in the 1980s and for defending it in the face of illegal maneuvers by the President in 1993. However, they have also resisted most attempts at increasing taxation levels and redistributing income and land. Guatemala has the lowest level of taxation in Latin America, as a percentage of GDP, and high levels of income and land inequality, by some measures only second to Brazil in Latin America and third worst in the world after Sierra Leone. Agrarian reform, promised in vague and unconvincing terms in the Peace Accords signed in 1996, has never been implemented effectively. Land distribution remains one of Guatemala's most intractable problems.

Access to resources and defense of both physical and environmental resources remains closely associated with the strength of community in rural Guatemala. Conflicts between communities and the government or communities and private business interests are relatively common. These conflicts have been most serious in relation to mining and other natural resource exploitation. There have been complaints that the government has not abided either by national law or by its commitments in accordance with the International Labour Organization Convention 169 to which it is a signatory. The most recent past administration was widely criticized for too readily resorting to violence to

end peasant and rural worker protests over the lack of agrarian reform or in support of communities.

This context piece will proceed in five sections: first, it will provide a brief historical narrative up to an including the overthrow of the administration of Jacobo Arbenz in 1954; it will then examine the periods from 1954 until the return of democratic elections in 1985, and from that date to signing of the peace accords in 1996 separately; it will detail changes in the situation surrounding human rights in Guatemala over the last decade, since the signing of the Peace Accords in 1996; finally, it will provide a synopsis of conflict between communities and the government and business interests over access to resources and environmental concerns.

The Historical Context:

In many ways Guatemala's history is one of exclusion—a history of exclusion that culminated, but did not end, with the Guatemala's long civil war, the most violent years of which were between 1978 and 1984.

Spanish colonial policy in what is now Guatemala, as elsewhere, sought primarily to isolate a declining indigenous population in segregated and controlled towns. These 'pueblos de indios' were encouraged to develop corporate and communal controls over land and other resources, while crown policy forced from them significant amounts of labour for public works, church projects, and allocated some of that labour to private Spanish economic concerns. In the context of a population that continued to decline dramatically throughout the colonial period due primarily to the introduction of European and Asian diseases, land was not a scarce resource in most parts of Guatemala, but intense pressure was brought to bear on indigenous labour in some parts of the country.

Following independence from Spain in 1821 (and from Mexico in 1823), Guatemala, as part of the United Provinces of Central America, attempted to further reforms that had been begun in the last few decades of colonial rule to break down the imposed insularity of indigenous communities, to build citizens, and to submit land and other community controlled resources to market forces. In attempting to attract foreign investors and settlers, it allocated large tracts of land to foreign interests. It was partly opposition to this that helped spur a rebellion led by a young peasant of mixed ancestry, Rafael Carrera, supported by both indigenous and non-indigenous peasants.[1]

The success of the rebellion in 1838 led, eventually, to the abandonment of most of the policies designed to open indigenous and peasant communities to both liberal political and economic forces. It also led to the separation of Guatemala from the United Provinces of Central America and the creation of an independent Guatemala.

The Coffee Revolution:

---

[1] *In Guatemala people of mixed indigenous, Spanish cultural heritage are called Ladinos. By the end of the 19th century, they were the dominant group in Guatemala and by the middle of the 20th century, census statistics divided the population into indigenous and ladino categories. Now, with some exceptions, the ladino population is considered to include most of those who are not identified as indigenous.*

Protection for indigenous community resources, which was an important element of the Carrera governments, was ended in the last few decades of the 19th century, when a new and aggressive elite---mostly Ladino---energized by the prospects of coffee production forced its way to power through revolution in 1871. In the ensuing decades, governments dominated by this coffee elite followed policies designed to benefit them, to foster increased coffee production and agricultural export production in general, and to modernize the country through the assimilation or elimination of Mayan people and culture.

Coffee planters needed access to land and labour, along with credit and infrastructure to assist in the production and marketing of the crop. In pursuit of the first two, indigenous communities with land in the coffee growing zones were deprived of village land; communities often being wholly incorporated into expanding coffee estates. But, the land of most indigenous communities was not suitable for coffee production. While these communities were often able to maintain access to some of their land, their labour was required, particularly in the key coffee harvest months of November to February. Various methods were used to induce labour from highland indigenous communities; historically the dominant practice shifted from government mandated labour gangs, to onerous debt contracts, to a vagrancy law generally only enforced in highland indigenous areas.

While each of these methods had significantly different economic and social consequences, they shared certain aspects: all such labour was in some ways 'forced' labour and, in general, enforcement was ultimately the responsibility of agents of the government, particularly the military and the court system. Thus, for approximately 70 years---between 1871 and 1944--, the predominant relationship between highland communities and the most visible state agencies was one in which the state was perceived to be a predatory force functioning for the benefits of large landowners.

Such labour was also provided cheaply. Guatemalan indigenous people were not able to receive wages that reflected a high demand for and a scarcity of labourers; rather indigenous wages were kept extremely low through coercive means. In the key decades in the early 20th century, it was not unusual for indigenous labourers tied a debt contract to leave the coffee estate further in debt than when they had arrived, due to low wages and excessive charges for food, shelter, and fines for absences.

A depressed rural economy had a variety of consequences. With large numbers of workers forced from communities for long periods of time, and returning with little income to invest, agriculture production in highland communities failed to keep pace with a growing population. Impoverished rural inhabitants were more easily deprived of their land; in many highland communities the largest landowner was a labour contractor who rented the land to community members in return for a labour contract subsequently sold to a coffee estate. In other communities, pharmacists or bar owners also became large land owners, taking advantage of poverty to foreclose on land.

In pursuit of the second two requirements---credit and infrastructure---and in a general attempt to help modernize Guatemala, governments in the late 19th century also invited foreign investors and settlers into the country. The first significant group to arrive was a number of German investors who soon controlled a large percentage of coffee exports and developed a number of large coffee estates. Many of these German planters

married into Guatemalan families and integrated into Guatemalan society. Those who did not had their property confiscated and were deported during the Second World War.

Recent histories of Guatemala's contemporary commercial elite point to the emergence during this time of a set of closely linked families often with German backgrounds. Generally speaking, Guatemala's elite families either have deep historic roots stretching to the colonial period or they developed their wealth and power through the coffee revolution in the late 19th century.

The coffee revolution helped determine the nature of Guatemala in other ways. Through the decades between the 1838 and 1871, a relationship had developed between the Guatemalan government and Guatemalan society in general, and indigenous communities. While the nature of this relationship was never static and was not without its tensions, in hindsight it is now clear that Guatemala was slowly developing a sense of itself that provided for the effective integration of indigenous communities and indigenous people; a sense of nationality and, even, modernity that included Mayan people and Mayan culture. After 1871 that relationship was severed; the new elites who took control of Guatemala sought to impose a vision of modernity modeled more closely along European lines, allocated a place for indigenous people only as labourers and peasants, and explicitly developed policies designed to reflect their belief that Mayan culture (and even perhaps Mayan people) would soon disappear. This was a very different national ideal and one that was not officially abandoned until the constitution was rewritten in 1985.

The other guest invited to Guatemala during this period was the forerunner to the United Fruit Company. The United Fruit Company started in Guatemala, as it did in the rest of Central America, through railway contracts designed to provide the coffee producing central highlands with access to coastal ports. Very quickly from its start at the very beginning of the 20th century, the United Fruit Company became a powerful commercial and political force, controlling large amounts of banana lands, monopolizing railway transit in the country and steam transit from the country's Caribbean port, Puerto Barrios, which it owned.

The United Fruit Company used close relations with US ambassadors in Guatemala as it sought to negotiate new and favourable contracts with the government. This culminated in its preferred candidate—General Jorge Ubico--- with heavy US support, being the only candidate for elections to the Presidency in 1931. Ubico ruled for close to fourteen years.

The 'Ten Years of Spring':

Ubico's relations with the US State Department and with the United Fruit Company were not forgotten when he was overthrown by youthful reformers in 1944. The subsequent decade is often called the "Ten Years of Spring" in Guatemala and is generally perceived to be a period of political, social, and economic reform. The franchise was extended and real elections were held. By mid-way through the administration of Dr. Juan José Arévalo even municipal elections were often truly democratic contests. During the Arévalo administration, urban labour organization was legalized and assisted, the government instituted social security measures modeled partly

on the Canadian example, money was spent on rural education, and measures were introduced to assist the rural poor in renting land.

The most active labour organizations were those on United Fruit Company plantations and on the railways it owned. Most often the government supported workers when they opposed the company, leading to increasing confrontations between the Arévalo administration and the United Fruit Company, with the US State Department nervously watching from the sidelines.

Despite some pressure to do so, the Arévalo administration did not introduce an agrarian reform to redistribute land. It prohibited labour organization in rural areas and repressed those who attempted to organize peasants and rural workers in most areas of the country. To some extent the Arévalo administration was forced to do this by pressure coming from the military that had close ties to large landowners and was dominated until 1949 by the conservative Major Francisco Arana. In 1949 Arana was killed and shortly after a much more progressive former military officer, Captain Jacobo Arbenz, announced he would run for the presidency in the upcoming elections.

Arbenz was the clear favourite of the majority of the progressive sectors in the countryside and he easily won elections held in 1950. In1952, his administration passed a dramatic agrarian reform law, Decree 900, designed to expropriate unused land from large estates and distribute the land to organized peasants and rural workers. At the time, two percent of the large landowners owned 72% of the agricultural land while 88% of the farmers controlled among them less than 14% of the agricultural land. While there were many poor ladino peasants, the bulk of the rural poor were indigenous. According to the 1950 agrarian census, Ladino farmers controlled on average more than 9X the amount of land indigenous farmers controlled.[1]

The agrarian reform used habitually low self-declared taxation assessments to determine compensation for expropriated land and paid for the land in interest bearing government bonds. Bonds for the most expensive properties were amortized over a twenty-five year period, ensuring that they lost much of their value to inflation. Rural inhabitants needed to organize to petition for land and this provided a dramatic spur to the organization of peasants into unions and their involvement in political parties, accelerating pressure for the distribution of land. By 1954, over a million acres of land had been expropriated and distributed to close to 100,000 peasants or landless labourers, benefiting about 500,000 people in a population of just over 3 million. Partly as a consequence, wages on coffee estates had increased from about 20 cents a day to $2.00 a day between 1948 and 1954. [2]

Of course, one of the landowners most affected by the agrarian reform was Guatemala's largest landowner, the United Fruit Company. The United Fruit Company argued first that it should be exempt from the reform. It then demanded compensation that was twenty-five times the amount the government provided based on the tax assessment rates. The Guatemalan government refused to negotiate with the company, saying that it had access to all the legal safeguards provided in the law and that it should take advantage of those as any landowner in Guatemala could. The United Fruit Company also sought to pressure the US State Department to act on its behalf and began to try to foment revolution against the government.

The extent to which the US State Department was influenced by the troubles of the United Fruit Company has been hotly debated. The State Department was already

concerned about the perceived influence of communists in the government of Jacobo Arbenz. Sectors of the US government had also turned from being ardent proponents of agrarian reform, championing its land to the tiller programme in Asia and overseeing an agrarian reform in Japan, to opponents of agrarian reforms that were perceived as too radical and leading to peasant and rural worker organization.

Officials in the US government were certainly very disturbed by the Guatemalan agrarian reform and the State Department along with the newly created Central Intelligence Agency began to organize to overthrow the Arbenz government, training an exile army in Honduras and working to bribe military officers in Guatemala. The Guatemalan military had never been fully supportive of the revolution and many officers were deeply suspicious of the peasant organization that accompanied the agrarian reform. When the exile army invaded Guatemala from Honduras in 1954, the Guatemalan military refused to support the Arbenz government, forced Arbenz into exile, and began negotiations with the US Ambassador in Guatemala. Within a few weeks, the leader of the exiled fighters, a former Colonel, Carlos Castillo Armas, was sworn in as the new President of Guatemala.

The Militarization of Guatemala:

In many ways the "Liberation", as the armed force organized in Honduras to overthrow Arbenz preferred to be called, set the stage for modern Guatemala's troubles, particularly in rural areas. The subsequent government declared all of the peasant and rural worker organizations and unions active in countryside to be illegal and severely repressed community members most active in progressive movements during the preceding decade. While we will never know how many people were killed in rural Guatemala in the weeks and months following the overthrow of Arbenz, recent historical research has suggested that the numbers were substantial. Oral testimony collected by Cindy Forester in two areas of Guatemala, one of which was a United Fruit Company plantation on the Pacific Coast, leaves little doubt of the extent of the violence at least in those areas. Her informants reported that the army, on the urging of the United Fruit Company, came to the estate and killed all of those who were considered to be peasant and union leaders. Forster estimates that close to one thousand peasants and workers were killed at this plantation immediately following the overthrow.[3]

This repression was deemed necessary partly because the government was intent on returning the land expropriated during the agrarian reform to the former landlords. Rather than simply declaring that the agrarian reform was to be reversed, the government instead passed two decrees in 1954 and 1956 that stipulated that only land that had been taken illegally in contravention of the terms of the agrarian reform law itself, or land that had not been distributed to peasants, or land in which the peasants who had received the land were now in favour of it being returned to its previous owner would be taken from the beneficiaries of Decree 900.

The result was not surprising, in the context of a polarized countryside, new government officials--- appointed by the "liberation" government and vehemently opposed to all things associated with radical organization during the Arbenz administration---took oral testimonies from peasant beneficiaries of Decree 900 under the watchful gaze of the military. In this context, it was a brave peasant indeed who declared

their intention to remain on the land and their opposition to the return of it. Indeed, given the context, it is perhaps most amazing that substantial numbers did and continued to oppose the return of the land they received under the agrarian reform for decades after the overthrow. Still, in total, over one million of the approximately 1,300,000 acres expropriated during the reform were returned to previous owners.[4] Most of the land that was not returned was land that had been taken from people closely tied to the Arbenz administration, almost all of whom fled the country.

In Guatemala City and other urban areas, the new government also imposed repressive new restrictions on labour and political organization. More than a thousand people closely linked to the previous regime sought asylum in embassies and most were permitted to leave the country for exile; thousands more were imprisoned. By September, 1954 even US embassy officials warned: “Their continued imprisonment of large numbers of campesinos and often indiscriminate arrests …[are] opening up the Guatemala government to charges of operating a police state.”[5] The new government sought to purge the military of its reformist officers and to integrate those who had fought for the overthrow of Arbenz into the military and place them in positions of power. After some difficulties, it was largely successful in doing so. (To a certain extent, the military remains divided today between a number of ‘hard-line’ senior officers who were tied to the political successor of the Liberation, the MLN party, and other officers with less clear political connections.)

The post 1954 governments were caught in a dilemma of their own making, however, demonstrated clearly by their actions in the countryside. They had seized power using the rhetoric of defending democracy against the supposedly communist government of Arbenz, and had declared their intent to reinstate social peace through moderate reform. Given the popularity of the Arévalo and Arbenz administrations, they were assured that truly democratic elections would return governments that resembled those; their agrarian laws, given the new government’s ties to large landowners, were carefully designed to appear reformist while ensuring that no real redistribution of land and power in the countryside occurred. The result was a society built on official hypocrisy, held together through repression.

In the next two decades, from the mid-1950s to 1976, Guatemala’s agriculture economy diversified substantially. Along with coffee and bananas, new agricultural export crops, most especially cotton, sugar cane, and cattle, became important. Sugar cane and cotton production occurred primarily on the south coast of Guatemala, opening up new economic opportunities for Guatemala’s elite. Both crops required large amounts of seasonal labour. Guatemala’s highland communities, impoverished through loss of land and population increases, provided the cheap labour necessary for the substantial profits. Cattle production increased both on the south coast and in northeastern Guatemala; cattle required little labour but placed new demands on increasingly scarce land.

No serious attempts at agrarian reform were countenanced. After 1962, the government imposed a land tax on idle land and occasionally the government agency charged with collecting such taxes would purchase or confiscate estates with heavy tax arrears. Officially this land was to be distributed to peasants and rural workers. However, the Institute for National Agrarian Transformation was under extreme pressure from powerful politicians and military officers to favour them in the allocation of land. This

was especially true in a region in the north of the country that was being newly developed in the 1970s through cattle ranching, mineral and oil exploration. By the middle of the 1970s, this region was so dominated by powerful military officials, it was popularly called 'The Land of the Generals'.

The 1979 Agricultural Census shows that land tenure was as inequitable as it had been in 1950 before Decree 900. Two percent of the farm owners controlled 65% of the land. But, this understates inequality. Fifty-five percent of the population still relied on agriculture for a living, but 49 % of those who depended on agriculture for a living were landless. Seventy-eight percent of all those who had land had less than eight acres. Fewer than 500 people, in a population of just under ten million, owned 22% of all the arable land. Land tenure inequality, measured as a Gini coefficient of inequality, was .85 (1 is perfect inequality, 0 is perfect equality), one of the most inequitable in the world.[6]

Challenging the Military:

Three sources emerged to challenge this status quo. In urban areas, reform politicians, labour leaders, students and progressive lawyers continued to try to inspire reform and to work towards a more democratic political system. By 1963, halting progress towards electoral democracy was abruptly ended when the military stepped in to prevent elections which Juan José Arévalo had declared he would return to Guatemala to contest. The military held power for three years. When a moderate reform party won the elections in 1966, it and popular sector leaders throughout Guatemala were beset by increased violence, marked most obviously by the killing by the military of over thirty of the most important reform politicians of the Arbenz era after they had returned to Guatemala from exile to discuss renewed participation in electoral politics.

One of the most explosive flash points for this violence was around the question of taxation. The reform government attempted throughout its term, from 1966 to 1970, to pass an income tax law. Each time the measure came up for debate in congress, sympathetic deputies were harassed and targeted for assaults. Increasingly, violence against those trying to work legally for reform in Guatemala City was carried out by clandestine death squads, which began in 1966 and operated until the 1990s. The military always denied any connection to the death squads. We now know, what most believed as early as the 1960s and which Amnesty International detailed most clearly in 1981, the major death squads operated under the control of top military commanders tied, initially at least, to the leaders of the MLN party. By the early 1980s, their activities were coordinated from the Presidential Palace. [7]

In the early 1960s, young military officers alarmed over the use of Guatemala as a training ground for the Bay of Pigs invasion, engaged in an attempted coup. Unsuccessful, they fled to the mountains of eastern Guatemala. Slowly their attempted military coup transformed into a revolutionary movement ostensibly fighting for democracy and agrarian reform. They were joined by young politicians and students from Guatemala City who were increasingly dismayed by the lack of democracy.

The emergence of this revolutionary challenge to the Guatemalan government is often considered to be the beginning of Guatemala's civil war. The guerrilla movement enjoyed brief success but by the second half of the decade they were crushed through a classic counterinsurgency campaign in the eastern region, or *oriente* of Guatemala. They

briefly resorted to a terrorist campaign in Guatemala City, but by the end of the decade they were essentially defeated. Remnants of rural guerrilla force would later re-emerge in northern Guatemala.

The other source of opposition to the status quo was more organic. Peasant and indigenous leaders in communities throughout Guatemala had never been completely silenced by the repression that followed the overthrow of Arbenz. Community leaders slowly re-emerged in the 1960s and began to work towards more democratic control over communities and to oppose usurpations of village land and the repression of labour. Some village leaders were linked first to the Christian Democratic Party that was slowly growing in strength in rural Guatemala and to Liberation Theology movements. Others were tied to the remnants of the political parties that had supported Arbenz. Greg Grandin, after a careful study of these movements, mostly among Q'eqchi Maya in the area around Panzos and El Estor in the Departments of Alta Verapaz and Izabal, has argued that they sought primarily to reinvigorate local democracy and to use it to alter national policy.[8]

The Guatemalan government most often responded to both of these sources of pressure for local democratic action with repression. They used the existence of a, by now mostly defeated, revolutionary movement to justify this repression and, with the help of United States military assistance, the development of what has become known as a 'counter-insurgency state'. The increasingly repressive nature of the Guatemalan state, and the growing hold of the military over both politics and society through this period, can be appreciated if we realize that from 1970 until 1985, not only were all Guatemalan presidents, military officers, but few civilian even dared to contest elections for the presidency. In the elections of 1970, 1974, and 1978, the top contenders were all military officers.

Military control over society in general and rural communities in particular was most seriously threatened in the aftermath of the terrible 1976 earthquake. On February 4, 1976 a powerful earthquake registering 7.5 on the Richter scale hit Guatemala. Its epicentre was 160 miles northeast of Guatemala City, in the middle of the densely populated central highlands. Over 23,000 people were killed and hundreds of thousands of people were left homeless, mostly K'iché and Kaqchikel Maya in the Departments of El Quiche, Chimaltenango, and Sacatepéquez. The military attempted to control the rebuilding process and failed. Very quickly after the earthquake, local community reconstruction organizations, assisted by development agencies and the Catholic Church, became active in communities. The Catholic Church and other sectors supported cooperatives as a way to help communities rebuild. Local health organizations, often headed by midwives, began in the aftermath of the earthquake, were soon also pushing for better health care in rural communities. It is as if the quake also shook these communities free from the repression that had descended on them since 1954.

In other parts of the country change was also happening. In northern Guatemala, especially in the northern sectors of the department of Huehuetenango and El Quiché, the Catholic church fostered settlement in frontier lowland regions as a response to increasing land pressure in the highlands. These communities sometimes were formed by migrants from a single municipality in the highlands, but often they brought together people from diverse municipalities, diverse indigenous backgrounds, even indigenous and non-indigenous peasants into a single community. Most often these communities

were strongly influenced by the activist teachings of Liberation theology and organized into cooperatives.

In significant ways, the military government that had fought so desperately to control rural Guatemala since the overthrow of the revolution in 1954, felt its control slipping away. It was frightened and it responded with violence. Between 1976 and 1978, 168 community, mostly indigenous, leaders in the Department of El Quiché alone were assassinated. By the end of the decade, the Jesuits ordered all of their priests out of the Department because of the number of assassinations of village priests and lay workers.[9]

One of the reasons for the heightened insecurity of the military and, thus, one of the reasons for the growing violence, was the re-emergence of the armed revolutionary movement. Remnants of the guerrilla forces that had survived the counterinsurgency of the 1960s entered northern Guatemala from Mexico in the early 1970s. They slowly built support in the northern frontier region through the 1970s. Little was known of them until after 1975 and it was not until after the military had responded to their first forays with widespread violence that they appear to have gained significant support among indigenous communities in northern Guatemala. There is significant debate about the extent of guerrilla support among communities in northern Guatemala. What is clear is that the military responded with devastating violence, eventually turning much of rural Guatemala into a war zone in which, according to the United Nations Commission for the Clarification of History, more than 200,000 people were killed.

The Violence Escalates, 1978-1984:

Guatemala's civil war is often considered to have lasted over 30 years, beginning with the emergence of the guerrilla forces in the early 1960s and ending with the signing of the Peace Accords in 1996. However, the most intense period of generalized violence occurred between 1978 and 1984. It was during this period that most of the 200,000 people were killed.

The general contours of the violence unleashed by the Guatemala military in the late 1970s and early 1980s is now well understood: according to the United Nations Commission for the Clarification of History established as part of the Peace Accords, 96% of those who were killed were victims of the military or their allies operating under military supervision (mostly Civil Patrols); 83% of those killed were Mayan; the commission reported evidence of over 600 massacres and over 400 villages were destroyed by the military.[10] Hundreds of thousands of people were forced into exile, over a million people were displaced. Hundreds of thousands of orphans were left. Nothing about contemporary Guatemala makes sense without keeping this violence in mind. While this period of intense violence affected, and continues to affect all of Guatemala, it had specific characteristics that determined its effect would be felt differentially across Guatemala: some communities were targeted others were not; some communities broke into bitter and violent factions under military pressure while others maintain a form of stability and cohesion; some were able to maintain control over community resources while other lost access to them.

Communities were targeted for various reasons, reasons not always obviously linked to counter insurgency strategy. The first large scale massacre of this period is

generally considered to be that which occurred in Panzos, Alta Verapaz on May 29, 1978. It is illustrative of the complex links that often prompted violence, as development made land more valuable to large landowners--- landowners who received significant support from the military---, and as military concerns over peasant and indigenous activism heightened and collided with indigenous attempts to use democratic processes to defend their land.

Panzos is the municipal capital of a predominantly Q'eqchí municipality in the Department of Alta Verapaz. Like many rural communities, the municipal capital itself was controlled by Ladinos, while the outlying region was mostly indigenous. There had been significant conflict over land, particularly land running along the Río Polochic valley. Many of peasants had received land during the Arbenz era, only to have it taken away following the overthrow. During the 1960s and in the 1970s, these peasants continued to petition to get land through the Institute for National Agrarian Transformation, while also complaining that local large landowners, with ties to the military and national political parties, were encroaching on what little land they had. Their land was increasingly at risk because of development in the area, including increased cattle ranching and the nickel mining concession granted to a subsidiary of INCO near the mouth of the Polochic River in El Estor.

One of these large landowners was Flávio Monzón García, who had been mayor five times between the overthrow of Arbenz and 1978. Monzón had particularly close ties to local military figures and, in the face of popular organizing, he convinced the military commander in the district to send a squad of elite counter insurgency troops to take over the central plaza of the municipal capital, Panzos.

Emboldened by the presence of the troops, local landowners began to throw peasants off disputed land. A delegation of about 600 to 700 Q'eqchí peasants and family members went to the plaza to protest on May 29. The stand-off between the peasants, the municipal authorities and the representatives of the Institute for National Agrarian Transformation was tense, but according to a number of accounts was dying down when Monzón's son and another person fired into the crowd. This caused the crowd to surge forward; the military opened fire. Between thirty-four and fifty-eight people were killed, including most of the local leaders. Thirty-four of them were buried in a mass grave. Twenty-five years later their bodies were exhumed and the remains buried properly. As the United Nations Clarification Commission reported, the Panzos case illustrated, "*the undue influence exercised over the state apparatus by the agricultural sector to beneficially resolve land conflicts in their favour by involving the army in agricultural conflicts using violence against poor peasants.* "[11]

Another illustrative case was the massacre that occurred in the Maya-Achi community of Rio Negro, in Baja Verapaz in 1982. Community members had organized protests over the expropriation of their farm lands as part of the Chixoy hydro-electric project and had refused to move without adequate compensation. The Chixoy hydro-electric dam was one of Guatemala's most expensive infrastructure developments during the 1970s and 1980s, costing over $900 million dollars, much of it coming from the World Bank and the InterAmerican Development Bank. There had been a series of earlier killings in the community as the military sought to intimidate opposition to the project; prompting most of the men to flee the community. On March 13, 1982, however, soldiers and civil patrol members from a neighbouring community surrounded Rio Negro

so no one could flee, rounded up all the women and children and killed them; 107 children and 70 women. In total, ten communities in Chixoy river basin were destroyed by the military between 1980 and 1982. [12]

Disturbingly, the World Bank continued to provide loans to the Guatemala government for the dam, even when it became clear that no consultation had occurred before the valley began to flood and that no acceptable relocation procedure was in place. Survivors of the massacre continue to demand compensation from the government in return for their land and an accounting from the World Bank.

The killings in Rio Negro also illustrate an important element in the violence that engulfed Guatemala in the late 1970s and early 1980s. Beginning officially in 1982, but initiated unofficially before that, the military organized residents of rural Guatemala into civil patrols. By 1984, perhaps as many as one million men in rural Guatemala were integrated into the patrols. The patrols were meant to be the military's foremost allies in the counter insurgency. They were to patrol their communities, report suspicious activity, and accompany the military in operations.

In many areas of Guatemala, the military forced civil patrols into accompanying them and participating in massacres. The military believed that this would help tie them to the military institution. As the Catholic Church's Recovery of Historical Memory Project, reported:

> "*Forcing people to participate in the murder of fellow community members was a collective approach to encouraging complicity. Forced participation in atrocities meant that violence became the norm and its source was internalized; this redefined social values and the very meaning of community*."

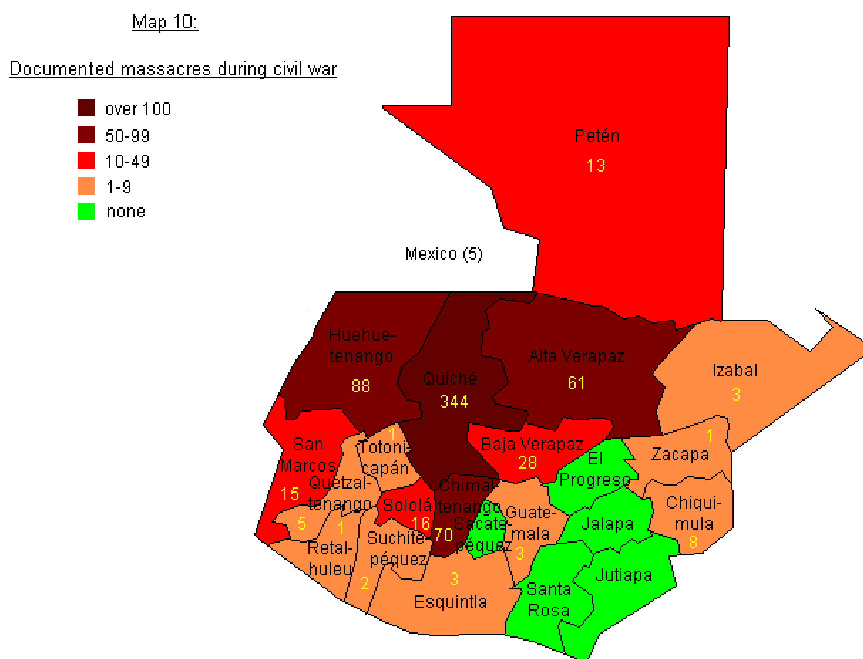
The military worked to instill a new identity among men in highland villages as civil patrollers, tied to the military and divorced from their other social identities. They were encouraged to behave in a brutal manner, partly because this would increase their ties to the military and partly because it was believed that this would make them more effective tools in controlling rural Guatemala.[13] The Report of the Guatemalan Bishops detailed slightly over 1000 incidents in which civil patrols, either alone or in joint actions with the military, were involved in killings and massacres. It is, perhaps, the action of the civil patrollers that has made it most difficult to rebuild community in rural Guatemala after the violence.

As these cases illustrate, and indeed as both the report of the Catholic Church and the United Nations argued, most of the killings done by the military and their allies bore no relation to armed conflict between the guerrillas and the military. The vast majority of the more than 200,000 people killed in Guatemala were unarmed civilians with no clear connections to guerrillas and no clear involvement in the insurgency.

The Guatemalan military was not, however, a monolithic entity. It has been, historically, divided into numerous competing factions who often differ substantially over strategy and even over the preferred role of the military in society, politics and the economy. These divisions seem to increase during periods when the military takes a more direct role in Guatemala politics. The late 1970s and early 1980s were no exception to this rule.

In 1982, as yet another General tied to a particular faction in the military declared victory in a fraudulent election, junior officers revolted and took power. They seem to have done so primarily because they believed that the political machinations of a faction

of the senior officers and the corruption that clearly encircled them were damaging morale in and the reputation of the military. They briefly controlled Guatemala politics from behind the scenes behind a figure head former General, Efraín Ríos Montt, who had been fraudulently denied electoral victory in 1974. Soon Ríos Montt augmented his own power and was able to push the junior officers aside. By 1983, he, in turn, was pushed aside by another group of senior officers, headed by General Mejía Víctores. All of these military machinations had little effect on the level of violence in the countryside---although it did lead to a reduction in death squad activity in urban Guatemala---but the military under General Víctores did initiate a plan to rebuild political institutions in Guatemala, to rewrite the constitution, and to return a civilian elected President to power. They successfully did both in 1985 and in 1986, a Christian Democrat politician, Vinicio Cerezo, became Guatemala's first civilian president since 1966.



source: Commission for Historical Clarification, *Guatemala: Memory of Silence*, February 1999

The Road to the Peace Accords:

The transition to civilian rule; the slow and painful demilitarization of Guatemalan society and, eventually, the signing of the Peace Accords between the Guatemalan government and the guerrilla forces that occurred between 1985 and 1996 was both a frustrating and exhilarating time for Guatemalans trying to rebuild from the violence of the preceding decades, trying to institute respect for political and civil rights, and trying to address some of the underlying social problems that had helped foster the violence. In general, they had surprising success in building democratic political systems, moderate if disappointing success in fostering institutions designed to protect political and civil rights, and virtually no success in addressing social and economic problems. In retrospect this should not be surprising.

Elections and Democracy:

Since 1985 Guatemala's political system has been more democratic than it has ever been. Since Vinicio Cerezo, five Presidents have been elected in generally fair, if sometimes violent, electoral campaigns. While there are concerns about the ability of distinct political voices to be heard, these Presidents have represented a range of political expression and have been able, with one exception, to carry out their term. No President has attempted to run for a second consecutive term; a practice forbidden in all of Guatemala's constitutions.

The most obvious challenge to Guatemala's democratic political system came in 1993 when the then President, Jorge Serrano, attempted to abolish congress and rule by decree. His argument for doing so was that congressional deputies were corrupt and that congress was dysfunctional. While few Guatemalans likely would have disagreed with this assessment, most were able to see behind his motives. Serrano was himself apparently on the verge of impeachment for corruption of his own. While Serrano briefly appeared to have the support of sectors of the military, strong diplomatic pressure from the various embassies, a more or less united front opposing him from the major business associations and a strong and cohesive popular campaign against the 'self-coup' from popular, union and indigenous sectors prompted the military to withdraw any support. After he fled Guatemala, the human rights ombudsman, Ramiro de León Carpio, who had been placed under house arrest by Serrano during the attempt coup, was named to finish out his term.

The other symptoms of weakness in Guatemala's electoral system have been the spectre of the former General Efraín Ríos Montt and the excessive concentration of political power in the hands of a few related individuals. There have been periodic attempts to force Ríos Montt to stand trial for his involvement in the violence that occurred when he was Head of State. This has most often been thwarted by the governmental immunity he holds as an elected deputy. Ríos Montt is not just an elected deputy, but he has been the head of one of Guatemala's most powerful political parties, the FRG, and for periods in the 1990s, the President of Congress. Through the 1990s and well into this century there were constant attempts by the FRG to have Ríos Montt run as a Presidential candidate; these have been ruled unconstitutional because of a provision in the constitution that prohibits anyone from running for President who was involved in the overthrow of an elected President. Thus, when the FRG won the Presidency in 2000, Alfonso Portillo was the presidential candidate while Ríos Montt continued to lead the party and act as President of Congress.

The other troubling sign is the domination over politics by a small clique of closely connected businessmen and politicians. Marta Casaus Arzú outlined in a book published in 1992 the close business and political connections between the twenty-two most prominent families in Guatemala. She has argued that these families can be divided into five major family networks which not only dominate the Guatemalan economy but have also permeated all the governments that have been elected since 1985, with one exception. The level of familial connection among cabinet ministers in all of these administrations is quite remarkable, and was most obvious in the administrations of Álvaro Arzú (the Arzú family being one of the five) and that of Oscar Berger.

The recent election of Álvaro Colom, at the head of centre-left coalition, is a promising development. It seems to have marked the eclipse of the power of the FRG and Ríos Montt, breaks the hold of this traditional, inter-related elite on political power, and is the first time since 1985 that an avowedly reformist candidate has done well in the polls. While Ríos Montt did run for deputy, and thus, extended his diplomatic immunity, the FRG party is no longer one of the powerhouses in the congress. Colom has pledged to work against crime and impunity, to initiate a new fiscal pact that will increase taxes and social spending, and to attack poverty. The broadening of acceptable political expression that can effectively contest elections is an important and progressive step.

One shouldn't be too sanguine about the formal political process, however. According to a poll done by the InterAmerican Development Bank in the 1990s, less than 50% of Guatemalans believed that democracy was the preferred form of government. Just over 35% of the eligible voters, on average, voted in the elections between 1990 and 2002.[14]

The most common concern raised about Guatemala's political system is the perceived level of corruption among politicians and deputies. Along with Serrano, both Vinicio Cerezo and Portillo have been accused of quite remarkable levels of personal corruption while in office. More generally, a startling number of deputies have been accused of corruption although there have been few prosecutions. For the decade of the 1990s, Transparency International gives Guatemala a ranking of 2.9 out of 11, with only Bolivia, Nicaragua, and Honduras in Latin America receiving lower grades. [15] The World Bank's most recent ranking of governance indicators gave Guatemala a ranking of -0.7 in Control over Corruption. This puts Guatemala on par with Honduras, Haiti, and Nicaragua, significantly below El Salvador, Costa Rica, and Mexico in the region. [16]

An even deeper issue concerns the increased ties between some politicians and organized crime linked to drug trafficking. Some commentators have warned that the political system has been hijacked by organized crime. Much of the violence in the 2007 elections occurred in key areas for the distribution of drugs, leading some commentators to argue that these were attempts to intimidate 'honest' candidates to prevent challenges to those linked to organized crime. The winning coalition, the UNE, has admitted it has had to struggle to try to weed out candidates linked to the drug mafia, while politicians linked to all the other major parties have been implicated in crime and drug scandals. Fears are so prevalent that *Foro Guatemala*, a grouping of 15 civil society organizations, launched a major campaign in the last election to warn Guatemalans of voting for candidates with criminal ties and the Guatemalan Bishops Conference in August 2007 issued a statement declaring that "voting in favour of candidates who have suspected links to crime and drug trafficking would be, in itself, a morally wrong action."[17]

Negotiating Peace:

When the military presided over the transfer of power to the elected President Vinicio Cerezo in 1986, General Oscar Mejía Víctores made it clear they were going to keep a close eye on elected politicians. Cerezo himself argued that he effectively enjoyed only about one-third of the power he should have according to the constitution. There was little attempt to challenge the tutelary role of the military during the Cerezo administration and no serious attempt to engage in peace negotiations with the remnants

of the guerrilla forces. The Cerezo administration was, however, bound by its signing of general Central American accords to create a National Reconstruction Commission. Bishop Quezada Toruno, as head of this commission, took his responsibilities seriously and initiated a National Dialogue on social and political conditions in Guatemala. The Dialogue first met in 1989, bringing together 89 representatives of unions, academics, popular, and indigenous groups. It was this grouping, transformed various times over the next half decade, that dragged the Guatemalan government into Peace negotiations and insured that those Peace Accords would provide a broad blueprint for social change in Guatemala.

In 1990 the National Reconstruction Commission met with representatives of the guerrillas in Oslo, Norway and signed a Basic Agreement on the Search for Peace. Little further progress was made under the subsequent administration of Jorge Serrano, but after his ouster in 1993, the administration of Ramíro de León Carpio quickly reconstituted the negotiations with the guerrillas and signed a series of accords. Importantly, the government sought the advise of the Assembly of Civil Society, a broad representative group that had emerged from the Dialogues and had proven its strength in opposition to the Serrano self coup in drawing up the accords. Fairly quickly the de León Carpio administration signed accords on Basic Human Rights, Resettlement of refugees, the establishment of the Commission for the Clarification of History, and perhaps most importantly, the Accord on the Identity and Rights of Indigenous Peoples. This was a major accomplishment in the two years of the de León Carpio administration.

The two most complicated and contentious accords were still to be worked out; both required the agreement of powerful sectors in Guatemalan society. The Accord on Social and Economic Aspects and the Agrarian Situation was meant to address the responsibilities of the government in redressing inequality and poverty and to lay out the process for addressing the agrarian situation. Virtually all commentators agree that this accord is the weakest of seven substantive accords that make up the Peace Accords.

To get agreement even to this watered down accord, the next President Álvaro Arzú needed to get the support of at least some of the major business leaders and associations in the country. This was not easy. The major business associations, particularly the Chamber of Commerce, Industry and Finance (CACIF), and the major landowners' associations had been the most vehement opponents of the peace negotiations. They had refused to enter into the Grand National Dialogue and had denounced every attempt to negotiate peace accords with the guerrillas. In August 1991, the largest landowners' association, the AGA, complained that it was unthinkable that a government would negotiate with and give *"immense concessions to a tiny group that had done nothing but cheat, lie, kill and destroy."* [18] But, Arzú was firmly entrenched among the most powerful business families in Guatemala, and also clearly represented the new 'modern' business elite. Perhaps only he would have been able to convince enough of the business sector to accept the accord to avoid widespread business opposition.

The final substantive accord was even more difficult. This was the Accord on the Strengthening of Civil Power and the Role of the Armed Forces signed in June 1996. This accord committed the government to reducing the size of the military by one-third, restricting the military's role to one of defending the country, naming a civilian as the Minister of Defense, and, most importantly, abolishing the civil patrols. With these two

major accords completed, all of the accords were combined into the omnibus, Agreement on a Firm and Lasting Peace, signed on December 29, 1996.

Guatemala at Peace:

Many observers were surprised at the progress that was made in Guatemala in the decade between the beginning of the Cerezo administration and the signing of the Peace Accords. Guatemala had seemingly entrenched electoral democracy, had arranged for the return of refugees, and had through the Peace Accords appeared to have taken a decisive step towards addressing many of the underlying problems in Guatemalan society. Unfortunately, the progress since the signing of the accords has been sporadic at best. In a number of key areas Guatemala appears worse off now than it has ever been. This section will address these problem areas by exploring the limited success in demilitarizing Guatemala and the accompanying difficulties in building a credible justice system, challenging impunity, and reducing violence. It will then discuss failures in fostering connections between rural communities and the Guatemalan state, and include in this an assessment of Guatemala's commitment to end discrimination against indigenous people and build a multi-ethnic state. Finally, it will discuss continued difficulties in addressing poverty and inequality.

Demilitarizing Guatemala:

The strategists who controlled the military establishment when they initiated the process of overseeing a new constitution and elections for a civilian president, did not envision this as an attack on the military's control over Guatemalan society. Indeed, the process of demilitarizing Guatemala after 1985 was a hard fought battle led by popular and indigenous sectors and opposed every step of the way by most of the senior officers in the military. This struggle can be most clearly seen in the military's insistence on maintaining the civil patrols and the equally determined efforts by indigenous communities and leaders to have them disbanded.

Through the 1980s and into the 1990s, the military publicly refused to countenance any serious alterations to the civil patrols or military control over them. The patrols, however, were ostensibly voluntary and indigenous community after indigenous community through the late 1980s and early 1990s, publicly announced their determination to dissolve the patrols in their communities. Doing this required significant courage; there were numerous cases of violence and intimidation against those who worked to get rid of the patrols, especially the Association of Ethnic Communities in the Department of El Quiché (CERJ) and the association of widows of the violence (CONAVIGUA)..

In November, 1992, the Defence Minister warned that "any attempt to disband the patrols will never be accepted by the army." [19] As late as 1994, there were still over 500,000 people integrated into the patrols. The pressure to get rid of the civil patrols continued, however. In August, 1993, following an attack on peasants in Colotenango, Huehuetenango by civil patrollers, the opposition mounted. Twenty-thousand people attended a rally in Guatemala City demanding an end to the civil patrols. Later that year,

members of CONAVIGUA and the other indigenous and peasant organizations took over the office of the Organization of American States to demand that they be disbanded.

In light of the growing opposition to the civil patrols, the military began to argue that the patrols could be turned into local development associations; with millions of dollars in aid money expected following the signing of the Peace Accords this was clearly a strategy by the army to maintain its commanding presence in rural areas. But, the staunch opposition to the civil patrols had played its role and ensured that no accord on the military would have been accepted that did not call for the elimination of the patrols.

The legacy of the civil patrols lingers on. While the civil patrols have been officially disbanded, numerous organizations have reported that the patrols continue to function in many areas as part of an informal network of people who built their power in rural Guatemala during the years of military rule. Both the Myrna Mack Foundation and the Washington Office on Latin America, warned in early 2003 that the civil patrollers were consolidating their power in rural areas by dominating municipal politics or ensuring their appointment to government positions, often in alliance with the FRG party. In addition, in 2002 an association of former patrollers was formed, initially in the Petén, that soon spread across the country. They defended their activities in the patrols and demanded compensation from the government for their 'service' to the nation. In 2005, they were offered compensation by President Berger from a fund originally created to compensate 'victims' of the violence.[20]

The Commission for the Clarification of History:

Through the 1980s the military had kept up a constant fiction, buttressed by a consistent argument. It argued that, despite all the evidence to the contrary, it had not engaged in widespread human rights violations against non-combatants but had engaged the guerrilla enemy in combat and defeated it. While it is doubtful that few people actually believed this argument wholly, as long as there was no widely publicized information to the contrary readily available in Guatemala, the argument could still plausibly be made.

But this argument became increasing implausible as Guatemala society became more open in the 1990s. In the protests surrounding the 500 year anniversary of Columbus' landing in the Americas, popular and indigenous associations were not only very vocal about the reasons why this anniversary should not be celebrated, but they very clearly tied stories of the more recent violence to the earlier date. Guatemala City newspapers publicized their speeches and their protests and for a number of weeks, for the first time, these popular Guatemala City dailies had regular accounts of the violence and destruction committed in the countryside by the military.

Any doubt about the nature of the military actions in the countryside was dispelled after 1995 when the Archbishops Office of the Catholic Church in Guatemala began to record testimony for its Recuperation of Historical Memory Project eventually entitled *Nunca Más*. Begun well before the United Nation's Commission for Clarification of History that emerged from the Peace Accords, the project collected thousands of testimonies, primarily from indigenous respondents in isolated communities, about the violence and the atrocities of the preceding decade. While the church report didn't attempt to quantify the responsibility for the killings, disappearances,

and tortures, the testimonies recounted in page after page of the report made this abundantly clear.

The very public presentation in 1999 of the finding of the Commission for the Clarification of History finally dispelled the myth, for all but the most obtuse observer, that the military had acted responsibly in the countryside during the last two decades. The Accord establishing the Commission was agreed to in 1994, but the commission did not begin to work until well after the signing of the overall Peace Accords. While this commission is often called a 'truth' commission and compared to those that operated in South Africa and Chile, it had few of the powers accorded those commissions. Partly because the Guatemalan commission was created in a climate in which the military was still the most powerful institution in the country, the terms of reference for the Commission for the Clarification of History were limited. It could not name, names; nor were its findings to be used to prosecute people for wrongdoing. It was initially given no budget and was to produce a report in a scant six months.

Nonetheless, the Commission was consistently able to expand its mandate, increase its budget, and buy for itself more time. In the end, it produced a remarkable document, twelve volumes that not only clearly detailed the level of violence and the institutions responsible for that violence, but drew a palpable, if terrifying picture of the continued suffering that violence caused in the countryside.

The power of the document was evident at its public unveiling at a packed National Theatre; crowds formed outside watching on huge screens set up for the purpose. As Christian Tomuschat, the Coordinator of the Commission who presented the main findings of the report at the event, has said, *"The handing over of the report was a glorious moment in the life of the nation. It seemed that something great had been achieved, namely a truly objective assessment of a period of history which until then had lain buried under mountains of lies and prejudice."* [21] As the report's findings were outlined, especially the section in which the commission argued that the military had engaged in 'genocidal acts'---a finding that carried with it potential legal consequences--the crowd cheered and began a chant of "First Pinochet…Now Ríos Montt."

Tomuschat has reported that neither the Guatemalan government under Arzú nor the Guatemalan military cooperated with the Commission. The Arzú administration refused to act as witnesses to the report or to assist it in any way. President Arzú refused to publicly accept the report and, following the publication of the report, refused to commit the government to any actions as a result.

The military was even less cooperative. No senior military officer agreed to appear before the commission and the military refused to open any archives or even to explain the operations of the army high command to the commission. Tomuschat was particularly critical of the openly hostile reaction of the *Estado Mayor Presidencial* (the EMP) the President's intelligence and security unit, to the work of the commission.

Clandestine Groups and Impunity:

This activity is consistent with what we know of the EMP and a brief discussion of its activities will help us explore the nature of impunity and continued political violence in Guatemala.

Two days following the public presentation of the Catholic Church's Recuperation of Historical Memory project in Guatemala City in 1997, the Bishop who headed the project, Bishop Juan Gerardí, was murdered in the parking garage of his parish home in Guatemala City. The message was meant to be perfectly clear: the military still had the power to make those who opposed it pay the ultimate price. Nevertheless, the investigation into his killing seemed to do its best to ignore that message; police and security forces sought to place blame on homeless people, on a fellow priest, or the priest's aged dog, Baloo. They did so despite testimony by a taxi driver that he had seen a car with security force plates outside the home on the night in question (a witness who immediately after giving his testimony fled to Canada for security reasons). Eventually, after close to a decade and after numerous judges had excused themselves from the case fearing for their life, three military officers linked to the EMP were convicted of the killing.[22]

Seven years before the killing of Bishop Gerardí, a young anthropologist working on the treatment of indigenous communities in northern Guatemala, Myrna Mack Chang, left the AVANCSO offices in Guatemala City. Before she could get to her car, she was stabbed to death. Evidence quickly pointed to a young soldier, Noel de Jesús Beteta, who worked in the EMP. Thanks largely to the determined efforts of her sister, Helen Mack Chang, in 1993 he was sentenced to 25 years in jail for the murder. Helen Mack and others involved in the case have always argued that Jesús Beteta was acting under the orders of his superiors and have tried to have the three officers in charge of the EMP during that period, General Godoy Gaitán, and Colonels, Valencia Osorio and Oliva Carrera, charged with being the intellectual authors of the crime. Despite significant evidence linking these men to the crime, efforts to try the first two have all been dismissed. Colonel Valencia Osorio was eventually charged and imprisoned, but almost immediately escaped.

It was activities such as this that led those negotiating the peace accords to include a demand that the EMP be disbanded. Despite this, the EMP continued to exist until December, 2003 when as a result of significant international and national pressure it was disbanded.

The activities of the military officers involved in the EMP help illuminate one of the most serious problems in contemporary Guatemala: the existence of networks of former and current military officers who operate behind the scenes. Many of these have been linked to crime and drug trafficking, many are also suspected of being involved in human rights abuses directed at NGOs, justice officials, and peasant and worker organizations.

Guatemala suffers from a very high rate of violent crime. Homicide rates have increased virtually every year since the election of Vinicio Cerezo in 1986. In 2006, there were just under 6000 homicides reported in Guatemala, placing Guatemala behind only Colombia and Honduras in murders per capita. Guatemala City is, by some measures, the most violent capital city in Latin America. The US State Department country report on Guatemala in 2008 simply stated: "*Societal violence was rampant. Nonstate actors, with links to organized crime, narcotrafficking, gangs, private security companies, and alleged "clandestine" or "social cleansing" groups, committed hundreds of killings and other illegal acts."*

In the context of such statistics, the killing of human rights, NGO, popular and indigenous organizers often gets lost. It is relatively easy to blame such killings on criminal rather than political violence. Nonetheless, there has been a clear pattern over the last decade of systematic and persistence intimidation of and violence against human rights workers, environmental groups, and peasant leaders. The credibly reported incidents over the last two years are simply too numerous to begin to mention. In 2008, the UN High Commissioner for Guatemala reported, *"the number of attacks on human rights defenders has increased and basically doubled in the last five years, with an average of one attack against defenders every other day."* [23] According to the group, Human Rights Defenders Protection, between January and October, 2007 there were close to 200 reported threats or attacks on human rights defenders. [24]

While much of this intimidation is clandestine and therefore difficult to assign responsibility, there have also been persistent cases of local judicial and police forces acting illegally against human rights and popular activists. For example, for two years, local judicial authorities worked to silence protestors who demanded an accounting for and reparations for the killing that occurred around the Chixoy Dam in the 1980s. [25]

There is little doubt about the existence of clandestine networks engaged in criminal activity and often in systematic violence and intimidation against justices, politicians, human rights, NGO and popular sector workers. In March 1997, the Guatemala City newspaper, *El Periódico,* whose editor and a number of its journalists have survived death attempts, published a report in which it quoted an unnamed high military source as saying, "*Some members of the army of the so-called `hard-line' are not ready to lose the power that they enjoyed for many years. They control the delinquent groups that the Cold War let them create. They still exercise influence within the state structure."*[26] Since then, thanks to the work of human rights organizations and the Fundación Myrna Mack, we have a clearer idea of the nature of some of the most important of these networks.

The first clear indication of the extent of these networks came when the Arzú administration brought charges against Alfredo Moreno Molina in 1996. Moreno was a Salvadoran who had worked for military intelligence under Lucas García and Cerezo. During the Lucas García government he had been allegedly responsible for the creation of a smuggling organization designed to bring weapons into the country to be used by death squads. With the overthrow of this particular military regime in 1982, he had turned his smuggling network to personal advantage bringing in and shipping out everything from guns, to drugs, to stolen cars. Despite the publicity given to the Moreno case and plaudits the Arzú administration won for pursuing it, all charges against Moreno were eventually dismissed. His wife was convicted of minor charges of tax evasion and made to pay a fine.

The Moreno case did, however, help illuminate the nature of these interconnected webs of active and retired military officers; most of whom had some connection with military intelligence during the military governments or with the EMP since. Documents at the time implicated a series of senior military who had had powerful positions in the EMP. The most important of these was General Luis Francisco Ortega Menaldo, who was also alleged to have been the mastermind behind Serrano's attempted self coup and implicated in a number of extrajudicial killings.[27]

Along with those clearly associated with Moreno, investigators have identified two of the most powerful ones. One identified as the *La Cofradía* is most closely related to the intelligence network under Lucas García, and the other, know as *El Sindicato,* is organized around a group of officers who graduated together from the military academy. These networks are not thought to be formal, but rather loose affiliations of officers who retain loyalty to each other and support them in their activities. While not all of this support comes in the form of protection from criminal prosecution, (as it did in the case of Moreno) or determined efforts to prevent members from being indicted for criminal offences, (as it did in the case of Jesús Beteta) or in planning political assassinations, (as it did in the killing of the President of Congress after the failed Serrano self-coup) clearly some of it does. Disturbingly, the military officer considered to be the most prominent member of *El Sindicato* is the retired General Otto Pérez Molina, former head of the EMP, who ran a close second to Álvaro Colom in the most recent presidential elections.[28]

It was partly the existence of these groups that prompted the United Nations mission in Guatemala to support the campaign for the creation of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (Comision de Investigacion de Cuerpos Ilegales y Aparatos Clandestinos y de Seguridad, CICIACS). An agreement on the creation of such a commission in principle was completed between the United Nations and Guatemala in 2004. However, various versions of the final agreement were either turned down by congress or declared unconstitutional. [29]

The need for such an agreement became most obvious in 2007 when three Salvadoran deputies to the Central American parliament were assassinated in Guatemala. Eventually, four members of the PNC Criminal Investigation Division (DINC) were arrested. They were imprisoned in the maximum security, El Bloqueron prison, but were soon found assassinated in their cells. The obvious involvement of military and police security personnel in both of these killings---linked, most people believe, to drug trafficking---and the suspected involvement of a prominent congressman, led the government to sign the agreement creating a slightly revised International Commission Against Impunity (CICIG) in June 2007. While it is too early to determine its impact, this was a positive step forward.[30]

Justice:

The Guatemalan judicial system has in many ways essentially stopped functioning. The courts are hopelessly overloaded. The national police force does not have the resources to build credible cases. Successful prosecution rates are extremely low (under 10% for murders—under 3% for murders of women). Judges are threatened and intimidated and there is little means for sanctioning judges who resign from sensitive cases or give questionable decisions. A 2006 ranking of the perception of corruption for Transparency International gave Guatemala a ranking of 2.6 (where 10 is most clean and 0 is most corrupt). Only Honduras and Ecuador in Latin America placed slightly lower.[31]

The US State Department's summary of conditions in Guatemala in 2007 reported:

> "*Human rights and societal problems included the government's failure to investigate and punish unlawful killings committed by members of the security forces; widespread societal violence, including numerous killings; corruption and substantial inadequacies in the police and judicial sectors; police involvement in*

> *kidnappings; impunity for criminal activity; harsh and dangerous prison conditions; arbitrary arrest and detention; failure of the judicial system to ensure full and timely investigations and fair trials; failure to protect judicial sector officials, witnesses, and civil society representatives from intimidation; threats and intimidation against journalists; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; discrimination and violence against gay, transvestite, and transgender persons; and ineffective enforcement of labor laws, including child labor provisions.*[32]

These problems exist in both urban and rural areas, but they are augmented by cultural and ethnic divisions in rural areas.

The result of rampant crime, and an inappropriate judicial system often considered to be illegitimate, has been a tendency for rural inhabitants, both indigenous and non-indigenous, to take justice into their own hands. Between 1996 and 2001, the United Nations Mission in Guatemala reported that there were 817 victims of 'lynchings' in Guatemala. The numbers have continued relatively unabated since then. The victims of lynchings range from small scale thieves, to murderers, to judges, and in one case, a Japanese tourist in the wrong place at the wrong time.

There are a variety of explanations for the lynchings. The two United Nations reports on lynchings, in 2001 and 2002, blame the legacy of the civil patrols, social deprivation, increased crime and the ineffectiveness of the police. Indeed, reports from numerous highland communities suggest that at least some of the lynchings are generally supported by the community and are seen as necessary antidotes to lawlessness. One survey in 1999 indicated that 76% of the indigenous population approved of lynchings as a form of justice. One of the respondents to the United Nations report put the matter succinctly: "*Before, the law of linchamientos didn't exist, but now, as justice doesn't function and there are many robbers, it is justified.*"[33] The lynchings are perhaps the clearest expression of the breakdown of Guatemala's legal system.

Discrimination and Poverty:

The Guatemalan Peace Accords---both the accord on the Socio-economic conditions and the Indigenous Accord---and Guatemala's agreement to the ILO's Convention 169 commit the government to work towards reducing poverty, redistributing income and land, and doing so in ways appropriate for Mayan culture. They also commit Guatemala to ending discrimination and protecting indigenous land through an extensive process of consultation before passing laws or accepting projects that might adversely affect their enjoyment of that land. It is in these areas that Guatemala has most seriously failed since 1996.

Guatemala has taken dramatic steps towards integrating Mayan culture into Guatemalan national culture. Earlier constitutions declared Guatemala to be a unitary 'nation'; now the new constitution more accurately describes Guatemala as a multi-cultural, multi-ethnic entity. Indigenous languages enjoy official legal protection. These legal steps are accompanied by a growing acceptance, even embrace, of indigenous culture. It is difficult to pick up any edition of a major Guatemalan newspaper without finding a discussion of the cultural values of the nation that generally favours inclusiveness. The newly elected President, Álvaro Colom, has demonstrated both a long

time commitment to and appreciation for indigenous culture and his determination to have that culture reflected in the goals and the policies of his government.

This general acceptance has not found its ways into much concrete action, however. The UN High Commissioner Report on Human Rights in Guatemala in 2008 warned that the UN Committee to Eliminate Racial Discrimination (CERD) *"was deeply concerned at the extent to which racism and discrimination against the Maya, Xinca, and Garifuna peoples is entrenched within the territory of Guatemala and at the inadequacy of public policies to eliminate racial discrimination."* CERD was most concerned that the Guatemalan government had not entered into law any specific measures to end discrimination and had done little to meet its obligations under International Labor Organization Convention 169. This was especially true in relation to returning lands taken from indigenous communities and in the granting of mining concessions in indigenous territories without proper consultation.[34]

Guatemala remains as impoverished today as it has been at any time in the last few decades. In 1998 Guatemala had the second highest rate of the incidence of poverty in Latin America, just behind Nicaragua. It also had one of the lowest levels of social spending per capita, just slightly ahead of Nicaragua, Honduras and El Salvador. According to the latest extensive survey of Guatemala completed by the United Nations Program for Development, the overall poverty rate in Guatemala in 2002 was 57%, actually higher than it had been in 2000. The incidence of extreme poverty was even more alarming, at 21.5% it was 5 percentage points higher than it had been in 2000. Guatemala had also gotten more inequitable. In 2000, the poorest 20% of the population shared 2.8% of national income. In 2002, they shared only 1.7%. The richest 20% of the population controlled just under 62% of the national income in 2000 and over 64% in 2002. Thirty percent of the indigenous population was considered to suffer from extreme poverty in 2002 while fully 71% lived in poverty. (The figures for the non-indigenous population were 12.9 and 44%.)

Guatemala has the second lowest level of development in Latin America and the Caribbean (only ahead of Haiti), according to the United Nation Development Program (UNDP) Human Development Index, a much lower level than many other countries with lower GDP per capita. The UNDP attributes this low level to high levels of inequality and discrimination. [35]

[The attached maps drawn from United Nations Program for Development indicate clearly the co-relation between ethnicity and poverty.]

Agrarian Reform:

One of the reasons for this continued poverty is extremely low wages. Guatemala has mandated daily minimum wages of just under $6.00 US $ for agricultural work and $6.10 for nonagricultural work. These minimum wages do not cover the estimated costs of a minimum food bill for a family. But approximately seventy-five percent of the workforce functions in the informal sector; most of these receive much lower incomes.[36]

Another key reason for continued poverty is the lack of real agrarian reform. The Peace Accords commit Guatemala to addressing the inequality in land ownership. However, the accord placed its faith in a World Bank inspired agrarian reform process often called 'market-assisted' agrarian reform. A social fund was created by the government in 1992 to be used by a government agency to purchase agricultural land on

the market. The land was then to be distributed, almost always in private ownership, to peasants and rural workers who petitioned for the land. The recipients of the land were required to pay back the costs of the land over a long term with low interest rates. Since its inception, the market assisted agrarian reform has led to the transfer of slightly over 4% of the agricultural land in the country. Its ability to more aggressively begin to meet the agrarian needs of Guatemala's poor peasantry is limited by the lack of and poor quality of land on the market, a lack of money, and the provisions of the law itself. The law has no mechanism for getting land to the poorest of the poor; indeed, various provisions in the law work against that. Little land is available partly because the government has not initiated its promised tax on idle land. The Arzú administration sought to bring in such a tax in 1995, but was forced to abandon it in the face of landlord opposition. There has been no attempt since to reintroduce it.

In addition, a number of studies have indicated that government land purchases have dramatically increased the cost of land in rural Guatemala, ensuring government funds will provide less land, and that the beneficiaries of the land will be deeper in debt. By 2006, the government had all but abandoned the reform; it provided land that year to only 42 peasant families.

As a result, Guatemala's inequality and landlessness had changed little between 1979 and the last agrarian census in 2003. Eighty-seven percent of the farms had access to just 16% of the land; there was an estimated 400,000 landless rural families; with a Gini coefficient of Inequality in land ownership of .84---little changed from 1979---Guatemala still had the second most inequitable land distribution in Latin America, next to Brazil.

In 1988, the Guatemalan Bishops issued a pastoral letter entitled, "The Clamor for the Land". In it they argued that solving the agrarian problem was Guatemala's most pressing problem. *"The clamor for land,"* the bishops stated, *"is without doubt the strongest, most dramatic and desperate cry heard in Guatemala."* With the promise of agrarian change that was made with the Peace Accords, Guatemalan peasants and peasant organizations have often tried to accelerate these changes through squatting on vacant land and trying to use that as a tactic to pressure the government for an increased pace and a different strategy towards agrarian reform.

While all post 1986 governments have adopted relatively aggressive strategies towards these land 'invasions', the activities of the last administration were especially troubling in this regard. Immediately after Oscar Berger took office, between January and November 2004, the military and the police carried out more than 36 forcible evictions of peasant groups. More than half of these were violent; including one in which 11 people were killed in an eviction in Champerico. According to the United Nations Mission, the new administration initiated *"a troubling increase in forced, sometimes violent evictions of squatters, a trend that gave the impression of undue deference by the Government to the demands of landowners."* [37]

A Continual Struggle over Resources:

In 2001, the United Nations Commission for Guatemala reported that social conflict continued to be a prominent feature of Guatemalan society. It argued that this conflict was at least partially a function of inequitable access to resources.[38] Since then,

conflict over access to resources has grown and become increasingly virulent. This is not surprising. In the context of continued poverty and exclusion and heightened scarcity of natural resources, many people in Guatemala have become increasingly concerned over their continued access to resources.

This concern, and the growing social tension that has accompanied it, has been heightened by the actions and inactions of the Guatemalan state. Not only has Guatemala not lived up to its commitments in the Peace Accords to reduce social and economic inequality, it has done little to abide by the commitments in the ILO's Convention 169 to redress the social and economic exclusion of indigenous peoples. This inaction has been coupled with the an aggressive allocation of concessionary rights to various private enterprises which many people believe threaten not only their access to subsistence resources, but the basis of community itself.

Inappropriate government action, at least by some administrations in the last decade, in response to widespread social protest has heightened the tension. In the last decade Guatemalan governments have either ignored or attempted to make ineffectual existing laws requiring community consultation and environmental assessments. They have reacted too often with violence and intimidation when social protest occurs. And, they seem not have taken seriously deeply held concerns about resource and environmental destruction. While the new administration of Álvaro Colom has suggested it will approach these issues differently, early results have not been promising.

Companies operating in Guatemala have, on occasion, been more subtle in their confrontations with popular sectors. But, they too have used intimidation and violence in increasingly tense confrontations.

These conflicts have occurred throughout Guatemala. Many of them have deep historic roots and troubling echoes to early periods of extreme state sponsored violence. While too numerous to cover extensively, this report will explore three different aspects of these conflicts: struggles with government agencies over state initiated projects, conflict with private companies over access to resources, and---most numerous---conflict over mining concessions.

In most areas of rural Guatemala, especially in predominantly indigenous communities, community controlled land, forest and pasture areas have been important elements of the community; the extent of these community resources has often determined the well being of community members. While population increase has occasionally stressed the environmental sustainability of such resources, communities have historically had well entrenched institutions for safeguarding the environmental health of community resources. This has most often been reflected in measures to maintain community forests and water sources. The first environmental regulation in Guatemala was a municipal forest code passed in the 16th century. Fairly constant vigilance has been a feature of many communities since then.

As this short history has made clear, Guatemala governments have often pursued policies that threatened continued community access to such resources. Government action since the signing of the Peace Accords has not, on the face of it, been significantly different in this regard.

One of the most egregious examples of ignoring community concerns was the attempt to create an environmentally protected reserve in the department of El Petén.

The Guatemalan Department of El Petén has always been distinct; it is Guatemala's frontier zone, the site of a still fairly large tropical rain forest and until recently very lightly populated. In the early 1980s, in the face of increasing migration to the region, groups of environmentalists, mostly non-Guatemalans, began to campaign for measures to protect the existing rainforest. Led by Conservation International, they eventually prompted the Guatemalan government to declare the Mayan Biosphere Reserve (MBR) in 1990. This was a grand gesture placing 70% of the Petén in the reserve, including 2.1 million hectares of land. A little over one-third of this land is under strict control.

At the time of its announcement, there were 149 communities with a population of approximately 90,000 people in the reserve. The legislation severely restricted the activities they were allowed to engage in and provided no role for community control over or husbandry of resources. This fit the various arguments put forward in the two background documents prepared by Conservation International that portrayed peasant farmers as the major threat to the reserve.[39]

Small peasant farmers, many of them Q'eqchí Maya, thus saw their access to resources and land severely restricted, while concessions for timber extraction and for oil exploration were being handed out to large companies. It took more than half a decade of protest by community members, much of it violent and some of it directed against Conservation International, before the Guatemalan government agreed to change its approach and created Community Forest Reserves, in which communities developed and were responsible for implementing plans balancing subsistence and development demands with the sustainable care of the forest. Since then, Community Forest Reserves have had great success. One of the first CFRs won the international, prestigious Right Livelihood Award and a recent study has indicated that the CFRs have significantly reduced levels of deforestation and violence, compared to other areas of the MBR.

In the meantime, important business concessions have appeared to have little trouble getting government backing. One of the most environmentally sensitive and important areas of the Petén is the Laguna del Tigre National Park, the largest wetland habitat in all of Mesoamerica. In the early 1990s, Basic Petroleum was given a disputed concession to develop oil resources in the park and build a pipeline from the park to its refinery nearby. Since then, there have been constant attempts to get Basic out of the park; numerous court decisions have declared the original concession to have been illegal and unconstitutional. None of this seems to have any effect: Basic got World Bank money to build its pipeline in 1994 and continues to operate in the park. Recent assessments of deforestation in the park have pointed out the key role Basic's explorations have played in opening the park up to clearing. Numerous studies have also pointed out the links between Basic Petroleum and powerful Guatemalan business and government officials.[40]

Plans for extensive hydro-electric development, including another dam on the Chixoy River, have also been pursued with apparent disregard for expressed desires of the people to be affected. In the case of the new dam on the Chixoy, the government has gone ahead with these plans, including applying for World Bank loans, even though the local population rejected the dam in a popular consultation held in 2007.[41] The process must seem eerily familiar to those people still waiting for reparations for the original Chixoy Dam and the massacres that accompanied it twenty years ago.

In many areas of rural Guatemala, the historic struggle between poor peasants, many of them indigenous, and private individuals or companies over land and resources, continued to be a predominant feature. In one particularly clear case near Champerico on the Pacific Coast, large shrimp farming companies progressively gained control over coastal mangrove regions through the 1980s and 1990s. These shrimp farms not only used vast quantities of scarce clean water and threatened local marine environments, they also severely restricted the access of local people to important resources, preventing them from entering nearby mangroves for their own shrimp and small fish farming and for mangrove wood for fuel. The shrimp farms hired guards to patrol the coastal mangroves and local people complained about an increasingly tense and hostile environment as the armed guards became increasingly belligerent. Finally, in May 2001, the guards captured three local fishermen. Despite a series of meetings between the local municipality, local fishermen and the company, the situation remained tense until, finally, local fishermen took a representative of the company hostage and destroyed some company property. The government called in anti-riot police and two men were killed. [42]

On the other coast of Guatemala, peasant leaders were engaged in a dispute with a subsidiary of Del Monte, which had taken over United Fruit's operations in Guatemala in the 1970s. Through the 1990s there was relatively constant tension between the company and union members. In 1999, local ranchers, who rented land from the company and often worked as security for the company, headed a group of 200 armed men who invaded a union meeting and took 22 union leaders hostage. While the union won a court case against the men, the union leaders were forced into exile by continued threats and violence.

Desperate for land to grow food, in March 2002 a group of peasants invaded an unused field owned by the company intending to plant rice. There were met by a group of thirty armed ranchers. The local police were called in and, according to witnesses, joined forces with the ranchers and attacked the farmers. One of the peasant leaders was shot in the back and killed. Despite numerous witnesses who reported he was shot by a member of the national police, a fellow peasant leader was charged with the murder. [43]

When one of Guatemala's largest companies, Cementos Progreso SA began plans to develop a large cement processing plant in the community of Las Trojes, San Juan Sacatepequez, community members were concerned about the environmental costs and the expected 900 cubic metres a day of water the plant would consume. They met in April 2007 and overwhelmingly rejected the project. After an attempt at mediation, the government sent over two thousand police and military agents to community to control the protests (eventually reducing this number to 50.) Worryingly, the government responded to this rhetoric with arguments that those protesting the plant were terrorists and subversives; similar arguments were used to justify military and death squad violence against popular protestors in the 1970s and 1980s.

The Cementos Progreso SA case also illustrates another difficulty in Guatemala: the plant is owned by one of Guatemala's richest and most powerful families, deeply involved in politics at all levels. The intimate connections among Guatemala's tiny and powerful elite are such that even the mediator appointed by President Colom to work with the community protestors owns a consulting firm that has worked closely with Cementos Progreso. [44]

The most prominent conflicts in Guatemala in the last few years have revolved around concessions to mining companies. Guatemalan governments have aggressively marketed mining and exploration rights throughout the highlands. These concessions have attracted significant interest due to the perceived mineral resources available in Guatemala at a time of increased prices.

Mining operations in Guatemala are supposed to be controlled by various national laws that require public consultation and environmental assessments, by Guatemala's commitments under the ILO Convention 169 that requires community approval of concessions in indigenous areas, and by commitments to consultation for any money provided by the World Bank in developing the mines. But, the government's mining code passed in 1997 provides only vague promises of consultation and establishes no real mechanisms for these consultations to occur. As a result, in 2004, the Defensoria Q'eqchí, in response to the slew of new mining concessions, argued, "The granting of hundreds of concessions by the Ministry of Energy and Mines constitutes a serious violation of the rights of thousands of Guatemalans, indigenous or not, who were never consulted nor informed that the subsurface rights of their lands had been concessioned to a mining company."[45]

The former Exmibal Nickel mining site near El Estor on the Rio Polochic ---the development of which helped precipitate the Panzos massacre in 1978---has once again been the site of intense conflict between peasants, landlords and the military over struggles for land. The nickel plant had been abandoned for more than 20 years. Peasants in the area have claimed that they had lived on the land for 50 years before the land had been granted in concession to Exmibal, and that they had titles given to them in the 1970s from INTA. In 2004, the Exmibal concession was purchased by Skye Resources, a Canadian based firm. Since then there has been intense pressure to push the peasants from the land. On November 11, 2006 the military raided one of the communities built on the land; employees of the Skye subsidiary burned two dozen homes and the remaining 200 peasants were forced to dismantle their homes in the rain. [46] Skye resources has announced it is temporarily abandoning plans for reconstruction of the mine, due to funding issues.

The most significant conflicts have arisen around gold mining in San Marcos associated with the Marlin mine, first started by Glamis Gold and now owned by Goldcorp. Conflict around this mine has appeared both because it is the first open pit mine in northern Guatemala and because it was the first large scale mining investment in Guatemala for over 20 years.

Opposition to the mine has focused around the issues of public consultation in the municipalities of San Miguel Ixtahuacán, a predominantly Mam-Mayan municipality, and Sipacapa, a Sipakapense-Mayan municipality, and over the possibility of environmental damage, especially to the Tzalá river, which is not only an important local water source, but connects with a major river system (the Cuilco), eventually flowing through Mexico. Independent testing on the Tzalá river done in 2007 revealed significantly elevated levels of dangerous metals. Both Goldcorp and the Guatemalan government have rejected these findings, declaring the methodology in the study to be unacceptable.

Both communities have held disputed public consultations concerning the mines in which a majority of those in attendance have opposed the mines. In Sipacapa, 11 of

the 13 villages in the municipality have signed documents in opposition and in a public ballot in 2005, over 90% of those casting ballots opposed the mines. There has been significant dispute over the validity and binding nature of these consultations. The Guatemalan Constitutional Court has ruled that public consultations are necessary and valid, but they may not be binding if those voting are not fully aware of the implications of the vote. Recent elections in Sipacapa, in which a civic committee composed of community members associated with opposition to the mine easily won control over the municipal government, suggest that over four years of debate about the implications of the mine have only heightened opposition.[47]

A number of observers have argued that the conflicts demonstrate the need for a thorough revision of the procedure for granting mining exploration and production concessions. As the Marlin mine received funding from the IFC wing of the World Bank, various interested organizations brought a complaint to the World Bank's Compliance Advisor Ombudsman (CAO) concerning the mine. Representatives from Sipacapa and from the environmental NGO, Madre Selva, charged that public consultation had not been carried out, that there had been no credible environmental assessment, nor was there appropriate mechanism in place to regulate environmental impacts. While the CAO ignored most of their complaints in the final version of the follow up assessment, they did agree that the Guatemalan government did not have the capacity to regulate safety or to provide for adequate public consultation.[48]

The government's response to these concerns, especially under the administration of Oscar Berger, was particularly authoritarian. Late in 2004, peasants and indigenous people from the Department of Sololá, in protest over the lack of consultation, blocked a convoy traveling on the Pan American Highway that was believed to be carrying equipment to be used in the mine. They prevented the truck from leaving for over a month, until in Jan. 2005, President Berger ordered 700 police to clear the road and accompany the convoy. One demonstrator was killed and several others were wounded in the confrontation. [49]

In addition, rather than clarifying the procedures through which public consultation should occur, as demanded by both Guatemalan NGOs and the ILO, the Berger administration seemed most intent on ignoring them and introducing measures for weakening the required consultations. Thus, shortly before leaving office, the Minister for the Environment and Natural Resources changed the law on environmental impact assessment which required public consultation to one which suggested public consultation 'could' occur. While the new administration has reversed this ruling, 18 environmental impact studies were submitted during the period the new law was in place; they will not be subject to public environmental consultations. The new government has also initiated discussion of a new mining code.

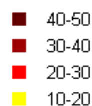
Meanwhile opposition to the mining concessions has spread. The Bishop of the Diocese of San Marcos, Bishop Álvaro Ramazzini, has asked that there be a moratorium on mining operations and further concessions until proper mechanisms for public consultations in line with government commitments to the International Labour Organization's Convention 169 are established. In April, 2008, leaders of the Campesino Unity Committee (CUC) linked resistance to the mines to other unfulfilled promises from the Peace Accords. Their press release stated: "We demand an end to evictions and land seizures and respect for indigenous territories. We want the government to listen to the

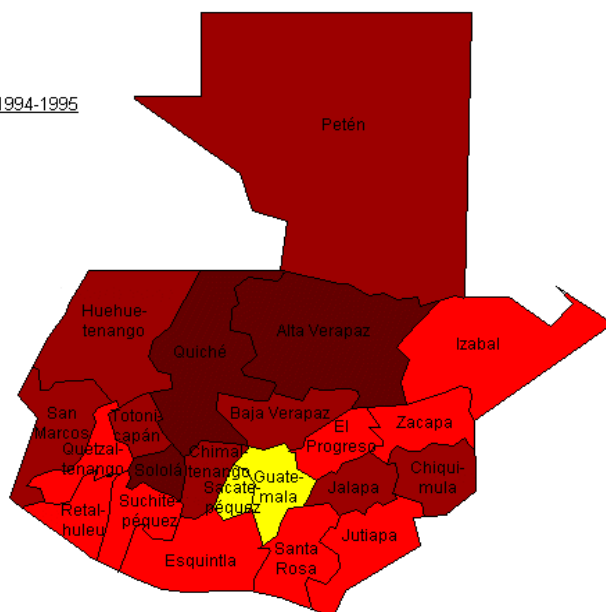
will of the people that has already been expressed in community referendums where we voted overwhelmingly against the extraction of natural resources. We want a land reform that benefits everyone." CUC leaders likened the granting of mining licenses to other historic dispossessions, calling this the 'third wave' of expropriation of their land and attacks on their communities. [50]

> The Department of San Marcos, where both San Miguel Ixtahuacán and Sipacapa are located, has some distinct characteristics of its own. As a Department that includes highland and lowland regions it is also divided between a lowland region that is less heavily indigenous and with somewhat lower levels of poverty and a highland region, more heavily indigenous with higher levels of poverty and more social exclusion.
>
> It was out of San Marcos that the leaders who instigated the coffee revolution of the late 19th century emerged and San Marcos was the site of significant coffee cultivation; many of the indigenous communities on slopes of highlands lost land to expanding coffee estates in the late 19th century. Partly as a consequence, San Marcos has had a history of significant ethnic/racial conflict and conflict over land. During the 1944-1954 period, parts of San Marcos were particularly conflictive; there were large numbers of expropriations of land in the region, and it was a particularly violent zone in the period immediately following the overthrow of Arbenz when land was being returned. San Marcos was not one of the Departments most heavily targeted by military action in the worst of the 1978-1984 period, although certainly there was significant violence there. Lowland San Marcos has always been considered to be particularly unsettled, partly because of its position on the border with Mexico. Its reputation for independence and unrest has been maintained since 1985, with widespread reports of links to drug smuggling in the region.
>
> The municipalities of San Miguel Ixtahuacán and Sipacapa share more similarities with highland regions of neighbouring Huehuetenango, one of the poorest areas of Guatemala, where community identification has been particularly strong. There was a heavy military presence in these regions during the worst of the military violence. Civil patrols were particularly disruptive in some communities of Huehuetenango (Aguacatán, for example) but seem to have tried to do little harm in others (Todos Santos Cuchumatanes, for example).

Map 4:

Index of social exclusion 1994-1995



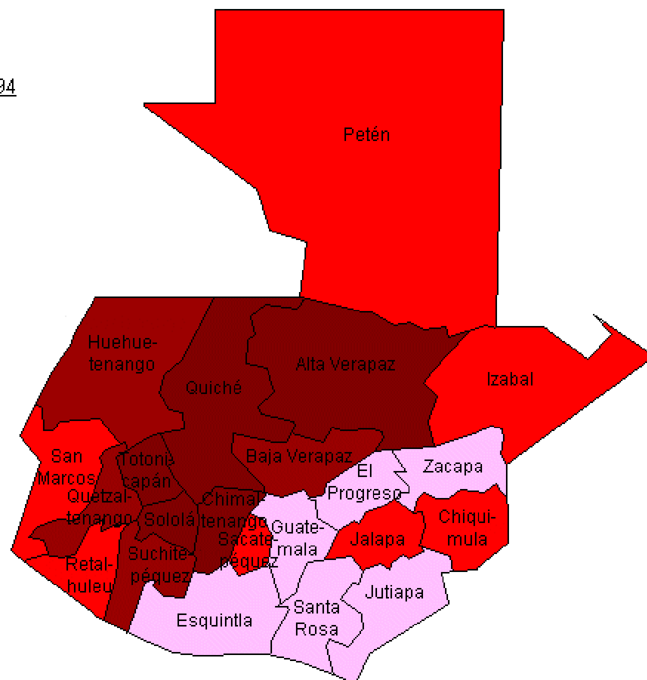


data source: UNDP, Guatemala: *los contrastes del desarrollo humano*, 1998, p.200.

Map 2:

Indigenous population 1994

- over 75%
- 50-75%
- 20-50%
- under 20%

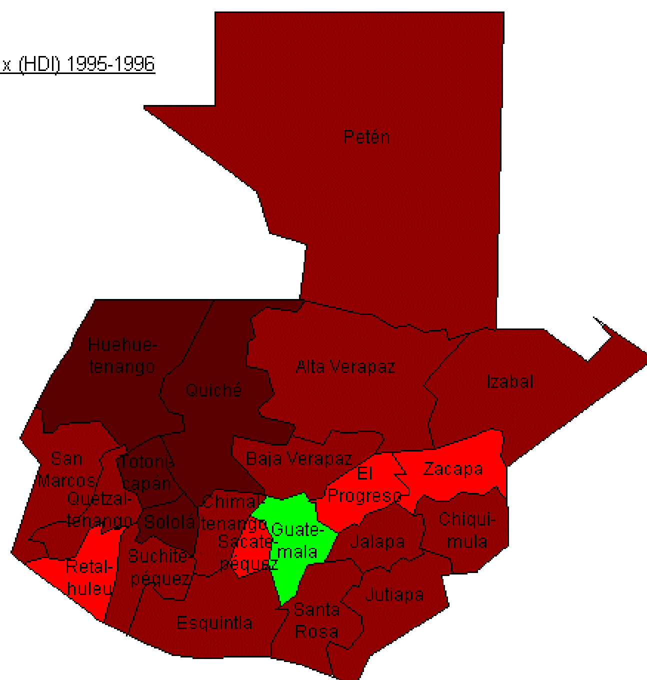


data source: UNDP, *Guatemala: los contrastes del desarrollo humano*, 1998, p. 220; from INE (1996).

Map 1:

Human Development Index (HDI) 1995-1996

- 0.8-0.9
- 0.5-0.6
- 0.4-0.5
- 0.3-0.4



data source: UNDP, *Guatemala: los contrastes del desarrollo humano*, 1998, p. 199

[1] *Censo agropecuario, tomo 3*, 117-26, tomo 1, 19-26.
[2] For background see Handy, *Revolution in the Countryside*
[3] C. Forster, *The Time of Freedom*, p. 203.
[4] Handy, *Revolution in the Countryside,* p.197
[5] Cited in Charles Brockett, "Building a Showcase for Democracy" paper presented at the 16th Latin American Studies Association Congress, Washington, D.C. April 1991, p. 11,
[6] INE, 2004; Dirección General de Estadística (DIGESA), *III Censo Nacional Agropecuario 1979*, República de Guatemala, Ministerio de Economía: Guatemala, 1982
[7] Amnesty International, *Guatemala: A Government Program of Political Murder*, 1981.
[8] Grandin, *The Last Colonial Massacre.*
[9] Davis and Hodson, "Witness to Political Violence in Guatemala: the Suppression of a Rural Development Movement", *Oxfam Impact Audit,* 1982, p. 15.
[10] Comisión para el Esclarecimiento Histórico, Guatemala: Memoria del Silencio Tomo II, (Guatemala City: MINUGUA, 1999).
[11] Grandin, *The Last Colonial Massacre;* Victoria Sanford, *Buried Secrets*.
[12] CEH, *Informe, Guatemala: Memoria del Silencio, Tomo II, pp. 364-36, 367.*
[13] REMHI, *Guatemala: Never Again*, pp.22-25.
[14] United Nations Development Program, *La democracia en America Latina*, 2004. P. 84
[15] Ibid, p. 100.
[16] World Bank, "Governance Matters, VI" P. 92
[17] WOLA, "Elections in Guatemala", Aug. 2007; Central American Report, Sept. 7, 2007. .
[18] Cited in *Siglo Veintiuno*, August 30, 1991
[19] Cited in *Prensa Libre,* Nov. 30, 1992.
[20] Centro de Estudios de Guatemala, *La reorganización de las PAC* (Guatemala City, 2002); WOLA, *Hidden Powers: Illegal Armed Groups and the Forces Behind Them*, 2003.
[21] Christian Tomuschat, "Clarification Commission in Guatemala", *Human Rights Quarterly*, 23 (2001), 233-258.
[22] The most complete discussion of the Gerardí case is Francisco Goldman, *The Art of Political Murder: Who Killed the Bishop?* Grove Press: New York, 2007.
[23] UN High Commissioner for Guatemala, "Universal Periodic Review, 2008"
[24] US State Department, Guatemala: Country Reports on Human Rights Practices---2007, March 11, 2008.
[25] Amnesty International, "Central America: Persecution and resistance: The experience of human rights defenders in Guatemala and Honduras", August 2007.
[26] March 17, 1997, p. 4.
[27] The arrest and allegations against Moreno were widely reported in Guatemala newspapers at the time---also see Juan Pablo Montoya, *El Poder Oculto*, Fundacion Myrna Mack, 2006 and WOLA, *Hidden Powers*
[28] See *El Poder oculto* and *Hidden Powers.* Also see WOLA, "The Long Road: Progress and Challenges in Guatemala's Intelligence Reform" Oct. 2005.
[29] Human Rights Watch, Report on Guatemala, 2006
[30] See US State Department, Guatemala: Country Reports on Human Rights Practices---2007, March 11, 2008. and *Fundacion Myrna Mack, " Se ha dado un valioso paso contra la impunidad,* July, 2007.
[31] Johann Graf Lamsdorf, "Corruptions Perception Index, 2006" 329.
[32] US State Department, "Guatemala: Country Report on Human Rights Practices—2007" March 11, 2008.
[33] MINUGUA (The United Nations Mission in Guatemala), *Los Linchamientos: Un Flagelo Contra La Dignidad Humana, Dec. 19, 2001; and Los Linchamientos: Un Flagelo Que Persiste,* 2002.
[34] UN High Commissioner for Guatemala, "Universal Periodic Review, 2008".
[35] PNUD, Informe Nacional del desarrollo Humano, Guatemala, 2005; (ch.1, p.4)
[36] US Department of State, "Guatemala: Country Reports on Human Rights—2007", March 11, 2008.
[37] Amnesty International, "Guatemala: Land of injustice?" March 2005.
[38] MINUGUA, *"Los Conflictos en Guatemala",* Feb. 2001 and MINUGUA, "Report", Jan. 2002.
[39] James Nation and Daniel Komer, "Conservation in Guatemala", 1984 and James Nation, "Biodiversity in Guatemala" , 1988
[40] Luis Solano, *Guatemala petróleo y minería en las entranas del poder*, esp. pp.80-85.
[41] Central American Report, Feb. 15, 2008.
[42] Margarita Hurtado Paz y Paz, *Protestas socials y recursos naturales en Guatemala*,

[43] The most complete discussion of this case is in "Paramiliitary Violence and US Investment in Morales, Izabal, Guatemala", Rights Action, Campaign Briefing Paper, Nov. 2002.
[44] Central American Report, July 7, 2008, Campesina Unity Committee, press release, June 23, 2008.
[45] Defensoria Q'eqchi, 'Análisis de concesiones mineras—tierras y culturas indígenas amenazadas', Feb. 2004.
[46] Dawn Poley, "This is What Development Looks Like", *Earth First! Journal,* no date. Reuters Press Service, July 11, 2006. CAR, Oct 6, 2006.
[47] Pastoral Commission for Peace and Ecology (COPAE), Feb. 25, 2008.
[48] Compliance Advisor Ombudsman, "Follow up Asssessment", May 2006; Complaint to IFC from Sipacapa, Dec. 1, 2005; Complaint to IFC, Madre Selva, Jan. 28, 2005; Response from Madre Selva to the original CAO report, Sept. 22, 2005; "Declaration of San Miguel Ixtuahacán" at the Third Mesoamerican Meeting of Indigenous Communities, Dec. 2-4, 2005.
[49] Sandra Cuffe, "A backwards, Upside-Down Kind of Development" Rights Action, Feb. 2005; Shim Imai, Ladan Mehranvar and Jennifer Sander, "Breaching Indigenous Law: Canadian Mining Guatemala", *Indigenous Law Journal,* 6:1 (2007).
[50] Cited in Central American Report, April 25, 2008.

References:

[Note this listing includes only those sources most useful in the preparation of this report. I have not included references to many of the historical sources consulted. They are, however, readily available if desired. Rather than follow usual academic formatting practice, I have grouped the sources together according to the sponsoring or publishing organization. Individually published works are listed at the end alphabetically by author.]

Acción Ciudadana,
"Indicadores de percepción y experiencias de corrupción en Guatemala" June, 2006
"La corrupción en Guatemala", April 1999.

Amnesty International,
"Central America: Persecution and Resistance, The Experience of Human Rights Defenders in Guatemala and Honduras", August 2007.
."Guatemala: A Government Program of Political Murder", 1981

COHRE (Commission on Housing Rights and Evictions),
Continuing the Struggle for Justice and Accountability in Guatemala, Mission Report, 2004.

Comisión para el Esclarecimiento Histórico,
Guatemala: Memoria del Silencio, 12 vol. June 1999.

Fundación Myrna Mack,
El Poder Oculto, by Jaime Robles Montoya, 2006
Verdad y Justicia, 2006
"Tendencias en material de seguridad", August 2006
"Una aproximación al uso de la violencia política", Feb. 2007
"Consideraciones sobre la impunidad en Guatemala", Feb. 2008

Human Rights Watch,
Guatemala: Political Violence Unchecked, Report of the Guatemala Mission, 2002.
Guatemala: A Human Rights Update, 2003
Guatemala, 2004
Guatemala, 2006

Inforpress Centroamericana, Guatemala City
Central American Report, 1999-2008.
Guatemala: petróleo y minería en las entranas del poder, by Luis Solano, 2005.

Instituto Nacional de Estadística (earlier this Department went under various titles),
IV Censo Agropecuario, 2004
III Censo Agropecuario, 1979,
II Censo Agropecuario, 1964
Cenco Agropecuario 1950, 1954

Oficina de Derechos Humanos del Arzobispado de Guatemala,
Nunca Más: Informe Proyecto Interdiocesano de Recuperación de la Memoria Histórica, 7 vol. 1998.

OXFAM:
"Witness to Political Violence in Guatemala: The Suppression of a Rural Development Program", *Oxfam Audit Report*, by Sheldon Davis and Julie Hudson, 1982

Transparency International:
Global Corruption Report, 2007
Poverty and Corruption, 2007

United Nations Development Program,
Guatemala: los contrastes del desarrollo humano, 1998.
Informe del desarrollo humano, 1999
Guatemala: un agenda para desarrollo humano, 2003
Informe nacional del desarrollo humano,, 2005.
La democracia en América Latina, 2004.
Governance for the Future: Democracy and Development in the Least Developed Countries, 2006

United Nations High Commissioner for Guatemala,
"Universal Periodic Review", 2008, 2007.

United Nations Mission for Guatemala (MINUGUA):
Los Linchamientos: Un Flagelo Contra La Dignidad Humana, 2001.

Los Linchamientos: Un Flagelo Que Persiste, 2002
Informe: " Los conflictos en Guatemala: un reto para la sociedad y el Estado" Feb. 2001.
Report: Jan. 2002.

United States State Department,
"Guatemala: Country Reports on Human Rights", 2007, 2006, 2005.

Washington Office on Latin America (WOLA)
"Elections in Guatemala: 2007
Hidden Powers: Illegal Armed Groups and the Forces Behind Them, Special Report prepared by Susan Peacock and Adriana Beltran, 2003.
The Captive State: Organized Crime and Human Rights in Latin America, 2007.
A Long Road: Progress and Challenges in Guatemala's Intelligence Reform, 2005

World Bank,
"Governance Matters: Aggregate and Individual Governance Indicators, 1996-2006" prepared by Daniel Kaufmann, Arat Kray, and Massimo Mastruzzi, 2007

World Bank, Compliance Advisor Ombudsman,
"CAO Follow Up Assessment, Guatemala: Complaint Regarding the Marlin Mining Project" May 2006.
"Statement of Civil Society Organizations to the CAO regarding the Marlin Mining Project", June 12, 2006.
"Queja del colectivo MadreSelva, Sept. 22, 2005.
"Letter from Civil Association for Development, Sipacapa, San Marcos" Dec. 1, 2005.

Individual Authors:

Arzú, Marta Casaus, *Guatemala: Linaje y Racismo,* FLASCO: Guatemala City, 1992.

Forster, Cindy, *In the Time of Freedom*, Pittsburgh: University of Pittsburgh Press, 2001.

Gauster, Susana and S. Ryan Isakson, "Eliminating Market Distortions, Perpetuating Rural Inequality: An Evaluation of Market Assisted Agrarian Reform in Guatemala", *Third World Quarterly,* 28, (2007), 1519-1536.

Goldman, Francisco, *The Art of Political Murder: Who Killed the Bishop*? Grove Press: New York, 2007.

Grandin, Greg, *The Last Colonial Massacre,* Chicago: University of Chicago Press, 2004

Handy, Jim, *Revolution in the Countryside* Chapel Hill: University of North Carolina Press, 1994.

Hurtado Paz y Paz, Margarita, *Protestas socials y recursos naturales en Guatemala* FLACSO: Guatemala, 2006.

Imai, Shin, Ladan Mehranavar, and Jennifer Sander, "Breaching Indigenous Law: Canadian Mining in Guatemala", *Indigenous Law Review* 6 (2007), pp. 101-139.

Reding, Andrew, "Guatemala: Hardship Considerations" prepared for the US Department of Justice, 2000.

Taracena Arriola, Arturo, *Etnicidad, estado y nación en Guatemala, 1944-1985* Antigua, Guatemala: CIRMA, 2004.

Tomuschat, Christian, "Clarification Commission in Guatemala", *Human Rights Quarterly,* 23 (2001), 233-258.