

# Land Tenure and Land Administration Issues in Guatemala

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## 1. Abstract

*The evolution of land tenure in Guatemala is a mix of the native Mayan Civilization's hierarchical system and the Spanish exploitation. The Mayan Civilization involved communally owned land but not an exclusive ownership setting. However, this patriarchal landholding system went under extensive modifications upon the arrival of the Spaniards. The Mayan civilization faded and saw the minifundio-latifundo system dominate the land tenure regime. This system allowed creation of individual holdings and a grossly inequitable land distribution pattern. The accumulation of land in a few North American elites led for the need of agrarian reform. President Jacobo Arbenz was the hope for land reform. His plan to redistribute private land equally among all Guatemalan citizens was halted in its implementation stage, when the CIA began "Operation Success". The operation sent mercenaries into Guatemala and successfully overthrew President Arbenz. With an unstable government and land security, a new national initiative by the Guatemalan Government aims to grant titles to unregistered lands, and resolve land-related disputes such as multiple titles and overlapping borders. The government is in hopes that this titling proposal will improve land security and stimulate development. The Comisión Nacional de Rerforma Registral was produced to automate the registry and conserve registry records. The World Bank and USAID organization have become heavily involved in titling and cadastral efforts. This financial and technical support should push the Guatemalans to respect the indigenous populations and consider their livelihood and origin when thinking about land reform.*

## 2 General Overview of Guatemala

The Republic of Guatemala (see Figure A) was established in 1995 and is located on 42,042 square miles (108,889 square kilometers) in Central America. The country is bounded on the east by Belize and the Caribbean Sea, to the north and west by Mexico, on the southeast by Honduras and El Salvador, and on the southwest by the Pacific Ocean. The country has a population of 10, 999,000. Most of the population is located in the capital of Guatemala City, and other important cities Puerto Barrios, San Jose, Quezaltenango, and Antigua Guatemala. The population is divided between those of mixed Mayan and Spanish descent or those of purely Mayan origin. The dominant religion is Roman Catholicism, but Protestants make up approximately thirty percent and traditional Mayan minorities make up a small percentage. About sixty percent of the people speak Spanish, where the rest is a balance of indigenous dialects. The per capita income and literacy rate is extremely low. Guatemala is mainly an agricultural economy. Coffee, sugar, and bananas are the leading commercial and export crops.

“Guatemala’s current constitution was adopted in 1985 and revised in 1994. It provides for a directly elected president who serves a single four-year term. An 80-member unicameral legislature is also elected for a four-year term. The major political parties are the National Centrist Union (UCN), the Christian Democratic party (DCG), the National Advancement party (PAN), and the Guatemalan Republican Front (FRG). Guatemala is divided into 22 administrative departments.” (historychannel.com)



FIGURE A: Map of Guatemala

### 3. Historical Background

The evolution of land tenure in Guatemala traces back through millennia of cultural conflicts through a joining of two extremely different land arrangements. The great Mayan civilization reflects a socially organized land tenure system, whereas the Spanish conquer in 1523 led to ruthless exploitation of Mayan land. Geography, amount and accessibility of arable land, existence of mineral deposits, and the nature of indigenous civilizations all influenced land concentration patterns. The skewed land distribution varies from region to region, but Guatemala’s primary function was to supply luxury goods such as sugar, cacao, and indigo dye to the Europeans and generate income for colonists.

#### 3.1 Mayan Civilization

The great Mayan civilization has dominated Central America for centuries. Beginning from as early as 2000 BC where fore runners of the Mayan civilization were fishing and farming on Guatemala’s Pacific Coast.

Linked to process, social organization became hierarchical. There was an increasing differentiation between status and wealth, shown predominantly in the differential elaborateness and size of both residences and public buildings. The socially organized Mayan civilization held nobility and priesthood as elite castes and common people and slaves in opposition as lower castes. Indeed, these two classes had to pay tribute to the rulers, give presents to the local lords and make offerings to their gods through the priests (Powelson 1988, 217). Higher status individuals were probably heads of kinships and much of the religious complexity was focused on ancestor worship rather than on universal gods.

Mayan's lands were owned communally and exclusive ownership was nonexistent. Land was distributed to families, but due to severity of land quality an Alcadecol (powerful individual) regulated the process. Certain limits were allowed of elites in the type of land ownership and the buy or sell option designated to the land. Additions to the land such as houses, trees, etc. were not transferable; the additions belonged to the individual who made add-ons. If the ownership of the land were designated to a new individual, than that person would not be the true owner of the land, unless he paid for the additions made on the piece of land.

“Noble Mayan families, rather than the land could own only a portion of the land surrounding a well, a spring or a depression area to collect water, but boundaries were not delineated. The ownership and the rights to land were recognized through the “common knowledge” rule. Land rights also could be extended to family members and inherited through the male successor. However, farmers had only the rights to agricultural activities on communal land, and the rights could be transferred to their heirs.” (Marotta N/A, 2)

“Spanish contributed to the decimation of the Mayan population, leaving the region still more sparsely settled. For these groups, Spanish conquest led to the imposition of Catholicism and the establishment of various European forms of political organization. Although this imposition was not completely effective, Spaniards either eliminated or incorporated the indigenous elite into the new colonial system, leaving the Mayan speaking population a relatively undifferentiated mass of rural peasants.” (historychannel.com)

### **3.2 Spanish Conquest**

Pedro de Alvarado conquered Guatemala in 1523 for the King of Spain. The arrival saw witness to faded remnants of the Mayan Civilization and an assortment of warring tribes. “The remaining highland kingdoms of the Quiché and Cakchiquel Maya were soon crushed by Alvarado's armies, their lands carved up into large estates and their people ruthlessly exploited by the new landowners. The subsequent arrivals, of the Dominican, Franciscan, and Augustinian friars could not halt this exploitation and their religious imperialism caused valuable traces of Mayan culture to be destroyed.” (Lonely Planet) The large ruling classes didn't value Indian life; between 1519 and 1610, approximately two-thirds of the native people were killed.

The Spanish Colonist received *encomiendas* (large homesteads) that would be regarded as temporary arrangements. The *encomiendas* were cultivated by indigenous slave labor. Slave labor was later replaced by a feudal system of indentured servitude in 1542. The *minifundio-latifundo* system was the predominant land tenure regime that developed and persisted. Under the system workers were given *minifundios* (small common plots) in return for tending the *latifundia* (large estates), which were owned by colonial lords.

“Spaniard “get-rich-quick” farming schemes involved seizing land and labor from indigenous Mayan communities and then planting large monocultural tracts of the most profitable crops. Colonists set an early precedent for risky, *latifundia* agriculture at the expense of subsistence farming, other economic activities, and the health and dignity of native peoples.” (Reilly 1999, 2)

### **3.3 Independence from Spain**

In 1821, Guatemala won its independence from Spain. This only brought new prosperity to Creoles (those of Spanish blood) and harsher conditions for those of Mayan descent. “The Spanish crown’s few liberal safeguards were now abandoned. Huge tracts of Mayan land were stolen for the cultivation of tobacco and sugar cane and the Mayan people were further enslaved to work that land. The country’s politics since independence have been colored by continued rivalry between the forces of the left and right neither of which have ever made it a priority to improve the position of the Maya.” (Lonely Planet)

Soon after its independence from Spain, it was occupied by Mexico and later Honduras General Francisco Morazán occupied the capital. His harsh policies led to popular revolt and later his execution in 1842.

In 1952, foreign economic interests largely colonized the country and most of the population was extremely poor. The newly elected president Colonel Jacobo Arbenz Guzmán began a plan of land reform. The reform planned to redistribute private land more or less equally among all Guatemalan citizens. At the time of his election, less than three percent of the population owned more than seventy percent of the land. “Unfortunately, much of the land was owned by the American business, the United Fruit Company; they kept eighty-five percent of their five hundred thousand acres of land idle, land, which Guatemalans could be putting it to good use. President Arbenz presented the UFC with money equaling the total value of land as reimbursement for forfeiture.” (Sexton N/A, 2) Around this time, the CIA was sending mercenaries from Honduras into the Guatemalan Capital. “Operation Success” succeeded in overthrowing President Arbenz.

General Castillo Armas whom US supported, trained, and financed was instated as the military dictator for the next thirty years. He was a cruel leader who overturned all of Colonel Jacobo Arbenz Guzmán land reform efforts.

The political history shifted repeatedly amongst conservative autocracies with liberal governments dedicated to radical social reform and close ties to the Catholic Church.

#### **4 Agrarian Reform History**

Due to misappropriation of land and land shortage throughout Guatemala's history, the country faces a serious agrarian crisis. Many subsistence farmers are trying to survive and feed their families on a tiny square of land on a steep slope. This land had once been a large mountainside tract, but has been divided many times when passed on from one generation to the next. Malnutrition and hungry children surround these shrinking family plots. The severity for the need for agrarian reform stems from the question of "why do children starve in this fertile country of temperate climate and rich volcanic soils. While farmers in the western highlands cultivate on steep slopes inadequate for agriculture, expansive sugar, coffee, cotton, and banana plantations dominate the coastal piedmont regions." (Reilly 1999, 1)

International agribusinesses occupy prime agricultural land, which leads to rural families suffering from malnutrition and poverty. "Multinational food corporations such as Dole, Del Monte, and Chiquita reap the benefits of Guatemala's rich agricultural environment; they export fruits and vegetables to North American supermarkets and leave little land to native farmers." (Reilly 1999, 1)

Colonel Jacobo Arbenz Guzmán came to power after 1951 and began to fight for agrarian reform. "He implemented liberal policies and instituted agrarian reform law to break up the large estates and foster highly productive, individually owned small farms. The expropriation of lands controlled by foreign companies, was the signal for the CIA to step in (one of these foreign companies was the United Fruit Company, which interestingly was part owned by the then US Secretary of State)." (Lonely Planet)

During the twentieth century trends of unjustified acquisition of land, labor and political power all in the name of export agriculture continued. The United States corporations became increasingly involved during the Depressions in the 1930's. "The United Fruit Company (UFCo), long the symbol of U.S. imperialism in Central America, gained disproportionate power as Guatemala's largest landowner and major foreign investor. The company was notorious for exploiting natural resources, paying unjust wages, consistently opposing organized labor and orchestrating the CIA-engineered overthrow of the progressive government of Jacobo Arbenz. The UFCo, and its successor Del Monte, thwarted Guatemalan efforts to gain control over their own natural resources. Due to activities of UFCo and Del Monte's, Guatemala now boasts one of Latin America's most concentrated land distribution patterns, second only to Brazil." (Reilly 1999, 3)  
Guzmán's land reform never eventuated because of a successful military coup organized in 1954 caused him to flee to Mexico.

The agrarian problems stems from the minifundios-latifundia, which is a grossly inequitable land distribution pattern. This land distribution system causes patterns of social, cultural, political, and ecological upheaval. Guatemala's basic national

formations, political institutions, land use policies, labor organization, and class system all matured around the coffee economy. By 1889, coffee made up 96% of Guatemala's export earnings as foreigners appropriated native land. In 1862, communal authorities in Cobán complained "After having bought land in this same city, the foreigners have also taken much more . . . we cannot even plant a kernel of land because they have taken the best land." "Using their political power, coffee growers employed violent methods to extract labor, forcing farmers to leave their own fields and families to further agribusiness interests." (Reilly 1999, 3)

Families in Guatemala continue to grow, but available land continues to shrink. Minifundios are threatened by proletarianization, complete marginalization from their land and full integration in the wage labor force. Still the wealth and land concentration is in the hands of a small North American elite that is in accordance with reactionary forces in the Guatemala bourgeoisie. Agrarian land reform would help with Guatemala's painful legacy of export agriculture and natural resource extraction, which created a rural underclass that survive on land scraps left over from plantation agriculture. Still subsistence farmers seem to retain their dignity stemming from control over their independence from the vagaries of a capitalist economy and their own resources.

## **5 Reform of Property Registration**

Present Property Registry dates back to 1776, when King Don Carlos II of Spain set up the Mortgage Registry. President (and General) Justo Rufino Barros, in 1877 issued Decree 175, which created a Mortgage and new Property registry. "The organization and function of the new institution was heavily influenced by the Chilean Registry and Spanish Models." (Trackman 1999, 19) "Among other changes, the Registry was decentralized; a separate office was established in each department of Guatemala." (Trackman 1999, 1-2) No change of the institution until 1933 when a new Código Civil (Civil Code) was drafted which created a variety of reforms that expanded the Registry's function to include classes of property (personal property as well as real property) other than real estate.

In 1963, Decreto-Ley 106 (Law 106) governed the current registry system, which instituted a new registry book to record rights pertaining to designated prenda (personal property). "More recent reforms in 1985, a new set of registry regulations in 1987, and a variety of other legislation form the legal framework upon which the Guatemalan Registry presently operates." (Trackman 1999, 2)

The official name of the registry is the Registro General de la Propiedad (General Property Registry of RGP). Under Código Civil, Article 1124, the purpose of the RGP is to provide legal security to property holders by publicly recording their rights and interests. It is the institution responsible for the inscription, notation, and cancellation of all acts, contracts, and rights pertaining to real property. Included among the types of titles expressly allowed are those that confer or accredit ownership of real property, as well as those that constitute, recognize, modify, or extinguish rights of usufruct, use, habitation, familial patrimony, mortgage, servitude, and any other rights or interests in

real property (Código Civil, Art. 1125 (1)-(2)). The RGP is also charged with the duty of keeping such records current and accurate - i.e., to track changes in ownership rights and other interests in land. Such changes may be occasioned by purchase-sale agreements, inheritances, the creation or cancellation of mortgage liens, government decrees, the granting of use rights, and abandonment “The RGP is a public institution, and its records may be consulted by anyone. Previously, the public was permitted to review the original registry records - a practice that created opportunities for fraud (e.g., changing or removing records) and also contributed to the deterioration of the records. Presently, visitors are only permitted to see copies of registry records, many of which have been converted to microfilm. In some instances, digital (computerized) forms are provided.” (Trackman 1999, 2)

#### **4.1 Registro General de la Propiedad Structure and Organization**

The General Property Registry is part of the Executive Branch, and must be organized so that there exists in each department both a property registry and a matching fiscal cadastres. In the current system there are two offices, one in Guatemala City, which maintains records for: Guatemala, Sacatepequez, Chimaltenango, Santa Rose, Jutiapa, Jalapa, Zacapa, Chiquimula, El Progreso, Izabal, Escuintla, Petén, Alta Verapaz, and Baja Verapaz. Retalhuleu, Suchitepequez, Totonicapan, Huehuetenango, Solola, Quiche, San Marcos, and Quetzaltenango are under the jurisdiction of the second office in Quetzalmaltenango. Each office maintains its own set of records and is responsible for the records safekeeping.

A Registrar manages each office. The Registrar must be named by the President and exercise administrative control over the offices in accordance with Código Civil, Art. 1221. In practice, the registrars are bound by the rules set up by the special Comisión de Reforma (Registry Reform Commission). “Within each office, the administrative structure and manner of operation are nearly identical. The registrar is assisted by a lieutenant registrar, a general secretary, and an office manager, together with an Executive Office staff. The members of the staff are appointed by the Registrar.” (Trackman 1999, 3)

Guatemala was the first country to adopt the Folio Real System for tracking transactions as they relate to parcels of property. The system has been in use since 1876. Each finca (parcel) is given its own ficha (unique number) and is used to refer to a parcel in any transaction that affects it. All registry records were maintained separately for each parcel. Written records consisted of two large pages. The first page contained ownership and use rights as well as legal limitations that pertained to the specified parcel. The second page kept records of financial interests that related to the parcel. The registry records were organized in folios (bound sections), which were then organized into libros (large leather bound books). “These registry books are stored in large rooms at the Registry itself. Currently, registry records are being converted to microfilm and digital form, eliminating the need for registry books and large amounts of space. In addition, problems of deterioration and the threat that records might be removed, changed, or destroyed are greatly minimized. For safekeeping, copies of digitized records are kept at

other locations. Finally, accessing, updating, and processing data contained in the new digitized records can proceed much more quickly. Despite these advances, records are still organized and easily found according to parcel number.” (Trackman 1999, 3)

#### **4.2 Registro General de la Propiedad Finances**

Guatemalan Registry is unlike budgets of registries in other countries. The registry in Guatemala is self-financing; service fees are collected from registry users. Under Código Civil, Art. 1241, service fees must be established by an official Arancel (registry Fee Schedule). The Arancel provides the legal basis for the Registry’s financial independence.

With respect to budgeting, the RGP has committed itself to a long-term payment structure that allows the high initial costs of modernization to be amortized over several years. Thus, the costs of modernization do not fluctuate, and the amounts collected to support the effort cover the expense. “In order to further the goals of modernization, the law permits the imposition of a special additional fee of ten quetzales (approximately \$1.75) for each inscription and of five quetzales (approximately \$.85) for each certification. Fees charged by the Registry cover its operational expenses and any surplus is invested in interest bearing cash accounts.” (Trackman 1999, 4)

#### **4.3 Registro General de la Propiedad Functions**

The Guatemalan Registry performs a variety of functions. Inscription, certification, and information management are the chief functions carried out by the registry. Código Civil, Art. 1125, specify interests that are susceptible of inscription. Inscription entails the recording alteration and termination of rights of interests. Certification is used to verify ownership rights.

Ownership can be established in three ways: acquisition of supplementary title, acquisition of government-granted title, and acquisition of existing title. So maintenance of records of property ownership is the most important function of the registry as well as financial interests (mortgage liens and servitudes pertaining to real property). Guatemalan law concerning foreign ownership of certain property is limited by legislation including the Código Civil, Ley de Extranjeria, and Articles 122 and 123 of the Constitution.

Guatemala’s registry system consists of declarative system, in which the RGP records rights, but does not create them. “For property rights and interests to be enforceable against third parties they must be recorded. In addition, any right or interest inscribed at the RGP is presumptively valid, and may be relied upon by third parties.” (Trackman 1999, 4) The “first in time, first in right” rule has been adopted and means that rights described in documents that are presented to an officially accepted by the RGP have priority over rights and interests described by documents present subsequently (Código Civil ARTS. 1141, 1142, 1148).



A major functionality issue of the RGP is institutional credibility. A lack of credibility will allow little guarantee to legal rights of the registry's users. "By contrast, the accurate inscription and certification of rights and interests in accordance with the law fosters the institution's credibility and encourages more use of the system, which in turn invites greater reliance on the RGP as the guarantor of legal rights and land tenure security. The RGP's mission statement acknowledges the importance of credibility, emphasizing that the registry discharges its legal mandate in order to satisfy registry users." (Trackman 1999,5)

## **5 Modernization of Registry**

"There were a number of problems facing the registry including: excessively slow discharge of Registry activities, frequent loss of documents, disorder in the maintenance of records, disregard of authorized fees (workers would regularly complete work based on the amount which they were offered by the applicant), the rejection of documents without just cause, and a failure to observe the work schedule by Registry personnel." (Trackman 1999,8) "Prior to reform, the rate of error for documents processed by the RGP was high (30% in 1996) necessitating follow-up actions, which bogged down the system, frustrated users, and created insecurity. The goal is to reduce that number to zero. The Registry also recognized that corruption was commonplace, the institution's infrastructure required modernization, and that the Registry was overlay centralized and bureaucratic. As a result, the Registry lacked public confidence hindering efforts to regularize land titles and ownership throughout the country. Information, whether about the Registry and its operations or about the records themselves, was difficult to obtain. This greatly increased the transaction costs and further augmented the lack of public confidence in the Registry." (Trackman 1999, 25) So in 1990, a new Comisión Nacional de Reforma Registral (National Commission or "CNRR") was created to modernize and change the Guatemalan Registry. The CNRR was produced to automate the registry and conserve registry records. The government accord called for reformation of the existing registration system through implementation of a new inscription procedure in 1993.

The work began on the modernization of the registry in 1995, which entails the commencement on three interrelated projects ("total solution"). The first was to implement an automated registration system. The second project was to transfer all paper records into electronic format, so they could be easily accessed by computers and saved on disks. The final component of the modernization plan was to implement a system maintenance and support services.

Since 1997, the registry's reform to automate the inscription process has preceded accordance to the CNRR plan. Folio real is included in the automation project along with document submission areas and other stages in the inscription process. Automation is already implemented in document submission. "When an inscription application is presented, the anticipated registry fee is calculated, the time and date noted, a unique document number assigned, and the notary name checked against a current list of active notaries in good-standing-all by computer." (Trackman 1999, 9) The applications is subsequently scanned and processed.

The records conservation project, which involves the transfer of over 100 years of hand written registry records to computer-readable format, is also moving forward. The project first examines the Registry books to find inscriptions that pertain to a parcel and errors that may exist. Next books for regions are collected and records electronically scanned. These images are indexed and reviewed to ensure that the chain of title is complete and correct. The fourth step involves linking images to a single parcel. The final step of this project is writing a short abstract on the legal status of the parcel and entered into the system. There are three challenges in this project stage: missing antecedents, legitimizing an erroneous status quo, and multiple chains. “The first is self-explanatory; without the full set of documents pertaining to a parcel, its complete legal history cannot be known. The second challenges arise because older land descriptions are not only imprecise but are often tied to monjones (impermanent landmarks). Moreover, the boundary lines between these markers are not always well defined. Thus, even if certain points can be determined along the perimeter of a tract, the shape or orientation of the tract may still be in doubt. Where owners have deliberately taken advantage of imperfections in the registry system, these changes can be “legitimated” during the modernization process, possibly to the detriment of third parties, and may give rise to disputes and confusion. Finally, it is unclear how modernization efforts will deal with situations in which it is discovered that the same tract has two separate chains of title.” (Trackman 1999, 25) The Registry, although still in working progress has converted 570 books in the departments of Guatemala, Escuintla, and Sacatepequez and many other records of El Peten, El Progreso, Sacatepequez, mines, government concessions, and agrarian reform titles departments. There are approximately 700 books that are currently in working progress.

The modernization of the Guatemalan Registry has many benefits in enhancing the accuracy of registry records. The automation eliminates errors made in manual copying of information. By maintaining electronic records, a single parcel can be maintained on a single page, which avoids cumbersome cross-referencing and allows information to be stored easily and safely. Paper records could easily be destroyed or changed. With properly protected and backed up electronic records, it makes it difficult to make changes, destroy or tear out pages in the folio. The automation makes it difficult for fraud or tampering possibilities. Unauthorized changes to the records are impossible, by protecting the system through the use of unique passwords that registry operators have. The modernization of the Guatemalan Registry allows users to enjoy better service at a minor cost, while the association can provide greater land tenure to its participants.

The modernization initiative was originally estimated to be completed by 1999, but the size and complexity of the project revised the original time estimates.

## **5.1 Updated National Cadastre**

Guatemala lacks a current geographic cadastral map, because law never mandated the creation of a geographic cadastre. The lack of a cadastral map, caused conflicts between different plans to arise, because the individual plans are not fixed and there is not

designated geographic points. In the 1970's the Rentas Internas (Ministry of Finance) finished a partial fiscal cadastre, which was intended to be used to increase revenues from property taxes, but the maps were not kept up to date and the initiative stalled.

“The government and other observers have recognized the need for a new national cadastre. The development planning and construction is only possible with precise, sufficient data about the physical and socioeconomic characteristics of the land and its wealth.” (Trackman 1999, 26) The Instituto Geografico Nacional (National Geographic Institute “IGN”) and the Registro-Catastro (an institution within PROTIERRA) are at the middle of current mapping efforts. The IGN was formerly a military institution but its focus is on the gathering of geographic information, which can be used to create accurate maps. The Registro-Catastro takes the geographic data, including current parcel boundaries, registered owners, location of utilities and other improvements and incorporates the relevant data into a cadastre.

The fully integrated system is approximately ten to fifteen years away. The purpose of this multipurpose cadastre is to incorporate geographic, legal, and fiscal data. Currently many municipalities keep their own local cadastrals, which are not integrated within a national database. A single database could be accessed by a variety of government institutions which is much more efficient.

## **5.2 Land Titling Projects**

Guatemalan Politics have been concerned with land titling projects for the past thirty-five years. In 1962, INTA was created to administer land-reform initiatives and more specifically the provision of land titles to small rural owners. The two problems associated with this project were new title holders did not complete the procedure by recording their ownership in the Registry and new owners were limited to their use of land. “Overtime a well-developed arbitrage market developed whereby land speculators acted as intermediaries between those who developed land directly from INTA and wealthy landowners who bought it from them. The net effect was a vicious cycle of land clearing, conversion from forest to agriculture, and cheap sale, leading to concentration of land in few hands.” (Trackman 1999, 26)

During the same time period, Fundación del Centabo (“FUNDACEN”) was carrying out land title initiatives focused on rural development. “The organization acquired lands and then distributed them to landless peasants, financing the costs of cultivation and land improvements. The project was supported by USAID, but ceased to function effectively during the Guatemalan civil conflict in the 1980's.” (Trackman 1999, 26)

A new national initiative by the Guatemalan Government aims to grant titles to unregistered lands, and resolve land-related disputes such as multiple titles and overlapping borders. The government is in hopes that this titling proposal will improve land security and stimulate development.

INTA has been in charge of redistribution of land to legitimization of ownership through a six step titling program. "To obtain title, apparent owners must possess land that is neither already privately owned, nor part of a protected reserve. Assuming these preconditions are met, the owner may file an application that is much like an inscription application at the RGP. Requirements include a description of the property, a history of how it was obtained, and information about the apparent owner. An official survey of the property is completed, which includes relevant zoning rules. A title search is performed, and if all is in order, the application is granted and mailed to the appropriate RGP office, where the title is inscribed." (Trackman 1999, 12-13)

The project also helps non-owners acquire title. A component of PROTIERRA, Fondo de las Tierras (National Land Fund) are in charge of financing and coordinating the process. USAID has helped the Guatemalan government by revolving a trust fund of approximately seventeen million dollars. This project is a bit different from past land reform plans. "First, participants acquire full ownerships rights, rather than limited use rights as had been the case under Decree 1551. Second, the participants themselves look for property, and make the purchase decision, not a government agency." (Trackman 1999, 13)

## **6 Current Reforms**

The World Bank and USAID have strong interest in Guatemala. Both organizations are heavily involved in current titling and cadastre efforts. They also provide key financial support and technical assistance to the country.

The World Bank approved a thirty-one million dollar loan for the Government of Guatemala, for the Land Administration Project. The loan will help implement the first phase of a plan to increase legal security of land tenure and reinforce the institutional and legal structure for land registry services. "The project is financing land titling on 11,344 square kilometers, or the entire area of the Petén not already schedule for titling under other projects. It is worth noting that titling activities are not restricted to individual landholders; the project will also issue titles to land held communally, by municipalities or cooperatives." (Pagiola 1999, 24)

Petén is a priority area for the Peace Accords, because sixty percent of the population lives in extreme poverty. "In Petén, farmers consider tenure security extremely important and cite the need to guarantee their household's source of livelihood, which they see as threatened by the potential loss of land, as a major reason for wanting titles. Increased tenure security of Petén farmers is expected to result in improved farming practices, greater incentive for long-term productive investments in land, and reduced environmental pressures. In addition, land records will be made available for land use planning and will contribute to migrating land conflicts." (World Bank 1998)

Task Team Leader Cora Shaw says, "This project will contribute to the alleviation of poverty by providing the basic input for efficient, equitable, and sustainable land management-land rights information and knowledge. Property formalization is a crucial

part of a broader formalization process in which excluded populations may gain access to greater security, public utilities, and service from the state.”

## **7 Conclusions**

Guatemala has been in a long struggle for agrarian reform. The inability of the country to fulfill such agrarian reform issues is the root of the country’s poverty and malnutrition problems. With outside aid, the country needs to title the land throughout the country including the area of Peten, which is in extreme poverty. The titling will lead to land security and possibly simulate development.

The country also needs to prioritize its agriculture export in comparison to land reform. Currently US Companies within Guatemala keep “eighty-five percent of their five hundred thousand acres of land idle, land, which Guatemalans could be putting it to good use.” (Sexton, N/A, 2). A successful implementation to break up these large estates and advance highly productive, individually owned smaller farms would institute enhanced agrarian reform. An expropriation of a percentage of the idle land of the foreign companies would also improve the countries malnutrition.

With the current modernization efforts and update of the National Cadastre, Guatemala should be gaining proportionate land tenure across all aspects of the population. The property formalization may be the key for Guatemala to gain a more powerful country standing, by gaining access to greater security, and public utilities.

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