

**5**

**Rebuilding Civil Society:  
Rural Workers'  
Organizations  
in Guatemala**

---

**Roger Plant**

**ISSUES IN DEVELOPMENT**  
**Discussion Paper**

**5**

**Rebuilding Civil Society:  
Rural Workers'  
Organizations  
in Guatemala**

---

**Roger Plant**

**Development and Technical Cooperation Department  
INTERNATIONAL LABOUR OFFICE GENEVA**

**ISBN .....**

**Copy right page**

The ILO's Development and Technical Cooperation Department is responsible for the formulation and implementation of an effective ILO strategy for development and technical cooperation activities as well as for developing a dynamic resource mobilization strategy. A central objective is to strengthen national capacities of developing countries in the design and implementation of policies and programmes for equitable and sustainable development. This involves the monitoring and analysis of experiences of developing countries and the preparation of policy packages for poverty alleviation and employment creation in rural and urban areas. The main results of this work are published in the Issues in Development Discussion Paper series. These papers disseminate the analysis and empirical information generated by ILO staff, at the Headquarters or in the field, and consultants working on development issues, and are circulated in order to stimulate discussion and to elicit comments.

# Contents

## **Preface**

## **Introduction**

### **Chapter I ILO Conventions and the Guatemalan peace process**

- 1.1 The economic and social context
- 1.2 ILO Conventions and the Guatemalan peace process

### **Chapter II The agrarian structure and rural employment**

- 2.1 Rural Guatemala: a dual society
- 2.2 Brief historical background
  - 2.2.1 The Reformist era: 1944- 1954
  - 2.2.2 The agro-export boom in the new coastal plantations
- 2.3 Land: insecurity of tenure and ownership
- 2.4 Rural employment: trends and characteristics
- 2.5 The incidence of seasonal migrant labour: trends and statistical estimates

### **Chapter III Plantation and seasonal migrant workers' working conditions: law and practice**

- 3.1 Past ILO initiatives
- 3.2 Seasonal migrant workers: law and regulations
- 3.3 Conditions of seasonal migrant workers: the practice
- 3.4 An assessment of existing programmes
- 3.5 Plantation workers
- 3.6 Small farmers

### **Chapter IV Rural workers' organizations in Guatemala**

- 4.1 Rural workers organizations in Guatemala: attempting a typology
- 4.2 Historical background
- 4.3 Rural workers' organizations today: some examples
- 4.4 National trade union organizations
- 4.5 Indigenous, peasant and worker coalitions
- 4.6 Local and community organizations

### **Chapter V Towards targeted organizing strategies: using ILO Conventions**

- 5.1 Application of relevant ILO Conventions in Guatemala
- 5.2 Strategies for supporting rural workers' organizations
- 5.3 Recommendations

## Preface

The study forms part of a series of case studies concerning the practical value of ILO Conventions on rural workers - and in particular its Rural Workers' Organizations Convention, No. 141 of 1975 - in policies and programmes for rural development. A comparative study of Mexico and the Philippines has already been published.

All the studies have been undertaken within the framework of the programme of the ILO's Development and Technical Cooperation Department to further the promotion of the Rural Workers' Organizations Convention. One broad aim of the programme is to respond to a current concern of the ILO, to seek an improved integration and synergy between its standard-setting, research and technical cooperation programmes.

The paper is structured as follows. First, it presents a broad overview of the agrarian structure and rural employment, examining also the problems arising from insecurity of land tenure and ownership. Second, given the importance of seasonal migrant labour in commercial agriculture as a source of employment for the country's indigenous peoples, it examines the situation in law and practice, and also reviews some programmes with the direct or indirect aim of improving the conditions of seasonal migrant workers. Third, it aims to develop a typology of rural workers' organizations in Guatemala, to analyse the evolution over time of these organizations, and to review some of their organizing strategies at the present time. Finally it turns to the ILO's own Conventions as relevant to Guatemala. It reviews the application in practice of the Conventions already ratified by Guatemala, and puts forward some suggestions as to how they could henceforth be used as a reference point for strengthening rural workers' organizations.

Samir Radwan  
Director  
Development and Technical Cooperation Department

## Introduction

After several decades of severe political violence and armed conflict, Guatemala is now engaged in a difficult process of democratization and a negotiated peace settlement. One aspect of democratization has been the recent growth of a variety of rural workers' organizations, taking advantage of the new political space to press their labour, land and other claims.

The aim of the present study is to review the current trends of rural workers' organization in Guatemala, and also to examine whether and how attention to pertinent ILO Conventions ratified by Guatemala could further enhance the growth of strong and independent rural workers' organizations, and thereby contribute to the tenuous peace process on which the country has embarked. Such a review calls for careful attention to the structure of rural employment in Guatemala, which determines the kind of claims that different categories of peasant and rural worker are now pursuing. It also calls for some examination of social, ethnic and cultural factors, in particular the economic and social role in agrarian society of the indigenous peoples who comprise over half of Guatemala's rural population.

The present study is based mainly on the findings of a 24 day mission to Guatemala in November-December 1994. During the visit to Guatemala the author aimed to address broad policy concerns, rather than to attempt a detailed review of each of the issues covered. There is very little reliable data on recent rural employment trends. There is even less data on seasonal migration, including recruitment systems and conditions of employment. There have been no systematic studies on rural workers' organizations, and indeed the number and character of these organizations is now changing very rapidly. An attempt was made to visit as many parts of the country as possible in a relatively brief period, and to interview a wide range of actors.

In Guatemala City several meetings were held with the Minister of Labour and other senior Ministry officials and with other Government agencies including the Ministry of Government (responsible for the registration of rural community organizations), the Guatemalan Social Security Institute, (IGSS) and the National Peace Fund (FONAPAZ) of the Presidency of the Republic. Separate meetings were held with each of the three major trade union federations, with the *Cámara del Agro* (the principal rural employers' organization), the coffee growers' association ANACAFE and the National Sugar Foundation (FONDAZUCAR). Further meetings were held with several international organizations including FAO, UNDP and PRODERE. Contact was established with governmental and non-governmental human rights groups, including the governmental *Procuraduría de Derechos Humanos*, and with a range of indigenous and peasant organizations.

Five separate field visits were undertaken, facilitated by the Government, the United Nations Development Programme, trade unions and other rural workers' organizations.

The first visit was to the regions of Ixil and Ixcán in the department of Quiché, both of them heavily affected by the conflict. In Ixil an intensive schedule was arranged by the PRODERE office, including interviews with the representatives of local development associations (ADELs), women's associations, cooperatives and development centres. Meetings were also facilitated with persons that had recently undertaken seasonal migration, and with labour contractors. In Ixcán, meetings were held with ADELs, and a visit was made to different rural settlements colonized over the past two decades.

The second visit was to several commercial farms, mainly cotton farms, in the Pacific coastal department of Escuintla, where interviews were held with seasonal migrant workers and their families. Visits were also made to the IGSS offices in Escuintla and La Gomera, to discuss the health programmes undertaken by IGSS on behalf of seasonal migrant workers.

The third visit involved helicopter travel to several *municipios* and remote *aldeas* in Huehuetenango department. Interviews were again held with persons who had recently undertaken seasonal migration, with labour contractors, and with local authorities. On the return journey by road, meetings were held with indigenous community development organizations in Totonicapán and Sololá.

The fourth visit was to Coatepeque and Genoa, Retalhieu department on the Pacific Coast, to discuss labour conditions on commercial plantations in this region, and, in particular, to visit a unionized farm where conflict had arisen over the threatened eviction of organized farm workers.

The final visit was to the department of Alta Verapaz, a coffee and cardamom growing area which has been affected by considerable land and rural labour conflict, to meet with the representatives of several affiliated organizations, and to visit farms where organized workers were threatened with eviction.

It was not possible to meet with the full range of governmental and non-governmental actors involved in the various aspects of rural workers' organization. Interviews could be held with only a small and select group of the new rural workers' organizations (RWOs) that have emerged in the country since 1989. The aim is thus to provide a general understanding of the economic, social and political context in which rural organization is now taking place; the kind of RWO that is now emerging; the kind of organizational strategies

being pursued; and the basic problems encountered. Similarly with regard to seasonal migrant workers, the author did not have the opportunity to conduct a rigorous fact-finding exercise. This would in itself have required several weeks or even months work, in particular given the most complete absence of reliable documentation.

## Chapter I ILO Conventions and the Guatemalan Peace process

### 1.1 The economic and social context

Guatemala, like other Central American republics, has a long history of unbalanced economic and social development, with the agrarian structure divided broadly between the large commercial farms producing for the export market, and a small-farm sector producing staple food crops for domestic consumption in farm plots which have generally been too small to provide for a subsistence income. Thus the role of the small farm sector has been both to produce staple foods and to provide seasonal labour on the commercial farms, in particular during the months of the coffee, cotton and sugar harvests.

A further factor has been the ethnic division of society. Economic power has been held almost exclusively by the so-called "ladinos", the descendants of the Spanish colonists and other European immigrants who have always dominated the large-farm sector. Not all ladinos are landowners, but almost without exception all large landowners are ladinos. Approximately half of the national population - and well over half in rural areas - are indigenous peoples of Mayan extraction, themselves divided into over 20 major ethnic and linguistic groups. These indigenous peoples comprise the vast majority of the land-poor and the landless. Until recently, they have performed almost all the seasonal labour on the commercial plantations. As much as one quarter of the national population has been trucked down from the highland villages of indigenous residence to the coastal and other lowland plantations for some four months of the year, where they have endured living and working conditions described by the ILO some 25 years ago as simply "sub-human"<sup>1</sup>. Other indigenous groups, referred to in Guatemala as the "mozos colonos", have resided on a permanent basis within the large farms, enjoying the right to cultivate small parcels of land within these farms in exchange for the provision of their cheap labour during the harvest season.

Guatemala has been affected by serious political violence for almost all of the past four decades, including a military conflict between successive governments and insurgent guerrilla organizations<sup>2</sup>. The underlying causes of conflict are often attributed in part to the denial of basic rights to the poorest sectors of society - in particular indigenous peoples of Mayan descent - to the skewed distribution of resources, including land, and also to the long-standing militarisation of rural society which has prevented effective freedom of organization. While armed conflict between the government and different insurgent groups has occurred sporadically since 1954, the year when a democratic government pledged to land reform was ousted by a military coup, violence has pervaded rural society for all of the past forty years. Attempts to form independent rural organizations, addressing the issues of land security or labour conditions for the rural poor, were, for the most part, thwarted by the atmosphere of generalized violence. Limited organization of rural workers was achieved in the large plantation sector, notably among permanent workers in the banana and sugar industries. Small farmers were able to organize in cooperatives, sometimes through the assistance of officially sponsored programmes. But any form of rural organizing nevertheless proved a difficult and dangerous exercise, in particular for indigenous peoples.

The situation deteriorated yet further by the late 1970s, when insurgent activities escalated in the indigenous-populated highlands. The years between 1978-83 appear to have been the most violent in Guatemala's conflict-ridden recent history. There are reliable accounts that no truly independent form of organization was tolerated in the conflict areas, apart from those imposed by the military as part of its counter-insurgency operations. In the areas of densest conflict, even cooperative leaders were targeted as potential subversives and subject to reprisals including assassination.

Since 1986, the country has experienced a gradual and difficult process of political democratization. A democratically elected civilian President of the Republic, Marco Vinicio Cerezo, held office between 1986-1990. Critics of the Cerezo government pointed to some severe limitations of the democratic process, in particular in that the militarization of the indigenous highlands underwent little change. Indigenous communities were compelled, as in previous years, to form civil defence patrols under military supervision. Attempts to form independent organizations were still confronted by severe difficulties, in particular when their organizational platform included such sensitive issues as the promotion of human rights or the abolition of civil patrols.

President Cerezo's democratically elected successor was forced to resign in 1993, when he attempted to close the national Congress and rule by decree. Congress elected the current President of the Republic, Dr. Ramiro de León Carpio, to serve out the former President's term of office.

The conflict, while far less intense than a decade ago, continues to be very real in parts of the country. Prolonged peace negotiations have been under way since 1987 between the Government and the four armed insurgent groups which together comprise the Unidad Revolucionaria Nacional Guatemalteca (URNG). Important headway in the peace talks was achieved in 1994 when the parties to the conflict, under United Nations moderation, concluded a global agreement on human rights. The parties also agreed on the thematic issues that should be the subject of separate negotiated agreements, including: the identity and rights of indigenous peoples, which has been signed recently; socio-economic aspects and the agrarian situation;

strengthening civil society, and the role of the army, in a democratic society; and constitutional reforms and the electoral regime.

Meanwhile there has been intense mobilization of civil society, through diverse interest groups and organizations which are taking advantage of the current climate to press demands for social and economic reform. This process can only be understood by reference to Guatemala's recent past where, despite a liberal Constitution and the formal institutions of democratic government, there was very limited opportunity for effective participation by representatives of the urban and rural poor, and in particular of the indigenous peoples.

The conflict situation and its legacy has now spawned a large number of new organizations, many of which are difficult to categorize in terms of their immediate or short-term objectives. It is often difficult for example to distinguish between the groups which define themselves as workers' organizations, addressing the conditions of work and employment, and those with a broader agenda. It is significant that none of the trade union federations and confederations active in the 1960s and 1970s survive in their same form today. The three major national trade union organizations were all created after the mid 1980s, during the early stages of political democratization. Moreover, the trade union movement as such has never had a strong presence in rural areas, its membership being limited mainly to the permanent workers on banana and sugar plantations. The trade unions now coexist or compete with a range of newer organizations which, while identifying themselves, at least in part, as labour organizations striving for improved salaries and stability of rural employment, also fight for land rights, human rights, indigenous cultural rights and the demilitarization of rural society, among other issues.

## **1.2 ILO Conventions and the Guatemalan peace process**

Guatemala has ratified a relatively large number of ILO Conventions, 67 altogether, of which 61 were in force at the end of 1994. These include basic human rights Conventions relating to freedom of association and the right to collective bargaining; the abolition of forced labour; the elimination of discrimination in employment and occupation; and the minimum age of employment. Moreover - significantly in view of its agrarian and labour force structure - Guatemala is one of the very few countries in the world to ratify both of the key ILO Conventions relating to plantation workers and to rural workers' organizations.

The ILO's Plantations Convention, No. 110 of 1958, was ratified by Guatemala in 1961. This instrument represents an attempt to extend a range of social protection to one vulnerable category of rural workers, namely plantation workers. Plantations are broadly defined as any agricultural undertaking regularly employing hired workers, situated in tropical or subtropical regions, and concerned mainly with the cultivation or production for commercial purposes of a range of crops including bananas, coffee, cotton, rubber, sugar cane, tea and tobacco, among others<sup>3</sup>. Member states can also, after consultation with representative organizations of employers and workers, make the Convention applicable to plantations cultivating other crops including cardamom. The Convention covers in detail a range of issues including: engagement and recruitment of migrant workers; contracts of employment and abolition of penal sanctions; wages; annual holidays with pay; weekly rest; maternity protection; workmen's compensation; right to organize and collective bargaining; freedom of association; labour inspection; housing; and medical care. Moreover, an important part of the Convention (Part II) deals specifically with the engagement and recruitment of migrant workers, and is applicable to national as well as international migration. Its most important provisions can be summarized, as follows. Article 7 provides that no person or association shall be engaged in professional recruiting unless licensed by the competent authority, and engaged in recruiting for a public department or for one or more specific employers or organizations of employers. Article 8 provides that employers, employers' agents, organizations subsidized by employers, and the agents of organizations of employers and of organizations subsidized by employers shall only engage in recruiting if licensed by the competent authority. Article 9 provides that recruited workers shall be brought before a public officer, who shall satisfy himself that the law and regulations concerning recruiting have been observed. Article 10 provides that, "where the circumstances make the adoption of such a provision necessary", the competent authority shall require that each recruited worker who is not engaged at or near the place of recruiting be given a document in writing concerning issues including the prospective conditions of employment and any advances of wages made to the worker. Article 11 contains detailed provisions concerning the medical examination of migrant workers. Articles 12 and 13 govern the conditions of transport, providing inter alia that the recruiter or employer shall bear all the expenses of such transport, and should also provide the workers with everything necessary during the journey. Article 16 provides that the competent authority shall limit the amount which may be paid to recruited workers in respect of advances of wages, and shall regulate the conditions under which such advances may be made.

The Rural Workers' Organizations Convention, No. 141 of 1975, was ratified by Guatemala in 1989. This instrument marks - with the exception of the revised Indigenous and Tribal Peoples Convention - the last of the ILO standards concerned specifically with rural workers. Originally planned as a non-binding Recommendation with an emphasis on human resource development to facilitate the participation of rural workers' organizations in official policy planning and in social welfare programmes, the instrument was eventually upgraded to a binding Convention at the insistence of worker delegates to the ILO Conference. It is particularly significant for the extent of its coverage. Building on the non-binding standards of the 1960s, it extends the definition of "rural workers" way beyond the salaried rural labour force, most likely to be

organized in conventional trade unions, to all categories of rural workers including the self-employed. The Convention covers all persons engaged in agriculture, handicrafts or a related occupation in a rural area, including tenants, sharecroppers and small owner-occupiers. The only restriction is that it applies only to the tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not - (a) permanently employ workers; or (b) employ a substantial number of seasonal workers; or (c) have any land cultivated by sharecroppers or tenants.

The substantive parts of the Convention fall into two main areas:

First, it recognizes the right of freedom of association for all categories of rural workers. They shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. Rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression. The acquisition of legal personality by organizations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the above-named provisions (Art.3).

Second, the Convention recognizes the duty of ratifying States to provide positive support for free and independent organizations of rural workers. "It shall be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of rural workers in economic and social development and in the benefits resulting therefrom" (Art.4). Ratifying Member States "shall adopt and carry out a policy of active encouragement to these organizations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities..." (Art. 5).

These two Conventions are of much practical relevance in Guatemala today.

Yet they have received very little attention in the country. In contrast, a tremendous degree of attention has been devoted to an ILO Convention not so far ratified by Guatemala, namely the Indigenous and Tribal Peoples Convention, No. 169 of 1989, which has figured prominently in the on-going peace negotiations. This new Convention places great emphasis on institutional aspects, to ensure that indigenous peoples should exercise the maximum control over their lifestyles, institutions and development. In applying the provisions of the Convention, governments shall (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; (c) establish means for the development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose (Art.6). It is further provided that indigenous peoples shall have the right to retain their own customs and institutions "where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights" (Article 8). The underlying spirit of the Convention is that all development programmes affecting indigenous peoples (vocational training, handicrafts, rural industries, social security and health, education and means of communication) should be planned through and progressively implemented by the representative institutions of indigenous peoples themselves. A substantial part of the Convention deals with land rights, requiring *inter alia* that governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection for their rights of ownership and possession (Article 14). A detailed article governs recruitment and conditions of employment, providing *inter alia* that governments shall take measures to ensure that "workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection provided by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them". Particular attention is also to be paid to the establishment of adequate labour inspection services in areas where indigenous peoples undertake wage employment (Art.20).

The main issue of controversy, apart from the difficult negotiations over land, has been whether the Mayan and other indigenous peoples of Guatemala should enjoy a special political status under the Constitution. After six months of negotiations, that often seemed to end in frustration, the Government and the Guatemalan National Revolutionary Unity (URNG) signed an agreement on the identity and the rights of indigenous peoples on 31 March 1995 in Mexico. The 20 page agreement addresses a broad range of issues, including education, language, gender, cultures, traditional indigenous knowledge, land rights and common law. The prospects of an early ratification of Convention No. 169 by the Guatemalan Congress appear now very promising.

If this indeed proves to be the case, an enhanced attention to the Conventions already ratified by Guatemala will provide important guarantees for freedom of organization, and for protection against abusive conditions of work in the plantation sector, thus reinforcing indigenous peoples' claim for special protection. Some proposals as to how the Government of Guatemala, the social partners and the ILO itself could now take practical action to secure improved application of these Conventions are made in the final chapter.



## Chapter II The agrarian structure and rural employment

### 2.1 Rural Guatemala: a dual society

In simple terms rural Guatemala can be portrayed as a dual society, sharply divided on ethnic lines, in terms of land and income distribution, and also in terms of its basic topography. In terms of rural land distribution the most recent census figures available, from 1979, indicate that over 78% of all farms were under 3.5 hectares in size and occupied just over 10% of the national land. Conversely, less than one per cent of all farms were over 2.500 hectares in size and accounted for over 20% of the land. Less than 2% of the population is estimated to own at least 65% of the land, in a system of land distribution that is one of the most skewed in the developing world.

While these figures are themselves indicative, it is perhaps more important to understand the different patterns of land and labour use, together with the ethnic composition of the rural population, in different parts of the country. The engine of Guatemala's economic growth has been its export agriculture, with a small range of export products today accounting for over half of all export earnings. The principal export crop, today as over a century ago, is coffee, accounting for over a quarter of a billion dollars of export earnings in 1993. Next in importance comes sugar cane, followed by cardamom. Cotton was a major export crop between the 1950s and 1970s, though its production has fallen sharply since the early 1980s and drastically during the 1990s<sup>4</sup>.

The export crops of bananas, cotton and sugar (and, more recently, cardamom and rubber) have been cultivated mainly on large plantations which (with the exception of bananas that provides more year-round employment) require a very substantial supply of seasonal labour during the harvest season. While coffee is produced by small and large farmers alike, the bulk of export production is in the commercial sector of agriculture. The staple food crops of maize, beans and rice have been produced almost exclusively in the small-farm sector.

The large commercial farms are located primarily in the Pacific coastal region (cotton and sugar) and in the Caribbean coastal region (bananas). Coffee is cultivated mainly along the Pacific "boca costa", the volcanic soils of the lower hills rising from the Pacific coast towards the higher altiplano, and in the terrain of similar climate in the north-eastern department of Alta Verapaz.

The regions of highest population density are the western highlands or altiplano, populated largely by indigenous peoples of Mayan descent. These are the departments of Baja Verapaz, Chimaltenango, Huehuetenango, Quezaltenango, Quiché, Sololá and Totonicapán, characterized by indigenous farming of minute plots too small to provide family subsistence on a year-round basis.

Altogether, this structure is often referred to as the latifundio-minifundio complex. The large farm sector could not survive economically without the provision of cheap seasonal labour, supplied through the indigenous migrant workers. Conversely, the indigenous farmers could not survive without the availability of extra incomes during the lean months of the year. Yet by no means all indigenous peoples have earned their livelihood from below-subsistence farming in the highlands, supplemented by seasonal migration to the large plantations. A further category are the so-called mozos colonos, the farm labourers who have resided on a more permanent basis within the large farms, enjoying rights to cultivate small subsistence parcels within these farms in exchange for the provision of their cheap labour during the harvest season.

Outside these main groupings, other categories deserve some mention. The south-eastern departments (Chiquimula, El Progreso, Jutiapa and Zacapa), lowland areas inhabited mainly by non-indigenous peoples of Spanish and other European descent, are a mix of extensive cattle-rearing, medium and small farming. Rural poverty and landlessness is to be found in these areas too, affecting the ladino as well as indigenous peoples. And the largest land area is the north-eastern department of the Petén, a natural forest region where land colonization programmes have been undertaken since the 1950s. While the professed aim of the colonization programmes has been to open up the Petén to small and medium farming, and to redress the acute problems of land shortage in other departments, large plantation agriculture has also developed in this region. In the southern Petén, cardamom has been developed as the principal export crop.

### 2.2 Brief historical background

How did this agrarian structure develop over time? What efforts have been made to reform it, and to what effect? To what extent are contemporary peasant, rural worker and indigenous organizations aiming to redress historical grievances? Only a brief summary is provided below, in so far as it is considered relevant to an assessment of organizational strategies in later sections.

As in the rest of Latin America, the colonial period saw the concentration of much land in the hands of Spanish colonists and their descendants. But the demand for indigenous labour was limited, and indigenous groups were generally able to retain sufficient land for their subsistence needs upon the payment of tribute.

It was the introduction of extensive coffee farming for export in the late nineteenth century that really paved the way for the present agrarian structure. Land registration requirements aimed to promote plantation agriculture, to break up communal lands, and thereby to increase indigenous dependence on salaried agricultural labour. The "liberal reforms" introduced in the 1870s deliberately created a class of large landowners, at the expense of indigenous cultivators, to take advantage of the expanding world market for coffee. A Presidential Decree of 1873 provided for the sale of national lands, in individual lots of between 45 and 225 hectares. A subsequent law of 1894 established a ceiling of 675 hectares for individual farms. The land distribution then accelerated in the first two decades of the present century. Between 1896 and 1921 some 3,600 persons received an average of 450 hectares each. As it has been observed, the liberal reforms were particularly pernicious for the indigenous peoples of the altiplano. Since the ideal terrain for coffee is the land between 800 and 1,500 metres of altitude, the indigenous peoples who had been cultivating these lands for generations were compelled to relocate to higher and less fertile lands for their subsistence cultivation<sup>5</sup>.

Foreign immigration was also encouraged, through the offering of free land to all those who would develop coffee, rubber and other plantations. At the same time, induced indebtedness was an important factor in securing the needed indigenous labour for the new plantations. A law of the 1870s required all indigenous peasants to carry work-books recording their debts, and enabled local authorities to arrest any defaulters. Local political bosses were installed in all parts of the country to control freedom of movement. Though such debt bondage was officially abolished in 1933, it was replaced by a so-called Vagrancy Law requiring all landless peasants and very small farmers to provide a fixed period of annual labour ( up to 150 days per year) on the large estates.

In the 1930s, more systematic efforts were made to terminate the status of the surviving indigenous communities in both law and practice. The modernizing dictator General Jorge Ubico (1930-1944) enacted a Decree in 1931, under which the ejidal lands of the communities in the altiplano were to be divided among indigenous families. A further Decree provided that landless rural workers were to be allocated plots of up to seven hectares, with rights of usufruct over the lands in question. By the time of the Second World War near-landlessness and effective forced farm labour seemed to be a fact of life for most of the indigenous peasantry. The agrarian and labour structure varied from region to region. Alta Verapaz became an enclave economy of German immigrant coffee farmers, producing almost one third of the national coffee product. Here the Kekchi and Pokomchi Indians appear to have lost most of their traditional lands, ending up as mozos colonos on the emerging foreign-owned plantations. In the western highlands, most indigenous groups managed to retain some land, but provided the seasonal labour supply for the new coffee estates in western regions. A further enclave was the huge banana plantations in the western lowlands, with the United Fruit Company receiving a grant of almost 70,000 hectares of prime agricultural land in exchange for a guarantee to build a national railroad.

#### 2.2.1 The Reformist era: 1944-1954

The decade between 1944-54 was exceptional. These ten years saw democratic government, the enactment of the country's first Labour Code in 1947, an Agrarian Reform Act of 1952, and official promotion of organizations of rural workers, peasant leagues and cooperatives. The period saw progressively more ambitious moves towards sweeping changes of the country's agrarian and social structure, focusing first on labour rights and an end to semi-feudal labour practices, and later on a measure of redistribution of the rural land itself. The 1945 Constitution set the stage by proclaiming the "social function of property", and allowing in principle for the expropriation of private property upon the payment of prior compensation. Reflecting the principles of Mexico's post-revolutionary social legislation, it embodied the kind of provisions that were to underpin land reform programmes in the rest of Latin America in the 1950s and 1960s. It is worthy recalling the Ley de Titulación Supletoria which aimed, among other things, to improve the titling of indigenous lands, giving priority to the proven use of land rather than the written titles whose validity could often be questioned. The 1947 Labour Code was advanced for its time, providing for minimum wages and recognizing the freedoms of organization and strike activity, though in the rural sector unionization was permitted only on enterprises employing 500 or more workers. A 1949 Law of Forced Rental entitled landless and near-landless farmers to demand rented plots, with a ceiling on the rents payable to the landowner.

The land reform law was enacted in 1952, but the land reform programme itself was short-lived. The law provided inter alia for the elimination of all "feudal" forms of land and labour use including the abolition of all types of servitude, the nationalization of expropriated lands, and subsequent allotment to the landless in usufruct or rental. The basic objective was to expropriate idle lands worked under share cropping or tenancy. However, no farm less than 90 hectares in size was subject to expropriation. In farms over 90 hectares in size, only those portions left uncultivated or cultivated under semi-feudal labour practices were subject to expropriation. Farms between 90 and 270 hectares, of which at least two thirds of the land area was cultivated, were similarly exempt from expropriation. And, importantly, the farms which produced a range of identified commercial crops ( including coffee, cotton, bananas, sugar cane and tea) were exempt from expropriation, even when they were worked under share-cropping arrangements. Compensation was to be paid through 25-year bonds at low interest rates, land values being assessed in accordance with tax declarations.

Just over one million hectares was actually distributed between 1952-54, just over half this amount being expropriated private lands, the remainder being national lands.

### 2.2.2 The agro-export boom in the new coastal plantations

After the 1954 military intervention, almost all the expropriated land was returned to its former owners. Moreover, a Decree of 1954 actually permitted landowners to re-establish the "semi-feudal" colono system, under which landowners could avail themselves of a cheap labour force by providing subsistence plots on their plantations in exchange for labour during the harvest season. On the national farms which had been allocated to farm workers as cooperatives, the reform beneficiaries were removed and the farms returned to State administration. Subsequent policies were to distribute them to individuals as exceedingly large farms. USAID estimates that, during two military governments between 1954-62, 39 beneficiaries received no less than 122,000 hectares or an average of 3,128 hectares each. Moreover, these farms contained prime land for the cultivation of permanent export crops including coffee, cardamom and sugar cane.

In the early 1950s, coffee and bananas accounted for some 90% of all agricultural exports. With the reversal of the land reform programme after 1954, a focus on new export crops was to have a decisive impact on the agrarian structure and labour use over the following decades. The major expansion took place along the Pacific coastal littoral, which had until then been populated largely by indigenous and other peasants engaged in subsistence agriculture. The area cultivated with cotton expanded from only 5,000 hectares in 1952 to 120,000 hectares 20 years later. Sugar cultivation began to expand as of the early 1960's, when the US embargo on Cuban sugar provided all the Central American republics with increased access to the US market. About 90% of all the land in the Pacific region became concentrated in medium and large farms. And between 1960 and 1980 the total area under export crops rose at an annual rate of more than two per cent<sup>6</sup>.

The emphasis on new export crops greatly increased the demand for seasonal labour during the few months of the harvest period. Some three quarters of sugar cane workers, and over 90% of the labourers in the cotton industry, are hired on a seasonal basis during the peak period between October and February. The increasing atomization of small farm plots in the indigenous highlands ensured that such a labour supply was readily available. Comparison of the 1964 and 1979 agricultural census figures gives some idea of land tenure trends in the highlands over this period. While the land area occupied by small farms under 10 manzanas remained more or less constant, their actual number rose from 364,879 to 547,574, and the average size of small farms declined sharply from 1.8 to 1.2 hectares<sup>7</sup>. And while the majority of the indigenous population had some access to small farm plots of their own, albeit too small to provide for an adequate subsistence, there was a steady growth in absolute rural landlessness. The USAID study estimated that the number of landless members of the economically active rural population was over 400,000 by 1980<sup>8</sup>.

### 2.3 Land: insecurity of tenure and ownership

A critical problem throughout Guatemala today is the insecurity of land tenure and ownership for much of the rural poor. It affects indigenous communities, colonists in the frontier areas of new land colonization, returning refugees, and internally displaced persons. Separate dimensions of these problems have to be identified. First, there is the long-standing land insecurity arising either from the failure of indigenous communities to register their traditional lands, or from inadequacies in the registration system that have worked to the disadvantage of indigenous peasant communities. Second, there are the problems of provisional or insecure land title, most evident in parts of northern Quiché and the Petén department where official colonization programmes have taken place since the 1960s. Third, immense problems have arisen in all the areas affected by the conflict of the 1970s and 1980s, when entire communities fled their traditional lands which were subsequently occupied by other individuals.

By law, the special status of indigenous communal lands is recognized under the 1985 Constitution, five articles of which are concerned generally with indigenous communities, and two articles more specifically with their lands. Article 67 covers the protection of indigenous lands and agricultural cooperatives. The lands of indigenous cooperatives, agricultural communities or any other forms of communal or collective tenure of agrarian property are to enjoy special protection from the State, as well as preferential access to credit and technical assistance to guarantee their possession and development and thereby to ensure for their inhabitants a better quality of life. Article 68 provides that the State, through special programmes and adequate legislation, will provide state lands to the indigenous communities who need this for their development. While Article 70 provides that the above articles of the Constitution shall be regulated by law, no such law had been passed by early 1995.

Very few indigenous communities have in fact received communal title to their lands. As observed earlier, huge amounts of indigenous land were lost in the late nineteenth and early twentieth centuries, particularly through the growth of large-scale coffee cultivation after the 1870s. Despite the provisions of the 1985 Constitution, the situation in Guatemala is markedly different from that in the other Latin American countries (Bolivia, Ecuador, Mexico and Peru) where indigenous peoples comprise a majority or near-majority of the national rural population. In the remaining countries, a substantial proportion resides in Indigenous Communities where land tenure and ownership is specially regulated by law, with restrictions or prohibition on alienation to non-indigenous outsiders. In Guatemala, since at least the 1930s, this has not been the case. A very small number of communities actually have titles registered in the Immovable Property Registry in the name of the community itself, on the condition that the community should have civil recognition with legal personality. There are other cases where community lands have once been registered

in the name of a community leader, perhaps long dead. As in Mexico, Guatemalan law provides for the existence of ejidos, but without the degree of protection available in Mexico. The 1962 Ley de Transformación Agraria provides for example that ejidal lands which remain idle for a three year period, despite the technical assistance furnished by the Ministry of Agriculture, can be subject to expropriation for agricultural purposes. Most land under the traditional use of indigenous peoples appears to have the status of municipal land.

It is difficult to assess what proportion of indigenous and other peasants possess individual land titles. The International Fund for Agricultural Development (IFAD) estimated in 1991 that some 80% of the peasants owning seven hectares or less either possessed land title deeds or had "rights of possession" by virtue of the length of time they had occupied their plots. Yet the situation clearly varies from area to area. In the western highlands, where there are practically no large farms and the same indigenous communities have occupied their land for generations, it can be assumed that the degree of land security is greater. In Alta Verapaz, where there has been extensive conflict between indigenous communities and relatively new landowners, a recent survey found that 95.89% of the Kekchi Indians interviewed had no land titles; and that the remaining 4.11% had only "provisional documents" rather than legally registered titles. As many of half the interviewees attributed their difficulties in obtaining titles to the problems encountered with large landowners of the region<sup>9</sup>.

Responsibility for issuing land titles is vested in the National Agrarian Transformation Institute (INTA), created in 1962. Titles have to be purchased, over a 20-year interest free period. INTA also administers national lands, and provides technical and financial assistance to the beneficiaries of its land transfers and colonization programmes. As a titling agency, its record has been particularly poor. Only 800 full titles altogether were issued during the five-year period between 1986-91. While only individual or family titles were provided in the first two decades of INTA's existence, in 1980 it introduced the system of the patrimonio agrario colectivo under which group titles could be issued to agricultural cooperatives in areas of land colonization. Significant colonization programmes have taken place. Apart from the slowness in issuing land titles, a real problem that INTA has never resolved adequately is the existence of overlapping titles to the same land areas. The problems in law derive from the Ley de Titulación Supletoria, adopted during the reformist era. As seen earlier, the basic purpose of this law was to favour possession rather than dubious land titles as legal proof of ownership, by granting supplementary titles to those persons who had worked the land for at least a ten year period. In theory the mechanism should have worked to the benefit of small farmers. In practice, as USAID has observed, it was often used as a mechanism for large farmers to expand their land areas. There are several cases today where indigenous communities have long-standing written title to lands over which private farmers hold supplementary titles. Such cases have been the source of regular conflict in recent years.

In the colonization areas, the problems are usually different. INTA has issued provisional titles, on either an individual or collective basis, but these have rarely been converted into definitive title. INTA estimates are that as many as 70% of the persons occupying land under the patrimonio agrario familiar or the patrimonio agrario colectivo are without full title. Many of these are heavily indebted, and could run a serious risk of land eviction. In the visit to the Ixcán region of northern Quiché, the difficulties and delays in obtaining titles were cited as the major grievance by the peasant groups interviewed.

In the conflict areas, the problems are compounded by the massive displacement that has taken place since the late 1970s. Apart from those who fled to Mexico the number of internally displaced persons is usually estimated at approximately one million or as much as 10% of the national population. Entire villages of indigenous people sought refuge from the violence by settling in higher mountain regions and forests. Since early 1994 many of these self-defined Communities in Resistance (CPRs) have come out in the open, and begun to establish themselves in settlements for which they are seeking official recognition as peasant communities. Immense problems have arisen, when refugees and internally displaced persons have sought to return to their original lands. In the frontier regions of Ixcán for example, many of these had previously been organized in cooperatives with at least provisional title to their land. One of the main demands of the groups negotiating the return was that their legitimate rights be recognized to the lands that they had been forced to abandon as a result of military repression. At the height of the violence, however, the military had settled peasants from other regions on these same lands. Government policy has apparently been to permit new settlers to remain on these lands, while recognizing that the cooperatives have a valid land claim. Recently, slow progress in seeking and acquiring alternative lands has delayed the repatriation of refugees<sup>10</sup>. A National Commission for Assistance to Repatriated, Refugee and Displaced Persons (CEAR) has been involved in the search for alternative lands, and has conducted partial cadastral surveys to identify proposed sites. But it is accepted that the disorganized state of the property register will render this an exceedingly difficult task.

#### **2.4 Rural employment: trends and characteristics**

Measuring rural employment is a difficult task, because at least some of the employment cannot easily be captured in labour force surveys. This is particularly true of seasonal agricultural labour, for which considerable differences exist in the recent available estimates.

In the agricultural sector, the major types of employment can nevertheless be identified. First there is year-round and waged employment in the plantation sector. Second there is colono labour on the plantations, whereby the worker resides year-round on the plantation but may not receive wages throughout the year. Third, there is self-employment in the medium and small farm sector. Fourth there is seasonal and precarious labour, which may be hired on a daily basis, or may alternatively take the form of structured seasonal migration over a longer time period. Outside the agricultural sector there is non-farm rural employment, including artisan work.

In 1989 the rural economically active population of Guatemala was estimated to comprise 1,752,391 persons, of whom 82.7 per cent were male and 17.3 per cent female<sup>11</sup>. Of this amount, 1,250,502 were estimated to be employed in agricultural and livestock activities<sup>12</sup>. Altogether, agriculture employed some 50.6% of the labour force in 1989. By crop the most important sector was basic grains (accounting for 53.2% of rural employment) followed by coffee (21.8%). Sugar cane and cotton were of far less importance in labour absorption (at 1.5% and 0.9% respectively).

INE's 1989 survey sheds some light on the composition of agricultural employment by crop, in particular the distribution between permanent and temporary employment. For basic grains, over 86% of labour is provided by owner occupiers and their families, 11.5% by temporary labour and only 1.6% by permanent wage labour. In coffee as much as 50.8% is provided by permanent wage labour, 31.3% by temporary wage labour, 7.5% by family labour, and 9.9% by owners. In sugar cane, the bulk of employment is wage labour (41.6% permanent and 47.8% temporary). Cotton has the highest proportion of wage labour (14.3% permanent, and 84.5% temporary).

Little statistical information is available, concerning trends in permanent agricultural employment over time. But there has been a clear trend towards reducing the number of colonos with access to subsistence parcels, and replacing them with exclusively wage labour. The widespread eviction of colonos from coffee plantations was documented as long ago as the 1970s, but appears to have been particularly marked in both the Pacific coast and Alta Verapaz since the late 1980s. As a number of informants stated in the coastal region, the majority of large farms have evicted their resident labour force over the past five years. In Alta Verapaz, as will be seen further below, the more recent spate of eviction can be linked to the growth of organized labour and demands for the enforcement of legal minimum wages. Where colonos do still have access to subsistence plots, it has been commonplace for them to receive wages as low as half or even one third of the legal minimum.

## **2.5 The incidence of seasonal migrant labour: trends and statistical estimates**

The exact number of persons who undertake seasonal agricultural migration on one or more occasions each year is impossible to calculate. This type of labour is not captured in official statistics. And markedly different estimates have been provided in recent years. Moreover the nature of this migration - including the average length of work spells, the crops, and the areas of destination - appears to have been changing in recent years. Between the 1960s-1970s several estimates gave a figure of between 300,000 and 400,000 migrant workers every year, engaged in the coffee, cotton and sugar harvests<sup>13</sup>. For the 1965-66 period the most authoritative account gave a minimum estimate of 302,500 temporary workers (167,000 in coffee, 118,000 in cotton and 17,000 in sugar) and a maximum estimate of 408,000 (237,000 in coffee, 150,000 in cotton, and 21,000 in sugar)<sup>14</sup>. Yet the figures are likely to have increased further in the following decade. The land area under export crops is estimated to have risen at an annual rate of more than 2% between 1960 and 1980, with a significant increase in the acreage under cotton and sugar cane. Moreover, many large landowners were systematically evicting colonos during this period, replacing the permanent labour supply with greater recourse to seasonal and temporary labour. Thus demand and supply of temporary labour are likely to have risen simultaneously, with atomization of small farm plots and forced eviction of indigenous farmers from the larger farms both increasing supply as the demand for such labour increased in commercial agriculture.

Since the early 1980s seasonal migration to Mexico, in particular during the coffee harvest of Mexico's southern state of Chiapas, has been of growing importance. In 1992 a joint study of the Ministry of Labour and the International Organization for Migration (IOM) found that over 87,000 Guatemalan workers had legally undertaken migrant labour in Mexico during this year. Yet the Guatemalan government has estimated that the number of undocumented migrants to Mexico may be twice as many again, comprising some 250,000 workers in all.

A key question is the extent to which the external migrant labour flows to Mexico are actually replacing the internal migratory flows within Guatemala itself. Mexican wages are estimated to be some 50% higher than those within Guatemala. Is this reducing the labour supply for domestic agriculture, thus providing upward pressure on wages? Alternatively, is labour demand actually being reduced within Guatemala, due to changing crop patterns, declining production of some crops, or partial mechanization?

In some crops, labour demand has declined dramatically over the past decade or so. The clearest example is cotton, the most labour-intensive of all export crops during the harvest season, as the area under cotton cultivation declined almost tenfold from some 245,000 manzanas in 1970 to no more than 25,000 by 1992. Coffee production has been more stable, and continues to be Guatemala's main export crop in terms

of revenue, land and labour utilization<sup>15</sup>. It is difficult to calculate the incidence of seasonal labour, given that some 30,000 coffee producers or over two thirds of the total are small farmers. In addition, much of the labour on the larger plantations is provided either by "mozos colonos" or by so-called "voluntarios" who seek casual labour of their own accord rather than through a registered labour contractor. INE estimated in 1989 that some 80,000 temporary labourers were engaged in the coffee harvest during the September-December period. One analyst has estimated that some 60% of temporary workers in coffee reside year-round in the departments where they participate in the harvest, while 40% are brought in from other departments<sup>16</sup>. Sugar cane cultivation has also been stable in recent years, after a decline in the early 1980s when the world market price fell sharply. The National Sugar Foundation (FUNDAZUCAR) estimates that cane cutting provides employment for over 60,000 workers during the harvest season<sup>17</sup>.

The production figures suggest that, with the important exception of cotton, the demand for seasonal migratory labour is likely to have remained high. Nevertheless, since the early 1980s there have been some important changes in the nature of this labour market. Traditionally, it has involved movements of workers and their families to the plantation sector for the entire duration of the harvest, perhaps as much as four or five months of the year depending on the crop. As migration took place only once per year, it was perhaps easier to register the numbers involved. More recently, it has become clear that workers (particularly male workers) may migrate on two or more occasions for shorter periods. This was confirmed through interviews conducted in the present mission, both in the highland areas of out-migration and on the Pacific coastal plantations. Many informants stated that the current practice of recruiting migrant workers for a one-month period was due to landowners' concern to evade social security payments.

An additional factor has been the growth of new crops with a different production cycle, particularly cardamom of which Guatemala is now the world's leading producer. Originally cultivated on large farms in the Petén, cardamom has now spread to the Pacific coast and the lower slopes of the "boca costa". Many of the coffee plantations have undergone some diversification into cardamom and also rubber, changing the pattern of their seasonal labour requirements. Research in the poorer indigenous villages of Huehuetenango department for example, from which as many of half the indigenous population still migrate for at least part of the year, points to the growing complexity of these migratory flows. One group of workers, comprising mainly young men and women, leave for the cardamom harvest in May. Some of these remain for one or two months, others until the major coffee harvest gets under way after September. A far larger group leaves in September or October, for the coffee, cotton and sugar harvests. Cane cutting is performed exclusively by male family members, but women and young persons may nevertheless leave with the male head of family to seek work in the coffee and cotton harvests.

In these circumstances, a recent study undertaken for the Guatemalan Ministry of Labour points to the difficulty in assessing the number of migrant workers in agriculture<sup>18</sup>. As is observed, the total volume of the migrant population can be estimated at between 500 and 600 thousand workers, including men, women, and young persons of both sexes. However, the number of separate individuals is likely to be between 400 and 450 thousand persons, given that many thousands of these workers undertake migration two or even three times a year. It should be noted that far higher estimates have been made in recent years. An internal study undertaken for the Pan American Health Organization in 1992, based on extensive interviews in the departments of Huehuetenango and Quiché, and also in the Pacific coastal department of Escuintla, reached an estimate of at least 1, 200, 000 persons.

Finally, it should be observed that the characteristics of the temporary labour market have certainly been changing over the past decade. Traditionally, such seasonal labour has been provided predominantly by indigenous migrants from the highlands who return to their places of origin at the end of the harvest season. However, as the plantations have progressively evicted their permanent labour force, a labour force of landless rural workers has been available in the vicinity of the plantations. While only anecdotal information is available, informants from cotton plantations in Escuintla department stated that many of the temporary workers were now landless "ladinos" including migrant workers from neighbouring El Salvador.

## Chapter III Plantation and seasonal migrant workers' working conditions: law and practice

### 3.1 Past ILO initiatives

The recruitment, transport, living and working conditions of seasonal migrant workers in Guatemala has been a long-standing concern of the ILO itself. As long ago as the late 1960's, the problems of this category of rural workers were addressed in an ILO/UNDP technical assistance project<sup>19</sup>.

One of the most important outputs of these earlier ILO/UNDP consultancies was the preparation in the late 1960s of draft legislation for the regulation of seasonal agricultural labour<sup>20</sup>. The draft law was studied and approved by a special Commission nominated by the Ministry of Labour. Perhaps its main recommendation was the elimination of the system of private recruiting agents for temporary agricultural labour. Referring to relevant ILO Conventions on employment services already ratified by Guatemala, the Commission proposed instead that a system of labour placement agencies be organized throughout the Republic. During a transitional period the activities of private labour contractors should be closely regulated. The traditional practices of inducing the indebtedness of the seasonal workers through the payment of "habilitaciones" or "anticipos a sueldo" should also be suppressed. To counter this practice, State agencies such as the Banco de los Trabajadores and the Banco Nacional Agrario should study the possibility of creating alternative credit systems in order to meet the needs of the seasonal workers.

### 3.2 Seasonal migrant workers: law and regulations

The 1985 Constitution recognizes that indigenous migrant workers should be provided with special protection. Article 69 (part of the section covering Indigenous Communities) provides that labour activities involving the transfer of workers outside their communities shall be governed by legislation to ensure adequate conditions of health, security and social welfare, preventing the payment of salaries below the legal minimum, the disintegration of indigenous communities and in general any discriminatory treatment. No law has been enacted so far, despite a provision (Article 70 of the Constitution) that all articles in this section shall be so regulated by law.

The recruitment, living and working conditions of all agricultural workers are governed by a special section of the Guatemalan Labour Code (Articles 138-145). Campesino workers are defined as peones mozos, jornaleros, cuadrilleros and similar workers engaged in an agricultural or livestock enterprise. Cuadrillero is the term utilized in Guatemalan labour law to refer to the migrant workers recruited in groups under contract to farm owners or representatives. By law, each representative of the landowner who engages in recruitment activities is required to be in possession of a carta poder (legal permit), a copy of which is detained by the Administrative Department of Labour. The permit must be renewed annually. Labour recruiters are to receive a fixed salary from the landowner, and the landowner is prohibited from paying any additional emoluments or rewards for these services. It is the obligation of the Labour Inspectorate to instruct rural workers that, in the defence of their interests, they should demand the exhibition of the carta poder before contracting their services with a labour recruiter. Departmental and municipal authorities should cooperate with the labour inspection authorities to this effect.

Other parts of the Labour Code, covering inter alia contracts of employment, wages and the right to strike, contain provisions of relevance to the particular situation of agricultural and migrant workers. Article 27 stipulates that labour contracts can be verbal, in the case of certain categories of workers, including agricultural and livestock workers, and temporary work which does not exceed a sixty day period. In such cases the employer is obliged to provide the worker with a document (tarjeta or constancia), indicating the date of commencing work and the agreed salary, and the number of days or tasks worked. Article 90 stipulates that, in the case of agricultural and livestock workers, a maximum of 30% of the salary can be paid in foodstuffs and similar items for the immediate use of the workers and their families, on the condition that these are provided by the employer at cost price. Article 243, concerning strikes, includes among those categories of workers who cannot engage in strikes rural workers during the harvest period, except in the case of crops which are harvested throughout the year or which would not suffer from delayed harvesting.

The application of Convention No. 110 in Guatemala was officially regulated over 20 years after its ratification, by Acuerdo gubernativo No. 103-84 of February 1984<sup>21</sup>. The regulations contain a number of provisions referring specifically to the recruitment and working conditions of temporary agricultural workers. Unlike the draft regulations submitted earlier by the ILO consultant in 1968, they do not aim to eliminate the role of private recruiting agents. However, a number of safeguards are provided. The enterprise is to provide public information concerning the place of recruitment, the name of the recruiting agent and his legal authorization from the General Inspectorate of Labour; the place of work; the duration of the work; the type of work; salaries, advance payments, the days and form of payment; the hours of work; the hours of travel and transport, and the authorization received from the General Directorate of Transport; housing conditions; and educational and literacy facilities (Article 6). Contracts should be signed by the competent authority, indicating the amount of salary received as advance payment (Article 7). The maximum advance payment made by the employer or his recruiting agent should be the equivalent of 15 days salary (Article 13). Several

provisions relate to medical examinations, health and hygienic facilities, and the respective roles of the health and labour authorities, or the Guatemalan Social Security Institute, in carrying out regular inspections of conditions of health and hygiene within the plantations (Articles 15-19).

### **3.3 Conditions of seasonal migrant workers: the practice**

#### *Recruitment, contracts and transport*

The majority of recruitment is still carried out by independent labour contractors. These tend to be the wealthier members of indigenous village communities, some of whom hold municipal office. They may employ sub-contractors, operating in the various *aldeas* of a *municipio*. They may work on behalf of some two or three farms, but the system is often a random one. Different contractors may try to provide workers to the same farm. Both labour contractors and former migrant workers interviewed in Huehuetenango and Quiché departments confirmed that contractors receive commission, generally 0.50 Quetzales per day's work, despite the prohibition of this practice by law. As many of the contractors are responsible for 500 migrant workers or more, this can imply substantial earnings of at least 250 Quetzales per day. There was general consensus that transport conditions have improved in recent years, and that most migrant workers are now transported by bus rather than in open trucks. Yet workers generally have to bear the costs of all or part of the return journey to their places of origin.

The situation with regard to labour contracts is less clear. Informants from the *altiplano* stated uniformly that written contracts had existed in the past, but that this was no longer the case. The contractor merely lists the names of the migrant workers in a note-book. At the same time there were widespread complaints on the Pacific coast that *cuadrilleros* are contracted for only a 21 day period, then transferred to other farms or returned to their places of origin, precisely because landowners were keen to evade social security payments and other benefits. Contracts can thus be considered verbal, though a list is kept of the number and identity of the migrant workers and the number of days worked.

Advance or *anticipo* payments are widespread. Estimates of the amount ranged considerably, from 20 to 200 Quetzales.

#### *Working conditions and salaries*

Payment is generally by *tarea* or piece-rate basis. The legal minimum wage at the time of the mission was 15.70 Quetzales per day (a basic wage of 14.50 with a pro-rata bonus payment of 1.20 Quetzales). Only very approximate estimates of average earnings can be provided, on the basis of a few random interviews. They suggest that earnings for male family members are in excess of the legal minimum wage, at the cost of long hours of work. On a cotton plantation visited, both adults and children were paid at the rate of 16 Quetzales per quintal. A male would expect to harvest two quintales per day, and a family three quintales or more. Daily rations of tortillas and beans were also provided, at the rate of six tortillas per day for an active worker. Workers from Huehuetenango department insisted that the rates varied considerably from farm to farm, some paying as low as 10 Quetzales, others 15, others 18-20 without food rations, and some a higher rate of 22 Quetzales though providing no living quarters. Interviewees in Nebaj estimated that monthly earnings ranged from 200 to a maximum of 300 Quetzales, with cane cutting providing the highest average earnings. The earnings compare favourably with those of the *mozos colonos*, many of whom are earning between six and 10 Quetzales per day. Most workers stated that they worked a seven day week during the harvest. Some said this was at the insistence of the employer.

#### *Housing, hygiene and health*

Housing facilities were visited only on a few cotton plantations, where they are reported to be the worst in the country. They consist of three-tiered wooden constructions, divided into separate segments of approximately two square metres, each of which is to house one family. No bedding or furniture of any description is provided. Separate cooking facilities exist, with specially hired workers doing communal cooking. Primitive lodgings of this kind appear to be standard on cotton plantations.

A major concern has been the outbreaks of cholera in recent years. Health officials stated that the outbreaks tend to coincide with the beginning of the harvest season, and that fear of cholera and other sickness is one of the main reasons why indigenous peoples are increasingly reluctant to undertake migrant labour. More than any other factor, this has caused agricultural employers to address conditions of health and hygiene, and enter into collaborative programmes with Government agencies including IGSS and the Ministry of Health.

#### *Labour inspection*

There are 108 labour inspectors in the country, of whom 40 are located in Guatemala City. It appears that labour inspectors do not have easy or guaranteed access to private farms. The author, when visiting individual farms, was advised by the persons accompanying him not to make any mention of the Ministry of Labour or even the ILO if he wished to gain access. Whatever the reality of this advice, it is indicative of prevailing attitudes towards the role of labour inspection. None of the migrant workers interviewed, when specifically asked whether they had ever seen a labour inspector, replied in the affirmative.

### **3.4 An assessment of existing programmes**

An attempt was made to assess the range and extent of existing programmes and initiatives, to address the recruitment, transport, employment, health, and living and working conditions of seasonal migrant workers. Questions were put to Government agencies including the Ministry of Labour and the Guatemalan Social Security Institute (IGSS); to employer organizations; to the major trade unions and other representative peasant and indigenous organizations; to select NGOs and human rights organizations; and to representatives of the United Nations, specialized agencies and other international organizations.

The absence of any systematic programmes and initiatives was readily apparent. The Ministry of Labour itself has no special programmes concerning temporary or migrant workers within the country, apart from a commissioned study which was in draft form at the time of the mission, and a copy of which was made available by the Ministry to this author<sup>22</sup>. The study was conducted within the framework of a UNDP/Ministry of Labour project for the modernization of the Ministry. It cannot be considered a systematic study, and has not been based on detailed fieldwork. The author, a Guatemalan national consultant with many years of experience, draws on literature, reports and personal testimonies over the past 30 years. But as some of the material is exceedingly old, it is difficult to distinguish between past and present practices. Only a brief field survey was undertaken, to gather more recent data. There are at the present stage no specific recommendations to the Ministry of Labour itself or other relevant Government agencies. The consultant has also been requested to prepare new draft legislation concerning seasonal migrant workers, but no copy of existing drafts was made available to this author.

The Ministry of Labour has been concerned with the situation of Guatemalan agricultural migrant workers to Mexico. A joint study of the Ministry and the International Organization for Migration (IOM) was published in June 1993. This identifies the number of documented migrant workers, identifying their places of origin, their places of destination, and their salaries. A further Agreement between the Ministry and the IOM, outlining the framework of future technical cooperation between the two agencies, was signed in early December 1994. The Guatemalan Government is now planning to carry out a survey in the southern Mexican state of Chiapas (where the vast majority of the Guatemalan migrant workers are engaged in the coffee harvest) under a bilateral agreement with the state government of Chiapas. The Commission is to comprise four members from each country. The forthcoming project will involve further fact-finding, to establish the socio-economic situation of the migrant workers, including the level of their extra-salary benefits. The Ministry also aims to establish a system of identity cards for the migrant workers, and to encourage more of them to migrate through official channels. The Ministry was concerned to have some ILO involvement in this project, aiming among other things to convince people of the need to have identification cards and to use the Tecun Uman migration office on the Guatemala-Mexico border. Ministry officials stated that they were currently looking for a further US\$ 100,000 to implement the project, and that a draft proposal had already been submitted to the ILO in August 1994.

Of the Government agencies apparently the most active has been the IGSS, which has developed health programmes on plantations in cooperation with the Ministry of Health and the Pan American Health Organization. A special pilot programme has been under way in Escuintla department, where the incidence of cholera has been a cause for serious concern in recent years. The programme operates on the basis of itinerant health promoters, each one designed to service some 400 families of migrant workers. Health programmes have been developed in close consultation with the welfare departments of agricultural employers' organizations, including ANACAFE, the Consejo Nacional de Algodón, and the Fundación del Azúcar (see below). The Ministry of Health has recently proposed an additional programme to provide primary health care for Guatemalan migrant workers in Mexico. The proposal is for the creation of binational technical teams to provide basic training, vaccinations, maternity care, and small projects for drinking water, latrines and other aspects of hygienic improvement.

#### *Employers' initiatives*

In recent years, representative organizations of sugar, coffee and cotton producers have developed social programmes aiming to effect infrastructural, health and hygienic improvements. These are directed at all workers in the sectors concerned, and not targeted directly at migrant workers.

The sugar industry created FUNDAZUCAR in 1990 as its social and welfare arm. Its stated objectives are to assist in economic and social development on behalf of ingenio workers, their families and other persons in the vicinity, especially in the areas of education, health, housing, community assistance, and urban and rural municipal development. An average of 10 million Guatemalan quetzales has been spent per year in recent years, almost half of this on housing. FUNDAZUCAR claims that its health campaigns, together with the mass distribution of oral rehydration salts, achieved a significant reduction in cholera throughout the Pacific coast in 1992 and 1993. Apart from its physical programmes, it also provides advice to employers on the appropriate nutritional diet for cane-cutters. Several of FUNDAZUCAR's social activities are backed by counterpart Government funding.

ANACAFE has had a specialized health programme since 1986, involving mainly the construction and operation of health centres, and the provision of medical and dental assistance. The programme is again directed at the entire population in the main coffee-growing areas, rather than at permanent or seasonal coffee workers as such. General objectives are to improve health conditions of the residents in coffee development areas, through benefits offered especially to the coffee growers associated with unions, corporations or small

producer associations; and to coordinate these health service programmes with those of other national institutions and international organizations. By late 1994 ANACAFE's health programme had 13 assistance centres and 31 health centres, located in ten different departments of the country. With regard to workers' conditions, ANACAFE has negotiated wage agreements on behalf of all its members. Under such an agreement signed in July 1994 between ANACAFE and the Consejo Nacional Unitario de Trabajadores, CNUT (affiliated to the CGTG), the organization agreed to increase wages for all field workers to 14.5 Quetzales per day.

There seems to be general agreement that the sugar industry now represents the most advanced sector of Guatemalan agriculture, where real incomes and living conditions are the best. Informants stated that most employers have now eliminated labour contractors, carrying out their own recruitment of seasonal workers in the indigenous highlands, and conducting the medical examinations required by law before the contracting takes place. Higher wages have been achieved through higher labour productivity, obtained through both attention to diets and to improvements in cane-cutting techniques. The industry has clearly been helped by the high world market prices for sugar cane over the past decade, in comparison with cotton and, to a lesser extent, coffee.

#### *Trade union initiatives*

No significant activities by the major trade union organizations on behalf of migrant workers were identified in the course of the study. This is a generalized phenomenon, identified in all Latin American and other developing countries where similar case studies have been undertaken. Union bargaining strategies are typically adapted to the needs of a permanent and fee-paying workforce. In the case of Guatemala, trade union informants observed that there was a real conflict of interest between permanent and seasonal migrant workers, in that the willingness of the latter to accept more or less any conditions of employment could undercut the bargaining power of the former. And of course, the provisions of Guatemalan labour law prohibiting strike activity during the harvest season removes any real bargaining power that seasonal workers could have. Unlawful strikes have occurred involving seasonal workers, notably the mass strike in the sugar industry organized by the militant Committee for Peasant Unity (CUC) in the early 1980s.

#### *NGO initiatives*

It was not possible to assess the objectives and current programmes of the many hundreds of NGOs now active in rural Guatemala, or to examine the extent to which they may address either indirectly or directly the situation of seasonal migrant workers. A number of NGOs see as one of the objectives of their income generation programmes in the altiplano the elimination of the need to migrate. Some can point to success in this regard. The incidence of migration has declined considerably in those parts of Sololá and Totonicapán departments, where programmes of this nature have been particularly successful.

Of the NGOs concerned with human rights and legal assistance, one made a set of proposals for law reform several years back. This is the NGO Servicios Jurídicos y Sociales (SERJUS), which conducted a study in the late 1980s, the main recommendations of which can be summarized as follows. Although the Acuerdo Gubernativo 103-84, regulating the application of the ILO's Plantations Convention (see above pages 14-15) represents some progress, there is a need for further reforms to the Labour Code. However, the effectiveness of the law itself will depend on the supervisory capacity of the labour inspection authorities, and the scope for organization and direct action by the migrant workers themselves. With regard to the contratistas, there is no need to prohibit such an institution. In the Carta Poder issued by the landowner to the contratista and labour authorities, there should be a requirement that full information be provided on services and conditions within the plantation. Local authorities such as the municipal or auxiliary Mayor should exercise control over the recruitment and contracting of the migrant workers concerned, in the absence of labour inspection facilities. Written contracts should be compulsory, and should be of indefinite duration until the end of the harvest. In this contract, whether individual or collective, there should be clear indication regarding conditions of transport, housing, health, education, food, potable water and fuel. Salaries should be determined by the day and not be piece-rate, in that this would lead to higher overall incomes (while the more productive workers might suffer, many others were currently earning well below the legal minimum). The paid workday should include the time of transport to the workplace and back. And there should be equal pay for equal work, without distinction by sex or age, without prejudice to existing standards of special protection for women and child workers. With regard to safety and health at work, notwithstanding the imprecise nature and poor development of existing standards, the main problems lay in the inadequacy of inspection facilities and the low penalties for infraction of the law. In the case of accidents or sickness caused by inadequate transport or by poor conditions of housing, nutrition, water health and safety on the farms, the worker should have the right to compensation from the employer for the costs incurred by the workers and their families.

Finally, the SERJUS recommendations paid particular attention to the scope for collective labour contracting through representative workers' organizations. Either workers' organizations constituted with no more procedural requirements than the recognition of the local authority, or community or peasant organizations not necessarily of a labour character, could be enabled to engage in such collective contracting. They should have a minimum of two elected representatives, bilingual where applicable in Spanish and the local indigenous language, to facilitate collective bargaining and conciliation mechanisms as applicable. They

should be granted the same facilities as trade union representatives, including protection against removal from office, from the time of their designation throughout the period of their provision of services. The labour authorities should ensure that such a representative be genuinely elected by the migrant workers from among their number. The elected representative should thus travel to the farms to negotiate work conditions in advance of the harvest, organize travel and transport, administer anticipo advance payments, supervise the application of agreed conditions. The workers should have the right to replace their elected representative at any moment.

### 3.5 Plantation workers

The only impediment in law to the free organization of plantation workers is the restriction on the right to strike during harvest time. Their major demands revolve around improved salaries and fringe benefits, and also security of tenure.

With regard to land security, over the small land plots within the plantations to which colonos have had traditional access, the situation in law is unresolved. In the context of continued expulsions, the more militant organizations have used labour strategies in order to press for land rights. This has generated acute conflicts, which can be expected to intensify in the years to come. It has been proposed that the Government should form a commission (comprising at least the Ministries of Agriculture, Labour and the Supreme Court, together with agricultural employers' and workers' representatives) to address these problems and seek solutions in both law and practice. One dilemma is how to achieve greater land security for the colonos under law, without accentuating a further spate of evictions before such a law could be enforced adequately. This has been a persistent problem in other Latin American countries (including Brazil, Colombia and El Salvador) where attempts in law to increase land security for tenants have had the practical effect of accelerating land evictions.

The current situation - as sources including the Roman Catholic Bishops' Conference have observed - is a potentially explosive one. Landowner groups argue that trade unions and mixed peasant-worker organizations are making impossible demands through their collective bargaining petitions, in order to bankrupt the farm and force the owner to negotiate over land cessions. Worker organizations respond, with much documentary evidence, that many landowners have persistently paid their agricultural workers way below the minimum wage and therefore have a legal obligation to make settlements in terms of either back payments or land. In these circumstances most landowners do everything possible to prevent the formation of legally recognized worker organizations that could pursue cases before the courts, and also to break up existing unions through a variety of mechanisms. In the meantime the rural trade unions and other pressure groups, while using legal strategies, are critical of the slowness of the courts the weakness of conciliation mechanisms and labour inspection, and also the alleged bias of the labour authorities against them.

The future is highly uncertain. A number of new pressure groups are apparently growing in influence, and are determined to press claims to the land. In these circumstances it can be expected that landowners will continue to evict colonos, and to rely increasingly on casual rather than permanent labour. Divisions within the rural labour movement with different organizations competing for presence on the plantations, could make a negotiated settlement more difficult.

The divisions will continue, if some worker organizations are striving for improved conditions within the existing plantation structure, and others see their long-term aims as the break-up of the plantations. These divisions are far from unique to Guatemala, and are indeed found in many of the Latin American countries where workers in the more modernized and productive plantations see their struggle as essentially one for labour rights, while tenants in the more backward plantations with semi-feudal conditions, low productivity and salaries see their main objective as a struggle for the land. One problem in Guatemala is that - with the exception of the banana industry, and partial exception of sugar cane where a number of unions have nevertheless been destroyed in recent years - there is very little modern agro-industry with a high incidence of permanent labour. Thus much of the current organizing is taking place in the plantations with very inadequate conditions of housing and employment, and most probably also with low productivity

In so far as plantation workers' demands are concerned with labour conditions, there is much that can and needs to be done. Very little use has been made of Convention No. 110, either by workers' organizations or by the Government. By ratifying the Convention, the Government has entered into a number of legal commitments, some of which exceed the competence of the Ministry of Labour itself (eg. maternity protection, housing and medical care). Other Government ministries and agencies (including IGSS and the Ministry of Health) have been more active than the Ministry of Labour in recent years. And the employer associations of coffee, cotton and sugar cane farmers, among others, should be encouraged to disseminate the Convention among their members. There are strong arguments for now creating an ad-hoc tripartite commission, to examine the minimum commitments that all plantation owners should now be expected to undertake in order to further the application of the Convention. The government regulations concerning the Convention are now in place, but no systematic steps have as yet been taken to ensure their practical application.

## Chapter IV Rural workers' organizations in Guatemala

### 4.1 Rural workers' organizations: attempting a typology

Typologies are approximate, and the categories can overlap. For example the service organizations in the indigenous highlands, which emphasize employment and income generation activities for their membership, may nevertheless identify themselves with broader indigenous claims. Conversely the indigenous organizations concerned with broader policy issues may at the same time strive to develop project activities for local groups. Trade union federations may have a primary focus on the more traditional forms of trade union federation, including the negotiation of collective bargaining agreements, and intervention before the regional and national labour authorities to secure their implementation. At the same time the trade union movement, as indeed in most Latin American countries, is politicized. Some trade union federations and confederations are more closely identified with the Government, or at least with mainstream political parties seeking government office. Others are more identified with the broadly defined political opposition, through so-called "convergencias" which group together a large number of popular organizations critical of government policy, including human rights organizations. In any assessment it has to be recognized that Guatemala is still a country in a state of armed conflict. While civil and democratic institutions are in place, the military presence remains very strong in many rural areas. The indigenous and peasant organizations which pursue an adversarial stance towards government policy are still likely to be accused of "subversive" activities and of political links with the armed insurgents.

### 4.2 Historical background

The early development of rural worker's organizations (RWOs) can clearly be traced to the period of reformist government between 1944-54. As of the 1940's, a number of unions were formed on the coastal estates. The Confederation of Guatemalan Workers (CTG) could claim 31 separate agrarian unions by 1948, mainly on the larger farms in Escuintla department and in the United Fruit Company plantation. Broader efforts at peasant organizing were then undertaken by the National Peasant Confederation of Guatemala (CNCG), which received its legal personality in 1950. It began to increase its membership significantly after the 1952 Agrarian Reform Law, and when the earlier restrictions of the 1947 Labour Code on the organization of peasant unions were removed. By the time of the 1954 coup it had as many as 1,700 affiliated bodies with some 250,000 members. Around 334 separate Peasant Unions received legal recognition between 1948 and 1953. This stage of peasant mobilization can be linked clearly with the land reform programme, with CNCG representatives working in close coordination with the government's land reform department. The National Agrarian Department, as the administrative organ for carrying out the land reform, established Agrarian Commissions in each of the country's 21 departments whose members were nominated by the national worker and peasant confederations among other bodies. A local Agrarian Committee was also established in each village where lands could be affected by the land reform, three of the five members of which were to be appointed by the local peasant or worker union<sup>23</sup>.

After the 1954 coup, the existing structure of RWOs was systematically dismantled. A Decree of July 1954 provided that the executive committees of confederations, federations and unions of workers and peasants must be cancelled, and that those unions with legal recognition be required to elect new officers acceptable to the government within a three-month period or lose their legal personality. Between then and the mid 1970's, rural organization was basically limited to the large farm enterprises. One source observes that 57 new rural unions and 13 reactivated ones received legal recognition between 1955 and 1967, of which 31 were located on large farms. The remainder were the Peasant Leagues composed of peasants and independent agricultural workers, which began to receive legal recognition as of the mid 1960s<sup>24</sup>.

Agricultural cooperatives became important in the 1960s and 1970s, and appear to have made much headway among the indigenous population in parts of the altiplano. Cooperatives were also sponsored officially in the Petén, as part of the colonization effort. In the indigenous highlands, in departments including Chimaltenango and Quiché, independent cooperatives were promoted by the Catholic church. Thus the number of functioning cooperatives increased from 145 in 1967 to 510 by 1976 (227 agricultural cooperatives, 26 artisan, 192 savings and loan, and 86 consumer cooperatives). Some 57% of these were located in the indigenous highland regions. Apart from church backing, the movement was supported by considerable overseas aid.

While the above were localized initiatives, focusing either on collective agreements for permanent plantation workers or on credit and services for small farmers, a new nationwide peasant organization emerged by the late 1970s. The Comité de Unidad Campesina (CUC) first emerged as a public organization in 1978, and at least 90% of its membership is estimated to have been indigenous<sup>25</sup>. Rather than seek legal personality, CUC relied on extra-legal forms of pressure including leafleting, paid advertisements in the national press, demonstrations and wildcat strikes in the commercial sector of agriculture. It attained national prominence in 1980, when it organized coordinated stoppages in 14 sugar mills and an estimated 70 plantations. As the Anti Slavery Society reported, an estimated 75,000 agricultural workers were involved in the strike which paralysed sugar production for seventeen days. The Government raised the minimum wage almost threefold from 1.12 US dollars per day to 3.20 dollars. However, the strike was followed by severe

reprisals. Several labour leaders were assassinated throughout the coastal region, while more than a thousand permanent workers were dismissed in the immediate aftermath of the strike<sup>26</sup>.

Organizations like CUC effectively went underground in the early 1980s, labelled as subversive and accused of links with the guerrilla groups. Moreover there is substantial evidence that the indigenous cooperative movement in the highlands was systematically targeted by counter-insurgency forces during this period. Violence was reportedly directed at the leadership, the national support structure and the local membership of the rural cooperative movement<sup>27</sup>.

### **4.3 Rural Workers' organizations today: some examples**

Since the late 1980s, as the level of political violence and conflict has subsided in most parts of the country, there has been a significant increase in the level of rural organizing. Different organizational forms and strategies can be identified.

As in the past, a number of national trade union federations have aimed to increase their membership and activities among the permanent workers on the large commercial farms. The emphasis is on collective bargaining, and also on security of employment for the large numbers of permanent workers and their families now threatened with eviction. The main areas of activity continue to be the Pacific coastal estates, and the banana plantations in the east of the country. Examples are provided below.

Other and new organizations have a more regional focus. Unions and confederations have been formed at the departmental level, aiming to organize both salaried farm workers and small peasant or indigenous producers. Some of these initiatives have taken place in departments with a high proportion of indigenous population, and where, until recently, there have been virtually no organizational activities of an economic and social character. Movements of this kind will be illustrated from the example of Alta Verapaz.

In the western highlands, indigenous peoples have developed their own broad-based service organizations. Usually with overseas assistance, and often building on activities earlier developed with the support of foreign NGOs, these often focus on income-generation and employment activities. These can be characterized as developmental activities, rather than activities focusing on the rights and conditions of rural workers as such.

In the areas of recent or continuing conflict, rural community organization has been one aspect of the rehabilitation and development programmes undertaken by the United Nations or other external donors. The emphasis has been on the creation of local associations of economic development. Examples are given from the Ixil triangle and Ixcán district of Quiché department, both of which were severely affected by the conflict of the 1980s.

### **4.4 National trade union organizations**

The three major national trade union organizations are all involved to some degree in rural organizations, with a major though not exclusive emphasis on the permanent labour force on the commercial plantations. These are the Confederación General de Trabajadores de Guatemala (CGTG), formed in 1986 and affiliated to the Central Latinoamericana de Trabajadores (CLAT); the Confederación de Unidad Sindical de Guatemala (CUSG), created in 1983, and affiliated to ORIT and the International Confederation of Free Trade Unions (ICFTU); and the Unión Sindical de Trabajadores de Guatemala (UNSI TRAGUA), created in 1985. CUSG, while active in both banana plantations in Eastern Guatemala and on the Pacific coast, has affirmed that over half of its membership is from independent peasant workers. CUSG's legal adviser estimated that approximately one quarter of its 200 registered unions on the Pacific coast were agricultural. The CGTG has fifteen rural trade unions, mainly on coffee and rubber plantations. Also affiliated to it is the Federación de Trabajadores de Campo (FEDECAMPO), whose membership includes share-croppers, independent peasant farmers and salaried day labourers. UNSI TRAGUA (whose main strength appears to lie in the services sector including banking, insurance and university workers) has a presence on the banana plantations and in parts of the Pacific Coast, but apparently not among small peasant farmers. UNSI TRAGUA has a union in one of the important sugar mills, the Ingenio Palo Gordo, and estimates that 90% of all banana workers are organized.

Separate interviews with representatives of each of the three organizations pointed to largely similar organizing strategies, and to similar problems encountered. A serious problem identified by all union leaders was the recent spate of evictions of the mozos colonos from the commercial plantations. While a generalized problem, there seemed little doubt that landowners were more likely to evict plantation workers, when attempts were made to form a union. Moreover, even where a union had been legally registered, a common landowner strategy was to divide the workers by offering better wages and conditions to workers who were willing to form a less militant union under the effective control of management. This provided severe impediments to collective bargaining, because under Guatemalan law a union must have proven membership of at least one quarter of the work force in order to negotiate a collective agreement. If two parallel organizations existed, it could prove difficult to attain the minimum number required. It appears moreover that the rivalry between the three major national union organizations (each of which is keen to increase its membership in the plantation sector) can facilitate this strategy. Organizing had to be a largely clandestine exercise, given that landowners aimed where possible to lay off trade union organizers before the union could

receive legal recognition. The strategy was thus simultaneously to submit a collective bargaining petition (pliego de peticiones) and seek a court order (emplazamiento) against the farm, in order to avert the summary dismissal of trade union leaders.

Where farm unions have been successfully created and registered, the minimum salary together with the bonus payments provided for by law have been respected. Other union claims relating to extra-salary benefits (including housing, health care and maternity benefits) have often tended to be dealt with through litigation rather than direct negotiation. Typically, the union would receive a favourable decision from the local labour tribunal, which would then be appealed to a higher court. Cases of this kind could drag on over a protracted period, involving extensive legal costs. A further concern has been the drawn out procedures for registering rural unions. While a CUSG legal adviser opined that it was relatively easy for a new union to obtain legal personality from the Department of Labour (though not to render these rights effective) other trade union informants were uniformly critical of the Ministry of Labour on this account.

The strategies are thus very much to work through available legal mechanisms, with union lawyers playing a prominent role in defending cases before the labour courts. One problem is the weakness of the judicial infrastructure throughout the country. While by law each of the 30 labour courts should be equipped with a conciliation and arbitration tribunal, in practice only two such tribunals were in place by late 1994. The slowness in dealing with such cases is a cause of endless frustration. The Human Rights Ombudsman's Office estimated that, of some 6,000 cases filed every year, only between 1,000 and 1,500 were actually resolved. This is one factor behind the recent rise in worker occupation of farms. In the Coatepeque region, for example, workers occupied two farms on the same day in 1994 after their claims for the reinstatement of evicted workers had been pending before the courts for 29 months. It is thus difficult to assess how successful legal strategies will prove in the future, given the above factors and also the rivalry and lack of unity among the major national organizations. In the sugar plantations, a number of unions have already been dismantled in recent years. One informed observer stated that employers had virtually ceased to negotiate directly with workers' organizations, because they preferred to go through the slow tribunals.

None of the unions had made systematic attempts to organize seasonal workers. UNSITRAGUA stated that, in the banana plantations of eastern Guatemala where the contratista works closely with the enterprise, they had managed to organize workers brought in by a contratista in 1988. No successful initiatives were reported in the coffee, cotton and sugar cane sectors

#### **4.5 Indigenous, peasant and worker coalitions**

Of the many new indigenous, peasant and worker organizations that have come into existence in recent years, many are broad-based interest groups with combined membership. Some are national level organizations. Others have a regional membership, but are affiliated to national umbrella organizations. A feature of some of these organizations is to link labour and land claims, by using labour-based strategies in order to press for eventual claims to the land.

At one level there can be general demands for access to the land, backed by mobilization of the landless peasantry and a high degree of publicity. This was evident in the late 1980s, soon after President Vinicio Cerezo's Christian Democratic government was elected to power. An apparently spontaneous movement led by Roman Catholic priest Andrés Girón led to a march of some 16,000 landless peasants to Guatemala City in 1986 itself. The Government responded by announcing an Integrated Rural Development Plan, under which some 200 privately owned estates would be sold to the organized peasant groups. A small number of plantations were thereby transferred over the next two years, mainly heavily mortgaged properties which were made available on a voluntary basis. The programme was financed in part by foreign assistance, sought by Father Girón in the United States, and the Government emphasized that there would be no compulsory land expropriation.

Such mobilization was largely instrumental in persuading the Guatemalan Bishops' Conference to issue a controversial document, "The Cry for the Land", in 1988. Issues addressed included the forced eviction of mozos colonos from plantations, violence in the countryside arising from conflicting land claims and the insecure land titles of indigenous peasants, and the abuses associated with the seasonal migrant labour system and the role of the contratista. The Bishops observed that peasants and their representative organizations were becoming progressively more aware of their rights; and that, if the mechanisms were not now established to provide a rapid and effective response to their aspirations, there was a risk of an outbreak of violence with incalculable consequences. Consistent with Catholic social doctrine, the Bishops recommended a number of specific measures including: legislation for a more equitable land distribution; the provision of supplementary titles to the lands occupied and cultivated by peasants over a long period of time; guaranteed protection of peasants and refugees against expulsion from their lands; guarantees of a just and equitable price for peasant producers, and protection against intermediaries; improved agricultural education, together with technical assistance and credit facilities; salary increases for agricultural workers; mechanisms for active and direct participation in local, regional, national and international markets; taxes on large farms in proportion with their land size; insurance against poor harvest and work accidents; and encouragement and protection for peasant organizations in the defence of their rights and the increase of their production.

It is interesting to compare the above Church statement with the global land claims issued by a number of indigenous and peasant organizations in July 1994 in the context of the peace negotiations<sup>28</sup>. Signed by among the most influential of the new organizations from different regions of the country, representing both salaried rural workers and small farmers, the document refers to the democratization of the use, tenancy and ownership of land. First, it denounces the failure of the requisite state institutions - the National Institute for Agrarian Transformation (INTA)- and, more recently, the National Land Fund (FONATIERRA) - to provide land to the peasantry over the past 40 years. The failure is attributed to the fact that state policies have never effectively changed, sacrificing balanced social and economic development to the interests of a minority, and maintaining both production relations and conditions of work that can be compared only with those in the feudal era. Specific proposals are divided into five headings.

First is the general issue of peasant rights. Campesinos should be guaranteed the right to possess the land, to freedom of organization, and to participate in the elaboration and implementation of state policies including agrarian policy. To this effect, the State should commit itself to demilitarizing the country in all aspects. The process of obtaining legal personality should be simplified, so as not to constitute an obstacle to peasant organization.

Second, with specific regard to land tenure and ownership, the absolute nature of the private property regime should be modified in order to recognize the tenancy and social use of land. The communal and municipal lands, parcels, national farms and specially protected areas which over the past 40 years have been usurped by wealthy landowners or by military and civilian individuals linked to de facto regimes should be restored. Idle lands, which are now the property of landowners, should be expropriated as envisaged by Article 40 of the Constitution. The State should permit and guarantee the formation of committees to resolve the land problem, in places where the peasantry considers this necessary. A joint commission (comprising the peasantry, church, private sector, government and United Nations) should be created to investigate the real land tenure situation, with access to the property register and to verify any negotiated agreement between the Government and the URNG. State lands should be handed over to the peasantry, in communal or collective tenure. The Government should seek an immediate solution to the petitions of communities affected by land conflicts. And the land property register should be opened to the population in general, and in particular to the above mentioned commission.

Third, policies and mechanisms for the delivery of financial and technical assistance should be reformed, under democratic principles, with greater respect for indigenous cultures. The Government should cancel the debts of the peasants who have earlier received lands with the assistance of loans, and these peasants should receive their land titles immediately. And a Fondo Campesino or peasant fund should be created immediately as a source of financing peasant production, financed both by the Government and through international cooperation. The fund should be autonomous in nature, organized and administered by peasant organizations with assistance from national NGOs.

The fourth set of proposals relates to state institutions responsible for agrarian policy. A joint commission should be set up to evaluate the existing state agencies and to redefine priorities. Finally, it is proposed that any negotiated agreement between the Government and URNG should provide the basis of new agrarian legislation.

The above may be considered the global or "maximalist" demands of the new peasant and indigenous organizations, who are striving in the longer term to place land reform back on the national policy agenda. But how, in practical terms, are their claims being expressed in the shorter term? During the time of the case study a number of farms had been occupied by peasant organizations, some in the Coatepeque region of the Pacific coast, but a greater number in the north-eastern department of Alta Verapaz. While the national press tended to refer to these occupations as land invasions - suggesting an arbitrary occupation of private lands, outside the law - the reality appears to be somewhat different. For the most part, the occupations of specific farms tended to occur in the context of rural labour disputes when the representatives of peasant organizations and their lawyers had submitted claims for the payment of minimum wages, or for protection against eviction.

Strategies of this kind are best illustrated from Alta Verapaz, where two organizations, in particular, have been involved in land and labour conflicts. Alta Verapaz, it should be remembered, is a coffee-growing region where the semi-feudal mozo colono system has remained widespread. Many of the colonos are Kekchi and Pokomchi Indians, and until recently there have been virtually no significant rural worker organizations in this department. There have been sporadic outbreaks of violence between indigenous communities and commercial farmers, when the former claim that landowners have been encroaching on their traditional lands. A notorious case occurred in 1978, when over a hundred indigenous peasants from the remote village of Panzos were killed during a demonstration against such evictions. During the early 1980s the area was severely affected by political violence.

Two rural workers' organizations now highly active in the region are the Unidad Indígena Campesina del Norte (UNICAN) and the Coordinadora Nacional Indígena y Campesina (CONIC), neither of which currently possesses or has actively sought legal personality. UNICAN was created in May 1989 and is active, apart from Alta Verapaz, in the departments of Baja Verapaz, Petén and Izabal. Its membership is broad-based, comprising: farm workers' unions, "ad-hoc" committees, land committees, women's committees, agricultural cooperatives, agricultural communities, and others. Its general objectives are defined as the

promotion of activities to achieve the integral development of the inhabitants of the northern region. Its specific objectives are defined as fourfold, namely: to promote the participation of women in all activities; to promote and disseminate information about human rights, struggle for the enforcement of human rights, and denounce human rights violations at both national and international levels; struggle for the defence and recuperation of land; and provide legal assistance to base organizations. UNICAN is affiliated to a number of national organizations, including: the Coordinadora Nacional de Medianos y Pequeños Productores (CONAMPRO); the Unidad de Acción Sindical y Popular (UASP); and the Coordinadora Nacional de Organizaciones Campesinas de Guatemala.

CONIC was originally created in July 1992, as an agrarian community in the Pacific coastal department of Retalheu. It held its first national assembly in August 1993, at which a detailed internal statute was approved. This specifically emphasizes that its legality is based on Articles 5 and 34 of the Constitution, and that the organization will not seek to register its legal personality before a competent authority unless at least 80% of its base membership so decides. One of its principal objectives is to promote the organization of indigenous and peasant communities and poor ladinos to fight for the land. It also lists a range of broader objectives, including the defence of Mayan culture, human rights, technical assistance and training, and fair prices for peasant produce. In the labour field a specific objective is to fight "for the right to fair wages, labour stability and better conditions of life for all indigenous workers, peasants and agricultural labourers in farms, enterprises and state institutions".

Both organizations have made considerable headway in organizing farmworkers in Alta Verapaz. UNICAN claims a total membership of over 10,000, including rural workers' unions, land committees, and its diverse other membership groups. CONIC has focused on remote parts of Alta Verapaz (the municipios of Tucuru, Panzos, Senahu, Chisec and San Pedro Carcha), aiming in particular to defend the labour rights and stability of the mozos colonos in coffee and cardamom plantations. Both organizations have regularly been accused of linkages with armed subversive groups, and have had to devote much effort to denying these linkages and denouncing threats against their leadership and other members from the military and local authorities.

In organizing strategies, CONIC has given particular attention to rural labour rights and their enforcement on the commercial farms. The main strategy (similar to that pursued on the Pacific coast) is to document the extent of non-payment of legal minimum wages or other fringe benefits provided for by law, and, on this basis, to have the farm "emplazada" by the labour authorities. In Tucurú, for example, where CONIC has been active in some 33 communities for over two years, no less than 15 farms had been "emplazadas" by late 1994. In February 1994 for example, CONIC's legal department addressed a communication to the Minister of Labour, documenting the number of mozos colonos on each of the farms, the average salary together with bonus payments, where applicable, and the situation with regard to other legal benefits including paid vacations. According to the documentation provided, the salary was invariably well below the legal minimum. At a time when the legal minimum salary was 10 Quetzales, today the salaries actually paid ranged from as low as 4.0 to a maximum of 7.5 Quetzales per day. In some cases, moreover, CONIC has made a detailed inventory of outstanding debts to the farm workforce, resulting from the violation of labour laws<sup>29</sup>.

The landowner response has generally been to increase the rate of eviction of the mozos colonos. CONIC has provided documentary evidence of innumerable cases where the organized workforce has been laid off, following the submission of their labour claims<sup>30</sup>. Another common landowner strategy has been to offer immediate cash payments to families willing to leave the farm. On a number of occasions such offers have been made in immediate response to the creation of a farm union<sup>31</sup>.

When landowners have contested the labour claims, or - as is usually the case - have pleaded their incapacity to pay the monetary amounts demanded, the CONIC strategy has then been to negotiate for land transfers. CONIC demands have been for between six and eight manzanas per family, together with a certain land area for community facilities. In a few cases land has already been made available in this way, an example being the Finca Cobadonga where approximately a hundred manzanas was handed over.

The current wave of land conflicts and land occupations in Alta Verapaz have to be understood in this context. They have often begun as labour disputes, with the rural organizations and their legal advisers making use of available mechanisms through local courts and the Ministry of Labour. But a long-term objective has been to press claims to the land itself, to prevent evictions and to achieve land security in the form of land transfers for subsistence cultivation. At the same time, the strategy of organizations like CONIC has been to press for new policies and institutional mechanisms to address these land and labour conflicts. To this effect, CONIC and other rural organizations have been pressing for the establishment of an emergency commission, comprising representatives of state organizations including the Ministry of Labour, the National Agrarian Transformation Institute (INTA) and the Attorney General's office; the Supreme Court; and such employers' organizations as the Chamber of Agriculture.

#### **4.6 Local and community organizations**

Guatemala has a long-standing tradition of community organization in small rural towns and villages, and in particular in indigenous areas. Such grassroots community organizations are in place in virtually all

the country's municipios or smaller rural settlements (aldeas). They are usually referred to as "comités por mejoramiento" (community improvement councils). While having a formal structure, with legal personality and a system of elected officers, they are used in an ad-hoc manner for the implementation of specific projects including the construction of feeder roads, schools, recreational facilities and other community services.

Most Government agencies, as well as many of the NGOs active in rural development, tend to work through this traditional structure. An example is the National Peace Fund (FONAPAZ), created in May 1992 as an agency of the Presidency of the Republic, with a mandate to contribute to the peace process by undertaking programmes and projects for the development of the target population in areas most affected by the armed conflict and by conditions of extreme poverty. One of the main criteria for FONAPAZ activities is that project beneficiaries must participate directly in the definition and establishment of priorities. Its specific objectives correspondingly include the strengthening of community participation and organization. In its 1993 report, FONAPAZ claimed to have a working relationship with no less than 766 community improvement councils, 64 communal development associations and 57 local municipalities. In practice, these are the instrument for the various self-help and construction projects funded by FONAPAZ.

Other types of local development association have been deliberately stimulated by overseas agencies, as for example the Agencies for Local Economic Development (ADELs) of the UN/ILO Programme for Refugees and Displaced People (PRODERE). Similar to initiatives elsewhere in Central America, the aim is to create local structures for channelling technical assistance and programmes of entrepreneurial development. PRODERE also provides assistance to longer established local initiatives, of which perhaps the best known is the Chajul Cooperative (Asociación Chajulense V'al Vaq Quyal) in the war-torn Ixil triangle of northern Quiché department. By late 1994 this cooperative had as many as 2,500 associates, representing 15,000 persons from 48 different communities. Activities include textile marketing, a coffee processing plant for some 1,700 small coffee growers, a savings and credit cooperative, and a legal assistance centre.

Developmentalist NGOs' initiatives to promote income generation, credit and technical assistance programmes in specific areas through community organization, usually with the help of extensive foreign assistance, have been taken. These initiatives have been significant in parts of the indigenous highlands, notably in Chimaltenango, Quetzaltenango and Totonicapán. Though they have existed in some areas for several decades, they have attained increased importance since the late 1980s. Their strategies are likely to be less adversarial than in the case of the indigenous and peasant networks referred to above, focusing on local development concerns rather than broader policy issues. They also differ from the traditional community programmes, in that rural organization is seen as an integral part of the development process rather than as an avenue for the realization of a specific community project.

NGO service organizations have also had a significant impact on living standards in indigenous small farming areas. A well known example is the Cooperación para el Desarrollo Rural del Occidente (CDRO), active in the highland department of Totonicapán. Officially created in 1984, and receiving legal personality in 1986, CDRO now comprises a network of 25 rural communities. Its basic objective is to promote community development through participatory mechanisms, guided by Mayan and Quiché cultures which are seen as providing the appropriate ideological framework for its activities. The modus operandi is for each participating community to draw up a five-year plan of project activities. As back-up services for the projects, CDRO has developed eight separate programmes (artisan goods, agriculture, health, education, infrastructure, consumption, women's promotion, and social services), each of which is serviced by a small specialized team at its headquarters in Totonicapán. Promoters assist in the formation of local-level associations, through base groups of individuals. One of CDRO's key components has been its "Banco Pop", providing either credits or grants to affiliated groups. The strategy is to provide matching funds to complement the community's own contributions, with funding provided from CDRO's own resources, from international assistance, or from cooperation agreements drawn up with local institutions. Just over 2 million Quetzales was disbursed in the 1993-94 period, and a smaller amount in grants. A further important aspect has been marketing assistance for items including bottled fruits, natural medicines, processed foods, and over a hundred different artisan products. Since 1988 CDRO has aimed to promote similar organizations in other regions of the country. A coordinating umbrella group CADISOGUÁ has now been established, embracing a number of departments of the Pacific coast and the indigenous highlands.

The above kinds of network, NGO service group and broad-based cooperative represent the more successful models. With extensive overseas funding, and some technical assistance, they have pioneered new forms of employment and livelihood generation. They have legal personality, and are also likely to have access to funds from the Government's extension agencies. The big question mark is whether the experience is replicable. The indications are that they have had considerable impact in reducing the need for seasonal out-migration in the project and programme areas. Informants from Sololá and Totonicapán, where activities of this kind are most in evidence, insisted that the incidence of migration had been reduced significantly, despite the fact that average farm size in these areas is among the smallest in the country. Will they be beacons of prosperity in the indigenous highlands, or are there lessons that can be extended to remote areas not touched by foreign assistance?

## **Chapter V**

### **Towards targeted organizing strategies: using ILO Conventions**

This final chapter has two basic objectives. First, it reviews the **actual** use that has been made of Convention No. 141 in Guatemala, by both governmental and non-governmental actors, since the Convention was ratified by Guatemala in 1989. Secondly, and most importantly, it looks to the future. It aims in particular to see how strategies of the various rural workers' organizations themselves, and also the programmes of the many national and international actors involved in the social aspects of rural development in Guatemala, could be better adapted to the different needs identified in earlier chapters of this study.

#### **5.1 Application of relevant ILO Conventions in Guatemala**

Of the ratified ILO Conventions, the most relevant, as already pointed out, are Conventions Nos. 110 and 141. It can be seen that they are of much potential importance, the first as a framework instrument around which plantation and migrant workers could build a range of claims for social protection, the second as the basis for demanding swift recognition by the authorities of the various kinds of RWO now being established.

As mentioned earlier (see page 14), Convention No. 110 has at least been regulated by law, 23 years after its ratification by Guatemala. Beyond that no real practical use has been made of this Convention, either by the Ministry of Labour or other ministries and agencies, or by employers' and workers' organizations, or even by the ILO in its technical assistance activities over the past 25 years. Government reports under the Convention to the ILO supervisory bodies<sup>32</sup>. They tend to limit themselves to citing pertinent national legislation, from the Constitution, the Labour Code, and the regulations adopted under this Convention. No description is given of practical activities or problems encountered. The Government's most recent report to the ILO, of February 1993, indicates that copies have been sent to representative employers' and workers' organizations, including the three major national trade unions. Yet no comments have been received by the ILO from any of these organizations, concerning the application of the Convention. The comments of the ILO's Committee of Experts are thus based on an examination of national law, and the very limited information furnished in Government reports. A Direct Request for 1993, for example, raised certain questions concerning maternity protection, housing and medical care. The Government has not requested technical assistance under this Convention. And the ILO has not sought actively to promote the Convention, despite an evident awareness of the gravity of the problems facing both permanent and seasonal plantation workers.

The situation with regard to the more recently ratified Convention No. 141 is more complex, and there is less experience on which to draw. The most striking fact to emerge from the case study was the almost complete lack of familiarity with the Convention in Guatemala. It was significant that legal advisers of the Ministry of Government, as the government agency responsible for the registration of ordinary civil associations, appeared to have little knowledge of the Convention. And trade unions, peasant and indigenous organizations and the majority of NGOs active in rural organization appeared to be similarly unaware of its provisions. Only one legal services NGO stated it had tried to make active use of Convention No. 141, in negotiating with the Ministry of Government for the registration of rural organizations which represented entire communities rather than individually registered members. Beyond this there is no indication that either the Ministry of Government (in the case of broader civil associations) or the Ministry of Labour (in the case of rural trade unions) has placed serious long-term obstacles to the granting of legal personality. The Ministry of Government provided a copy of the general guidelines for the registration of ordinary civil associations, including the provision of the names of individual members and requirements for rigid financial accounting. The Ministry stated that a number of procedural steps had now been taken, to expedite the granting of legal personality in accordance with these requirements. And it has been observed that Government Decision No. 515-93 of October 1993 was adopted with the intention to expedite the procedures for the recognition and registration of such associations<sup>33</sup>. The outstanding concerns, in the case of both rural trade unions and other rural associations, are that the requirements can still lead to protracted delays. The extent to which the newer rural organizations are actively seeking legal personality remained unclear at the time of the study. Some informants insisted that legal personality was a necessary protection, in that organizations without this would be open to suspicion of "subversive" activities and linkages. At the same time, it seems that some of the more militant peasant organizations are not actively seeking to register themselves with legal personality, perhaps because they are reluctant to provide the names of their individual members at a time of continuing insecurity.

In its reports under Convention No. 141 to the ILO's Committee of Experts, the Government has again limited itself to citing pertinent national legislation. In its 1993 Direct Request, the Committee of Experts asked the Government to provide information on the principal rural workers' organizations for the different categories covered by the Convention, the approximate number of their affiliates, as well as on activities and programmes to permit these organizations to participate in economic and social development and the benefits resulting therefrom.

Finally a few comments should be made concerning the promotion of the Indigenous and Tribal Peoples' Convention, No. 169 of 1989, which has not so far been ratified by Guatemala, but, unlike Conventions Nos. 110 and 141, appears to be well known. Notably in 1991, the ILO together with the

Ministry of Labour undertook a series of well publicized activities to promote the application of this Convention. Two training workshops and three regional workshops provided the basis for a national workshop held in Guatemala City in November 1991, attended by the President of the Republic, other senior Government officials and ILO representatives. A recommendation was made for the early ratification of the Convention was made to Congress, and a National Committee for the Ratification of Convention No. 169 was established. Moreover, the Convention has been translated into a number of indigenous languages. These activities have helped to ensure that Convention No. 169 retains an exceptionally high profile in Guatemala, and that its provisions have recently figured prominently in the peace negotiations. The Convention continued to receive a high degree of publicity during the time of the case study. Arguments for and against ratification appeared frequently in the national press, more than once as headline news items.

## **5.2 Strategies for supporting rural workers' organizations**

A first step to devising appropriate strategies of rural organization must be the identification of different occupational categories and corresponding needs. Some of these categories are a deeply embedded part of Guatemala's agrarian structure, others can be seen as more transitional. In the first group fall the permanent plantation workers or mozos colonos, small farmers with sufficient land to provide for subsistence, and the landless or sub-subsistence farmers who comprise the seasonal migrant labour force.

### *Seasonal migrant workers*

We have seen earlier that the demand for seasonal migrant labour, except for cotton production, has remained high over the past twenty years. Major changes, nevertheless, have taken place in the nature of this labour market. Migration takes place more than once a year and for shorter periods. Moreover, a growing share of seasonal labour is being provided by landless rural workers available in the ..... of the plantations, mainly due to the eviction of permanent labour force, the mozos colonos.

Developing effective organizational strategies on behalf of seasonal workers is widely known to be a difficult, perhaps almost impossible task. There have been no real successful stories in Latin America, and Guatemala is no exception. Seasonal workers only have an interest in organizing if this can really increase their bargaining power as wage-earners.

We have referred to some independent proposals for introducing some formal structure to this highly informal labour market. These include those put forward almost three decades ago by the ILO itself, involving the eventual elimination of labour contractors, and a system of employment exchanges; and more recent proposals by a Guatemalan NGO, aiming to empower elected representatives of migrant workers' groups to negotiate on their behalf with the support of municipal authorities. Yet the situation today appears to be of more rather than less informality, compared with the past. Written contracts, once more commonplace, appear no longer to be used.

The situation of seasonal migrant workers - in contrast with that of many plantation workers - can be seen as a specifically indigenous concern. It is important that the section of the 1985 Constitution dealing with indigenous rights contains a separate article requiring special protection for this category of indigenous workers. The migrant labour phenomenon is an important aspect of the role of indigenous peoples in Guatemala's economic and social structure, and has to be addressed largely as such. What are the practical implications?

We have seen that none of the existing trade union organizations or peasant-worker coalitions has been able to adapt its organizing strategies to the particular problems of seasonal migrant workers. The problems derive not so much from deficiencies in the law as in its practical implementation. There are adequate provisions in existing law and regulations, particularly in the regulations governing the implementation of the ILO's Convention No. 110, to provide far greater protection than is in fact the case. Now needed is a well-funded and well coordinated programme of affirmative action, on a broad front. This should include legal awareness programmes in the places of origin and recruitment; the training of indigenous labour inspectors; support for indigenous organizations; and the establishment of labour inspection services together with the other guarantees provided for by the ILO's Indigenous and Tribal Peoples' Convention (Article 20).

Improved protection is unlikely to take place without significant commitment from the State. Programmes of this kind should be a prime candidate for support from the national agencies established for the protection and promotion of indigenous rights, including the newly created Indigenous Fund. More generally, there is a need to sound out the representative indigenous organizations as to how they would address these issues. Do they advocate the abolition of labour contractors? If not, what further controls should be imposed, and how should they be implemented? Indigenous peoples need also to be represented on any national decision-taking body, which undertakes programmes for the improvement of health, housing and hygienic conditions within the plantations.

### *Plantation workers*

Also for this category of workers, problems seem to be mainly related to weaknesses in law implementation. Hence, the need for the Government, together with employers' and workers' organizations to enhance the role of labour relations machinery in productivity promotion of plantations. Labour inspection

services should be strengthened to ensure compliance with laws and regulations concerning the plantation sector.

As mentioned earlier, the growth of seasonal and temporary wage labour in the plantation sector is being accompanied by a decline in the number of mozos colonos, namely permanent salaried workers with access to subsistence parcels within the plantation. This trend dates back to the early 1970s, but it has been particularly ..... since the late 1980s. Apart from changes derived from the introduction of ... crops and new production cycles, the growth of organized labour and its mobilization for labour rights and their enforcement appear to be among the principal factors responsible for such a situation. The major challenge trade unions face today is how to prevent further eviction while increasing land security for tenants. The bargain strategy pursued so far by trade unions has focused initially on labour rights, including wage and extra-salary benefits, and has eventually shifted to land settlements, as a means to compensate the salaried workers for systematic non-compliance with labour standards. This is a daunting task, as employers seem to have developed very effective strategies to ..... the current labour efforts and trade unions' ability to collective bargaining. Moreover, employees seem to prefer to deal with extra-salary benefits through ..... rather than direct negotiation, given the slowness and ineffectiveness of the juridical system.

### **5.3 Recommendations**

A number of recommendations can now be put forward for enhancing the role of rural workers' organizations in Guatemala, recognizing the continued difficulties of its political circumstances, but taking advantage of the new opportunities opened up by democratization and the ongoing peace negotiations. Some recommendations are of a general nature, others more specific. They are addressed separately at the Government, the social partners, and the ILO itself.

#### *The role of Government*

The Government has a firm legal commitment to strengthen rural workers organizations, and to give them an enhanced role in the process of economic and social development. It has further legal commitments, through its earlier ratification of the Plantations Convention. Through an appropriate forum - perhaps through the Procuraduría de Derechos Humanos - the Government should seek to give wide publicity to Conventions Nos. 110 and 141, and to the 1984 Regulations governing the implementation of Convention No. 110, and to have summaries disseminated in the appropriate indigenous languages. The Ministries of Government and Labour should be encouraged to prepare regulations for the application of Convention No., 141, and also to give such a document widespread dissemination within the country,

Practical measures to address the situation of seasonal migrant workers within the country could now be considered a priority. The enforcement of the provisions of national labour law and regulations, governing recruitment, contracts of employment, and adequate labour inspection could be established. A National Commission of a tripartite nature could be set up to this effect, drawing its terms of reference from Articles 69 and 70 of the 1985 Constitution, and allowing also for participation from representative indigenous organizations. It should aim *inter alia* to seek mechanisms whereby a core group of indigenous labour inspectors should supervise the recruitment of indigenous workers, their contracting and transport, and monitoring their conditions of employment at the workplace. One or more pilot projects could be envisaged, in the departments which have the highest incidence of out-migration.

The Government could also seek to establish mechanisms, to give rural workers' organizations an enhanced role in national policy-making. Urgent issues identified in the case study include the related land and labour conflicts on the large plantations, and in particular the plight of the mozos colonos. Addressing this situation will require at the least improved procedures for conflict resolution, and perhaps also new legislation. An ad-hoc Commission could be established, perhaps beginning on a regional basis where the conflicts are most acute.

#### *The role of employers' organizations*

Employers' organizations can have a stake in increased labour productivity in agriculture. This is best achieved through a better trained and healthier workforce, and through a more stable climate of labour relations. It is clear that these factors vary greatly throughout the country, by crop, and by department. Overall the prospects of achieving an industrial relations climate, in which plantation employers recognize the positive role of rural workers' organizations and the labour authorities in seeking improved conditions of employment, are for the most part very remote. Yet rural unrest will almost certainly intensify, unless rural employers can find a mechanism for dealing with outstanding minimum wage and legal labour claims, and, to some extent, related land claims. Ultimately this could prejudice the more efficient and enlightened, as well as the more backwards sectors of commercial agriculture. The President of the Agricultural Chamber, in an interview during the case study, expressed a view that minimum conditions of labour law should be enforced, and labour courts should be strengthened to this effect. Rural employers' organizations should be encouraged to carry out systematic fact-finding and promotional work along these lines, denying membership and protection to landowners who are found to be in persistent violation of existing legal minimum standards.

#### *The role of trade unions and other rural workers' organizations*

The case study found it difficult to develop a typology of existing rural unions and other peasant and rural workers' organizations. In a rapidly evolving climate, it appeared that most organizations are concerned

with developing a broad and diverse membership. Whether organized nationally or regionally, they included salaried rural workers, small farmers and other interest groups. Umbrella organizations were found, comprising smaller interest groups. Yet it has been argued that the demands and real concerns of rural workers will be affected more by their occupational category than by any other single factor. Some are fighting for higher salaries or stability of rural employment, others for land access or security, others for higher prices for their products or for improved access to technical and financial assistance,

Bargaining power is unlikely to increase, unless there is more unity among workers from similar occupational categories. For example, competition between unions could weaken the situation of salaried workers in agro-industry, or *mozos colonos*. Up till now divisions are likely to have been motivated by political and ideological criteria, with some organizations perceived as more broadly supportive of the past and present governments, and others more adversarial.

### *The role of the ILO*

How can the ILO, in collaboration with the Government and the social partners, improve rural workers' working and living conditions in Guatemala? How can its supervisory mechanisms for the application of Conventions be integrated more effectively with the design and implementation of future technical assistance programmes and into national programmes and policies?

It is important, first and foremost, that the Convention should be known more widely by the actors involved. Two seminars would be useful. The first would bring together a select group of trade unionists, peasant and indigenous organizations, and NGOs active in rural organizing. They would be invited to describe the procedures by which they have set about seeking legal personality, and the difficulties encountered. This would provide the basis for a technical workshop, involving representatives of the requisite Government ministries and agencies. Representatives of UN agencies active in rural development and community organization in Guatemala would be invited to attend as observers, and again to submit position papers summarizing their own experience. The objectives of the second workshop would be to provide the material, on the basis of which a procedural manual and possible Government regulations could be prepared.

Convention No. 110 evidently provides the framework for a broader set of activities. There is a need for fact-finding, possible legislation, conciliation, organization, infrastructural improvements including labour inspection, and inter-ministerial programmes with the collaboration of employers' and workers' organizations to address conditions on the plantations in practice. It is also conceivable to link these activities with the emerging programme of the Ministry of Labour on behalf of Guatemalan seasonal migrant workers in Mexico. The precise modalities of such a project are beyond the scope of the present discussion paper. Suffice it to say (a) that the Minister of Labour has expressed a firm interest in such a programme of technical assistance, with emphasis on data collection, legislation and its application; and (b) that there is scope for incorporating such a programme within the framework of an existing ILO project for strengthening indigenous organizations in Guatemala. A starting point would be to develop a pilot project in one department with a heavy incidence of out-migration, perhaps Huehuetenango, which provides a substantial proportion of the migrant labour force to both Mexico and Guatemala itself. The pilot project would cover a limited range of municipalities, and be devised together with existing indigenous organizations and local government of the municipalities in question. It would attempt to develop an appropriate organizational structure, enabling indigenous leaders trained in labour law and inspection to accompany migrant workers throughout the migrant labour cycle. An additional component, again undertaken in conjunction with existing indigenous organizations, would address the national policy framework. Building on the earlier - and alas forgotten - ILO experience of the 1960s, and also on the recent initiatives of the Ministry of Labour, it would attempt to come up with practical recommendations for implementation of labour law as it affects migrant workers, and for labour law reform if considered necessary. All this would be seen as preparatory work for the creation of the National Tripartite Commission, already referred to above.

## Notes and references

1. "Informe al Gobierno de la Republica de Guatemala sobre Colonización, Transformación Agraria, Desarrollo Rural y Trabajo Agrícola", OIT/TAP/Guatemala/R18, ILO, Geneva, 1970.
2. The Unidad Revolucionaria Nacional Guatemalteca (URNG) is the unified movement of the Guatemalan armed insurgents comprising four separate organizations, namely: the Ejército Guerrillero de los Pobres (EGP), Fuerzas Armadas Revolucionarias (FAR), Organización Revolucionaria del Pueblo en Armas (ORPA), and Partido Guatemalteco de Trabajo (PGT). Under an interim agreement negotiated between the Government and the URNG in Oslo in June 1994, separate agreements now have to be negotiated on different issues before a final agreement can be concluded. During the mission, prolonged talks were held in Mexico concerning the rights and identity of indigenous peoples, during parts of which ILO representatives were present as observers upon the request of the United Nations moderator. The next scheduled item on the pace talks concerns social and economic issues including the highly sensitive land question.
3. To limit the rather broad definition of plantations in the original Convention, a 1982 Protocol provided that a Member ratifying this Convention may, after consultation with the most representative organization of employers and workers concerned, exclude from the application of the Convention undertakings the area of which covers not more than five hectares and which employ not more than ten workers at any time of the calendar year. However, of the eleven ratifying countries, only Cuba and Uruguay had accepted this Protocol at the time of writing.
4. The value of cotton exports fell from 33 million US dollars in 1990 to only 4 million in 1993.
5. United States Agency for International Development and Development Associates, Tierra y Trabajo en Guatemala: una Evaluación, Washington DC., 1984.
6. Alberto Hintermeister, "Rural poverty and export farming in Guatemala", ILO, Rural Employment Policy Research Programme, Working Paper No. 71, Geneva, October 1984.
7. Hintermeister, Op. cit., as above.
8. USAID, Op. cit., as above.
9. Guillermo Pedroni, "Territorialidad Kekchi. Una aproximación al acceso a la tierra: La migración y la titulación", FLACSO, Guatemala, 1991.
10. "Assistance to Guatemala in the field of human rights", report by the independent Expert, Mrs. Monica Pinto, to the 51st. Session of the United Nations Commission on Human Rights, UN Doc. E/CN.4/1995/15, 20 December 1994.
11. "El Mercado de trabajo en el area rural y agropecuaria de Guatemala, 1989", PREALC, Documento de Trabajo No. 360, July 1991, citing the Encuesta Socio Demográfica, INE, 1989.
12. This figure comprises all those persons aged 10 years and above who, at the time of the INE survey, were engaged in an agricultural or livestock activity, or were currently unemployed and seeking work but had last worked in agriculture or livestock.
13. See for example: ILO, 1970, as above; and SEGEPLAN, "Estudio sobre población, fuerza de trabajo y migraciones en la agricultura de Guatemala", SEGEPLAN/UNFPA, Guatemala, 1984.
14. Lester Schmid, The role of migratory labour in the economic development of Guatemala, Wisconsin, 1967.
15. The National Coffee Association (ANACAFE) estimated in 1994 that 7.8% of the cultivable land area, or 385,000 manzanas in all, was taken up with coffee cultivation. Coffee accounted for some 12% of GDP, and between 30-35% of foreign exchange earnings. There were 43,800 coffee growers in all, classified as follows: 30,000 small producers (68.5%), 9,000 cooperatives (22.1%), 2,600 "fincas subfamiliares" (5.9%), 1,100 medium-sized farms (2.5%), and 400 large farms (1%). The sector was calculated to provide over 45 million person-days of work during the agricultural cycle. In recent years, Guatemala has fluctuated between the fourth and fifth largest of world coffee producers.
16. Eduardo Baumeister, "Guatemala: los trabajadores temporales de la agricultura", in Los Pobres del Campo: el Trabajador Eventual, Sergio Gomez and Emilio Klein (eds.), FLACSO/PREALC, Santiago, 1993.
17. FUNDAZUCAR, Memoria de Labores, 1991-3.
18. Humberto Flores Alvarado, "Migración de Jornaleros: Diagnóstico sobre las migraciones laborales temporales internas en Guatemala" (first draft, unpublished), Guatemala, October 1994.
19. See: "Informe al Gobierno de la República de Guatemala sobre Colonización, Transformación Agraria, Desarrollo Rural y Trabajo Agrícola", OIT/TAP/Guatemala/R.18, ILO, Geneva, 1970; and "Informe al Gobierno de la República de Guatemala", OIT/TAP/Guatemala/R.19, ILO, Geneva, 1970.
20. See for example: "Informe de la Comisión nombrada por el Ministerio de Trabajo y Previsión Social de Guatemala para el Estudio del Proyecto de Ley para la Regulación del Trabajo Agrícola Temporero", Guatemala, agosto 1968.
21. "Normas reglamentarias para la aplicación del Convenio Internacional del Trabajo 110 relativo a las condiciones de empleo de los trabajadores de las plantaciones", Acuerdo gubernativo de fecha 27 de febrero 1984, Guatemala.

22. Humberto Flores Alvarado, "Migración de Jornaleros: Diagnóstico sobre las migraciones laborales temporales internas, en Guatemala", draft, Guatemala, October 1994.
23. Carole A. Snee, "Current types of peasant-agricultural worker coalitions and their historical development in Guatemala", CIDOC, Cuernavaca, Mexico, 1969.
24. Carole Snee, Op. cit., as above.
25. Humberto Flores Alvarado, Movimiento Indígena en Guatemala: Diagnóstico y Expresiones de Unidad, Friedrich Ebert Stiftung, Guatemala City, 1993.
26. Anti Slavery Society for the Protection of Human Rights, "Guatemala- Deprivation of Indigenous Peasants' Land, Livelihood, Liberty and Lives", Report to the United Nations Working Group on Slavery, 1980.
27. Shelton H. Davis and Julie Hodson, "Witnesses to political violence in Guatemala: the suppression of a rural development movement", Oxfam America, 1982.
28. Democratización del uso, tenencia y propiedad de la tierra, Guatemala, July 1994. The document was signed jointly by the Unidad Indígena y Campesina del Norte (UNICAN), Unidad Campesina del Peten (UCP), Comité de Unidad Campesina (CUC), Coordinadora Nacional Indígena y Campesina (CONIC), Coordinadora Nacional de Pequeños y Medianos Productores de Guatemala (CONAMPRO), Unión Campesina del Sur (UCS), Consejo Nacional de Desplazados de Guatemala (CONDEG), Comité Campesino del Altiplano (CCA), Comité Campesino Kabawil (CCK), and the Coordinadora de Comités de las Comunidades Indígenas y Campesinas para la Promoción y Educación para la Paz (COICAPEP).
29. An example is the Finca Buenos Aires in the municipio of Tucuru, Alta Verapaz, a farm of 8.5 caballerías (over 500 manzanas), and a workforce of 81 Kekchi Indians. The average salary was 7.5 Quetzales per day, with no bonus payments or other fringe benefits provided for by law. When the indigenous farmers created a union with CONIC assistance, the landowner threatened to dismiss the entire workforce. CONIC's legal department responded by laboriously calculating outstanding payments for each member of the workforce, including compensation for dismissal, paid vacations, aguinaldo, retained salaries, adjusted salaries and bonuses. The total amount came to 2,243,696.03 Quetzales. The farm is currently "emplazada" before the Coban District Court. The landowner has insisted that he does not have the means to make these back payments, and CONIC is negotiating land grants in lieu of payment.
30. Some examples are the following. In the Empresa Agrícola Pachilha SA, Tucuru, where a collective bargaining agreement had previously been negotiated, mass evictions of organized workers commenced in 1993 and had affected a total of 62 workers by late 1994. Other reported pressures included the destruction of maize and bean plots by cattle, and intimidation by the local police. The farm is currently "emplazada" before the Coban District Court. In the Finca Monte Maria, Tucuru, 19 families were evicted as of July 1994. In the Finca Santa Teresa, 19 families were evicted as of October 1994.
31. During the case study, this strategy was encountered on farms visited in both Alta Verapaz and the Pacific coastal region. In Alta Verapaz a visit was made to the Finca Naranjo some 45 minutes drive from Coban, which is presently devoted only to forestry. All the existing workforce, Pokomchi Indians, were born on the property. Union representatives stated that the number of families had recently been reduced from 45 to only 16. Payment was 9.75 Quetzales per day, though work was only available on alternative weeks. No social security or other benefits were paid. Until recently, farm plots were made available to families for subsistence crop cultivation, but these plots had now been withdrawn. Since the union was formed, the farm administrator had offered workers a once-off payment of 2,000 Quetzales to leave the property.
32. ILO supervisory procedures for the application of Conventions require some initial explanation. When a country has ratified a Convention, it is required under Article 22 of the ILO Constitution to report periodically on its application in law and practice. Reports on ratified Conventions are currently required every two or four years, depending on the importance attached to them. Workers' and employers organizations, to which copies of reports have to be transmitted in accordance with the ILO Constitution, also have the right to provide information. The reports are examined by an independent technical body that meets once per year, the Committee of Experts on the Application of Conventions and Recommendations, and then by a tripartite committee of the annual International Labour Conference. The Committee of Experts can make comments, either in the form of a confidential "Direct Request" to the government; or in the form of a public "Observation" that is published in its annual report.
- In addition to the regular supervisory procedures, there are special procedures for Representations and Complaints. Representations, which may be made by employers' or workers' organizations, are normally examined by a tripartite committee of the Governing Body. Complaints, which may be made by a State which has ratified the Convention in question or by a Conference delegate, are normally referred to a commission of enquiry. These commissions may take evidence from witnesses and conduct on-the-spot enquiries, and they present a report analysing the position and making any recommendations they consider necessary for action to ensure compliance with the Convention in question. In addition a special supervisory procedure, the Committee on Freedom of Association, has been established to consider complaints relating to freedom of association.
33. Report of the United Nations Independent Expert on the situation of human rights in Guatemala, December 1994, as above.