

Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007

Internally displaced people (IDPs) in Guatemala – lack of effective remedy and durable solutions

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Guatemala: ten years after peace accords, key provisions benefiting the displaced remain unimplemented, IDMC, 9 June 2006

I. Background and the number of internally displaced people in Guatemala

1. The signing of a peace accord in 1996 marked the end of the 36-year-old civil war in Guatemala. Over 200,000 people were killed or disappeared in the height of the conflict between 1981 and 1983, and between 500,000 and 1,500,000 people were internally displaced or fled the country (CEH, 1999, Vol.3, Ch.II). As of October 2007, the number of internally displaced people in Guatemala is not known (IDMC interview with the Director of the National Reparations Programme, 30 October 2007).

2. While the majority of IDPs returned to their homes shortly after they fled, a large number of people remained displaced throughout the country. These dispersed IDPs mainly stayed in the shanty towns of the capital Guatemala City, working in the informal sectors as street sellers, domestic workers or in factories, or they went to the southern coast, where some worked as seasonal labourers on large land holdings, or ended up as economic immigrants in the US (CONDEG, 16 May 2006).

3. The dispersed IDPs have been largely unrecognised as such and are very difficult to identify. In addition, many IDPs preferred to remain anonymous in urban areas to escape the risk of persecution and violent death, and never registered to obtain identity documents or to receive government assistance.

4. The National Reparations Programme, which is mandated to compensate victims of the conflict, including displaced people, had as of October 2007 not established a list of victims. A total of 250,000 is still frequently cited for the remaining number of IDPs, based on a survey carried out in 1997 by the UN and two commissions with members from the affected refugee and IDP communities (UNHCR, 1 January 2003). While UN agencies in Guatemala do not officially count IDPs for the purpose of their work, some experts argue that the survey of 1997 remains valid since the IDPs are still unable to regain their lands and have not successfully reintegrated elsewhere. Yet others do not believe the category reflects the situation (Paula Worby, unpublished October 2007). A national organisation for the displaced people uses an estimate of 1,000,000, but the figure is not backed up by a survey (CONDEG, 16 May 2006; RI, 12 July 2005). The main challenge from the National Reparations Committee perspective is to establish a list of victims, including IDPs, eligible for reparation.

II. The right to an effective remedy¹

The 1996 Peace Accord's commitments - progress and challenges in implementation

5. The 1996 peace accord consisted of 13 agreements and included, *inter alia*, commitments to guarantee land rights and ensure the restitution of property and the distribution of land to poor farmers. Other addressed the socio-economic and political integration of uprooted people including IDPs, and the provision of education and documentation. Particular emphasis was given to land, which had been one of the main

¹ UDHR Article 8, ICCPR Article 2.3

causes of the conflict, and to the return or resettlement of people uprooted during the conflict.

6. Important commitments, such as the resettlement of the displaced, redistribution of land and compensation for the uprooted people and other victims of the conflict, have as of October 2007 only been implemented to a very limited degree. There is controversy over the nature of the compensations programme. It has difficulties disbursing its annual allocation of 300 millions quetzals,² mainly due to the lack of criteria on who to identify as an eligible victim. As a result of this incapacity, the Programme in 2006 returned 135 million quetzal to the treasury. As of October 2007, only 40 per cent of its allocation had been disbursed (IDMC interviews Guatemala, October 2007).

7. Some grassroots organisations have expressed concern over the potentially socially disintegrating consequences of the compensations made to individuals by the National Reparations Programme (IDMC Interviews Guatemala, October 2007). Whole communities were affected and awards of compensation to one individual and not to another have caused social divisions (Interviews, October 2007).

8. There have been positive developments and signs of good intentions. In May 2006, the government convened a “national dialogue” to revive the commitments of the peace accord on poverty reduction, redistribution of land, health and indigenous issues. The national IDP organisation CONDEG participates. The government has publicly recognised the state’s responsibility for atrocities committed during the conflict and apologised to the victims. In 2004, it set up the National Reparations Programme to compensate the victims of human rights violations committed during the conflict.

9. However, according to the President of the National Peace Commission set up by the Congress to supervise implementation of the peace accord, since its establishment in 2004, the National Reparations Programme has spent most of its limited internal resources on administration (CoG, 25 May 2006). As of October 2007, the National Reparations Programme had received 14,800 applications for compensation from victims of forced displacement. Yet none of the IDPs have received compensation, despite the fact that forced displacement is included among the criteria to receive it (IDMC interviews, October 2007).

10. The inclusion of forced displacement among the criteria to receive compensation is a welcome step but it does not amount to a comprehensive IDP policy or response by the government and thus a remedy. IDPs have been gradually excluded from the limited attempts to implement the peace accord and, more than ten years after the signing of the accord, they remain largely disregarded as a group with specific needs.

11. The recently established national dialogue has had a mixed reception. While important sectors of civil society, including a national IDP organisation, have decided to participate, they did so hesitantly. A large umbrella organisation representing farmers and indigenous communities has decided not to participate, on the basis that the government

² The equivalent of an estimated 40 million US dollars

lacks credibility and the political will to implement the commitments of the peace accord (MICSP, 13 May 2006). The organisation's scepticism has been fuelled by the government's violent evictions of land occupants, its ties to the landowning elites, and its apparent lack of capacity to address the deteriorating social and economic conditions. Moreover, national organisations established to implement the resettlement agreement and related land issues have not been allocated sufficient resources to ensure effective implementation. A land trust fund set up to help IDPs gain access to land has been under-financed and has made little progress (IDMC interviews, October 2007).

Lack of remedies and durable solutions - obstacles to the return of internally displaced people

12. The lack of remedies and durable solutions, including resettlement and compensation, together with unresolved land issues, have prevented uprooted people from resettling or reintegrating in areas of origin.

13. FONTIERRAS, an autonomous government agency set up to give credit to land-seeking IDPs who could not return to their areas of origin, has not had the means to put into practice the intentions of the peace accord. In 2007, less than 2,000 hectares of land were distributed to 450 families within the scope of its land acquisition programme, while an estimated 500,000 families are landless or do not have enough land to meet their basic needs (Fontierras, accessed 16 January 2008; LRAM, 13 January 2003, p.2).

14. Moreover, resettled IDP communities reported in interviews with IDMC in October 2007 that the poor quality of the land they had bought with loans from FONTIERRAS made it impossible to pay the loans back. As a result, resettled IDP communities had had to stop repayments to FONTIERRAS and feared losing the land they lived on.

15. Addressing the land issues affecting the displaced goes hand in hand with addressing the structural inequalities at the root of the violence, displacement and social breakdown. The peace accord has been poorly implemented as the elite have had few incentives to redistribute property. There were inherent weaknesses in the peace accord, such as a market-assisted land reform which has not been effective. Many wealthy land-owners have deliberately over-priced their land or only sold poor quality land (IDMC interviews with IDPs, October 2007). This has been a major obstacle for FONTIERRAS.

16. At this rate, it would take more than 800 years to ensure access to land for the landless and land-seeking families in Guatemala. A government institution set up to resolve land conflicts, CONTIERRA, lacks the resources to enforce decisions and remains woefully dysfunctional, according to a group of social organisations (COS, March 2006, p. 46).

17. The failure of successive governments to implement the peace accord and the deteriorating economic situation, particularly affecting poor rural areas, has contributed to serious social conflict and land disputes in rural areas. Increasing discontent has triggered numerous occupations of large landholdings by indigenous and landless people

(CDH, 18 January 2006; CONDEG, 3 December 2004). The government has generally responded with violent evictions, thereby fuelling social unrest (AI, 29 March 2006).

18. Another obstacle to the return of IDPs has been resistance from people who never fled, or local communities. The reluctance to receive returning IDPs is both a result of efforts to stigmatise those who fled as guerrilla supporters or instigators of the civil war and the socially destructive consequences of the army's recruitment of indigenous people to fight the guerrillas during the conflict (IDMC interviews, October 2007; IACHR, 6 April 2001, Ch.XIV, para.18-22). IDMC interviews in 2007 revealed resettled IDPs' consistent fear to return to areas of origin due to the atrocities committed by people and communities who were forced by the army to commit human rights violations against other indigenous people in order to avoid displacement themselves.

III. Assistance to IDPs by national and international organizations

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

20. No international organisations were working specifically with the internally displaced in Guatemala as of October 2007. A UN Verification Mission in Guatemala (MINUGUA), set up in 1994 to monitor compliance with the 1996 peace accord and the 1994 resettlement accord, closed in 2004 without having fulfilled its mandate. In 2005 the Office of the UN High Commissioner for Human Rights signed an agreement with the government and set up a country office in Guatemala which focuses on monitoring of economic, social and cultural human rights.

IV. Recommendations to the Government of Guatemala

- Implement fully the commitments of the 1996 Peace Accord, including those regarding the resettlement of the displaced, redistribution of land and compensation to the uprooted people and other victims of conflict;
- Support and guarantee the work of the National Reparations Programme to provide effective remedy and compensate the victims of human rights violations;
- Make sure that internally displaced persons are actually included in the compensation programme;
- In consultation with IDP organisations, assess the situation of IDPs and areas in need of assistance, including revision of the FONTIERRAS programme and the conditions of the loans to IDPs;
- Prepare a comprehensive response to displacement to ensure durable solutions and the enjoyment by IDPs of their rights;
- Address underlying issues, particularly regarding land ownership, which prevent the displaced from resettling or reintegrating.

The information above is drawn from

- the IDMC's online database
- the overview *Guatemala: ten years after peace accords, key provisions benefiting the displaced remain unimplemented* of 9 June 2006 (attached)

More information and Guatemala country profile can be accessed at
<http://www.internal-displacement.org/countries/guatemala>

Selected Sources

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