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LADB Staff

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Guatemala Land Registry Issues

by LADB Staff

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"To give everyone the land to which they claim title," goes the old saying, "Guatemala would have to be five stories tall."

Seven years after the December 1996 Peace Accords, which mandated a land registry, were signed, the saying has ceased to provoke smiles. Municipal boundaries are in dispute, all manner of business cannot be concluded, and people are being injured, killed, and thrown bodily off lands they claim as their own.

The Congress is obligated by the accords to promulgate a law establishing a Registro de Informacion Catastral (RIC), a land registry. Failure to do so has been the basis of innumerable conflicts (see NotiCen, 1997-08-21). A first attempt at compliance was in 1998, when then President Alvaro Arzu (1996-2000) created the Comision Paritaria de Derecho Relativo a la Tierra (COPART). COPART was made up of representatives from the Coordinadora Nacional de las Organizaciones Campesinas and governmental agencies having a bearing on land tenure.

The new entity drew up a proposal for the Congress. The proposal languished, but COPART, working with other organizations, revised the proposal and by 2002, during the Alfonso Portillo (2000-2004) presidency, had a proposal describing a land registry that would be an autonomous institution with direct registration input from municipalities, with indigenous communities participating in delineating lands. This too languished.

A new bill

In March 2004, campesino organizations mounted a massive demonstration demanding a registry. The demonstration drew President Oscar Berger, who pledged to press for the law. On May 13, a group of independent deputies who have recently formed a new party, Bienestar Nacional (BN), brought up an RIC bill. BN Deputy Rafael Barrios, a co-author, said a new bill was needed because the COPART effort was hopelessly politicized. He said some of the COPART provisions were included, but most of the material was thrown out. "We only included what a registry law truly must have," he said.

Co-sponsor Concepcion Mazariegos said that the new bill was purely technical, with no provisions that might draw the ire of agricultural businesspeople or other special interests. The new registry would delimit lands and locate them on a map. It would verify legality of title according to the Registro General de la Propiedad. There is provision for dispute resolution under the RIC and a means for referral through legal channels in case resolution efforts fail.

The proposal also calls upon the Colegio de Abogados to determine legal ownership. The normal procedure is for a bill to go to committee, where it must be reported out, favorably or not, within 60

days. This bill has caused confusion because, despite being of prime concern to campesinos, their organizations said they were never consulted about it, and some were surprised to hear about it from reporters.

Most of those contacted by the press supported, and insisted upon the passage of, the COPART bill. Some threatened more massive demonstrations if the upstart bill were passed. Ingrid Urizar of Plataforma Agraria (PA) said she doubted the rationale presented by the sponsors. Justo Mendoza of the Coordinadora Nacional Indigena y Campesina said the new bill must be junked and the stalled COPART bill adopted. Ursula Roldan of PA said her organization would consider appropriate responses, which would probably include complaints to the international community. The consensus seems to be that the Camara del Agro was behind the new proposal because that was the organization most vociferously against the COPART bill.

Working around legislative failure

In the absence of the required law, work has gone forward on projects to establish some kind of legal guarantees for property rights, tenancy, and land use. These have been undertaken in the departments of Peten, Alta and Baja Verapaz, Izabal, Zacapa, Chiquimula, Sacatepequez, and Escuintla. The Unidad Tecnica y Juridica de la Propiedad de la Tierra (UTJ-PROTIERRA) has done most of this work with funding from loans and donations. They have received more than US\$33 million since 1997, with about US\$13.5 million coming from the World Bank. By the end of May, they have reported, they will have completed the registry of the whole of the Peten. But, according to UTJ-PROTIERRA director Jose Rodriguez Wever, without the RIC, their work lacks legal standing.

Swedish Ambassador to Guatemala Maria Leissner told Inforpress that Sweden has donated US \$5.5 million to the work since 1997 but would cut off further funds if the Congress failed to pass the RIC. "We have been waiting seven years for a law, and this is going to be the last year of cooperation if it isn't passed. But if they do pass it, of course we want to continue and return the budget to its original size," said the ambassador of the country well-known in the region for infinite patience. Aware of the traditional contentiousness and potential explosiveness of the RIC, Leissner stressed the importance of passing a basic law without getting involved in questions of excesses and abuses of the past, because these will inevitably be dealt with in the future, and in the meantime the consequences of not having a law are more pressing.

Simply surveying lands will not solve all Guatemala's land problems, she said, but it will help a campesino in need of legal title enter into the formal economy. With legal title, the person can get access to credit. The downside of legalizing land tenure, of course, is the fear of losing what one already has through higher taxes, or of confiscation when one cannot prove ownership. But these fears must be weighed against the hell that has been land tenancy in Guatemala.

On May 12, indigenous organizations charged police with torture and excessive use of force in evicting campesinos squatting on lands they do not own. Indigenous leader Juan Tiney said that complaints had been lodged with Amnesty International (AI) in London and that AI would send an investigating team to Guatemala. He said that "several cases of torture" of community leaders were involved in the charges. Policia Nacional Civil (PNC) spokesman Oscar Pivaral denied the

accusations and said evictions had been carried out "with much professionalism and were based on a judge's order." But he also admitted that force had been used when police were confronted by "invaders" of properties "with rocks, sticks, and even with firearms."

Procurador de los Derechos Humanos Sergio Morales said his office had verified abuses by police and had urged moderation on all sides. Frank LaRue, director of the Comision Presidencial de Derechos Humanos (COPREDEH), said that the violence "doesn't come from the government. It is not the policy of the Berger government. At the same time, LaRue called it "strange" that there had been no evictions during the Portillo administration, and, in just three months of the present administration, eviction orders have been issued with surprising frequency.

Plataforma Agraria, comprising 19 indigenous groups, has said that police have orders for at least 20 more evictions in four departments. LaRue said there is "high risk" of conflict in Guatemalan agribusiness, and there must be negotiated solutions to avoid "the criminalization of social conflicts." "It is not about who is more at fault, the landowners or the campesinos, the police or the government," said LaRue. "The important thing is how we can resolve it and how we approach the problems." On the agro side, representative Humberto Pretti defended the landowners' property rights and justified the use of force to ensure those rights. [

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