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**Case Studies of Land Conflict Management Systems in Latin America**

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# Case Studies on Land Conflict Management Systems in Latin America

This document is the result of the study of four cases of land conflict management systems in Latin America. The study included the review of documents, interviews conducted in the host country and the analysis of legal and political documents of Ecuador, Mexico, Guatemala and Brazil.

Although this text covers the general aspects of these programs, it does not in any way attempt to provide an exhaustive analysis of the models presented herein.

## I. Background to the Agricultural Issue in Latin America

Most of the countries in Latin America resulted from the Spanish colonial rule and, in the case of Brazil, of Portuguese colonial rule. Colonists arrived to this Continent ignorant of the land holding systems that existed here and established new systems dominated by private property and monarchic systems of government. Since the establishment of the Spanish and Portuguese colonies and until nations became independent in the 19<sup>th</sup> and 20<sup>th</sup> centuries, the agricultural structure established new historical records and the original landowners became laborers, either salaried workers or seasonal workers.

This situation has continued into the present day, despite progress made on agricultural issues, particularly in countries such as Mexico and Ecuador. Land reform programs were developed in these countries from the early 20<sup>th</sup> century, but the problems of the indigenous and non-indigenous campesino communities living on the land are yet to be resolved.

This is true to the point that in most Latin American countries, non-titled rural land is around 28 percent. Nevertheless, in certain countries the situation is even more desperate<sup>1[1]</sup>, and these numbers that show the high potential for conflict and the burden for Latin American nations on the road to development.

In addition to this, the development of the movement for the recognition of collective rights, especially for Afro American and indigenous populations, has taken place in the region over the last decade. One of its fundamental principles is the right to land as a basic, unalienable, indivisible asset.

As a result, a variety of alternative means for managing agricultural conflicts has been developed in Latin America, both within governments and within civil society. Oftentimes, governments and civil society have collaborated to find ways to ease the level of conflict. In most cases, they

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<sup>1[1]</sup> Data from a series of agricultural documents and brochures on different Latin American countries, especially from ILANUD's (United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders) *Estudio sobre la situación de la justicia agraria en América Latina*, (A Study on the Status of Agrarian Justice in Latin America), ILANUD, 1987.

have achieved important results, worthy of being publicized and, in terms of globalization, worthy of replication.

This study intends to contribute to agrarian research a series of cases that exemplify efforts and processes that play a part in easing the way to peaceful coexistence through dialogue and mutual understanding.

## **II. Case Studies**

### **II-A. The Case of Ecuador**

#### *Community Paralegal Program*

##### *Agricultural Situation of the Country*

Ecuador is located at the center of the Southern Cone of the American Continent and is crossed by the equator line. It is home to indigenous, Afro-Ecuadorian and non-indigenous rural communities.

The majority of these communities live under a systems of collective land tenure, although private indigenous property holdings in the Inter-Andean region have become much more common.

The Ecuadorian agricultural sector is represented by the National Institute of Agricultural Development, which was formed through the current Agricultural Development Law in 1994. Basically, it seeks to finalize the land regularization processes, promote rural training and provide appropriate technologies in order to increase the production of agriculture. It further aims to put an end to the clearing of forests as a means of demonstrating possession and, alternatively, proposes the creation of rigorous management and zoning plans for land use, which are contained in plans approved by the Environmental Ministry.

Despite these regulations, serious land disputes are taking place in Ecuador, due mostly to the presence of forestry and agricultural export businesses and the petroleum and non-renewable resources industry.

Through the current Constitution, in effect since 1998, indigenous populations have obtained a series of collective rights regarding community lands that would guarantee them legal protection and territorial consolidation in the future. These rights are recent and are therefore currently being exercised.

##### *Origin and Nature of the Paralegal Program*

The Community Paralegal Program attempted to respond to this agricultural situation and thus, by definition, deals with the community context, although it could also be reproduced in other ways based on the same methodological approach.

Since its inception in 1993, paralegals have become individuals from grassroots organizations that are trained in the management of legal fundamentals regarding the environment, the agricultural reality and community organization. Paralegals serve as links between their organizations and outside parties, which facilitates the levels of local management.

The objective in training these community agents is to make them advisors for the agencies they represent.

Selection criteria include common academic, community and personal factors.

This program is essentially a non-governmental program.

### *Institutional Support*

The program is endorsed by the Bar Association of Ecuador, although recently consideration has been given to working with an Ecuadorian university that would certify this training and legally define a field of action for paralegals.

### *Training Process*

Once the selection of paralegals has been carried out, along with the official procedures of the social organizations, a series of training workshops is developed at both local and central levels.

Central workshops are carried out in Quito, the capital of Ecuador, where paralegals meet for six days each month and on six occasions to analyze selected topics. These workshops are held in Quito because they not only involve conveying information to participants, but also training them on a more personal level: to lessen their fears regarding the city, to assist public entities and carry out official matters at government agencies, and develop an approach on the matter.

Regional workshops are held in the communities where paralegals live. In these workshops, the experience and content of the central workshop is reproduced. Paralegals present the workshops and agents from the organizations are trained as facilitators and begin to create a role for themselves as local advisors.

Both central and regional workshops attempt to cover specific and general topics. They begin with an analysis of the institutional framework of common law, followed by an introduction to the subject matter to be analyzed. Information regarding the legislation on the topic is immediately applied to the legal issue in question. A visit is then made to the public office that handles the issue and finally, a critical analysis is presented on the material studied that generates proposals for a solution to community problems.

The training process is based on art as a method for community-based legal training, using tools such as puppets, social dramas, improvisations, self-expression through movement, Gestalt technique, observations, collage, painting, and “talking maps”, among others. These resources are also used by paralegals in regional workshops.

The legislation that is the subject matter of our study and the topics analyzed were divided into the following areas: community organization, land tenure, protected areas and forestry resources, non-renewable natural resources, economic development and biodiversity.

Furthermore, paralegals are trained in conflict mediation techniques and are therefore able to serve as mediators to help resolve community disputes, including conflicts within the community and those involving external relations.

#### *Activities and Scope of Action*

Upon completion of training, community paralegals work in the following areas, among others:

- Community Advisory Services
- Conflict Management
- Support for Organizations in Parliamentary Procedures
- Obtaining legal status for local organizations
- Land legalization, including planimetric survey
- Preparation of complaints on behalf of their communities

These activities are planned in cooperation with the local organization they represent.

#### *Critical Analysis of the Case*

The case of paralegals in Ecuador has been a well-established mechanism for several reasons:

- It is a training program that focuses on what the human group needs in order to handle real-life conflicts. It adapts the training program content to address local needs and thus differs from universities where students analyze topics that often relate little to the needs of the country and much less to the needs of local communities.
- It is a program that combines the communication of information with the development of personal skills, particularly when training methods are implemented through theatrical representation. They are trained as facilitators of training processes when the paralegals in training perform the role of organizers and develop regional workshops; they learn to negotiate and manage human relations when visiting public entities, and maintain discussions on related topics.
- It is a program whose primary objective is the democratization of laws and access to justice, since in a broad sense paralegals promote the exercising of rights and the fulfillment of obligations by the group to which they belong. Their role as legal advisors and outreach workers enables them to suggest methods of interaction, which over the long term in a country such as Ecuador represents a large contribution to governance.
- It is a program that effectively brings together the micro and macro levels. Paralegals that are trained through its procedures and guidance connect the local community to the public sphere. This is typically the bottleneck in the decision-making process, but through the paralegals, local organizations and their leaders are provided with a bridge of knowledge and training that allows them to have a greater political impact.

Despite these advantages, some weak areas have also been identified in the program, such as: Once the paralegals have been trained, they can become intermediaries in the solution of local legal problems, or the cost of training a paralegal is not justified if in the long term the paralegal will not have an area of practice that will ensure their economic survival.

With regard to the first issue, methods have been sought at the local level so that would enable paralegals to be selected and work with second level organizations (SLO), that is, those whose members include other community-based organizations, and therefore it is desirable that paralegal training be based on the goals and activities of SLOs.

As for sustainability, the focus has been on land tenure projects and other social projects that initially involve the participation of paralegals as local contributors providing technical assistance in the community on more than one subject. This has produced incomplete results, since development projects are not taking place in all regions. Another area we are exploring is the possibility of paralegals offering their services to other communities through the National Paralegal Network.

The greatest impacts of the program include the hundreds of thousands of hectares of legalized land in favor of local indigenous, Afro-Ecuadorian and rural communities in general, dozens of conflicts dealt with and resolved, dozens of claims and proceedings brought before competent authorities, among others.

Today, paralegals head several regional and national organizations as top managers.

The women who have participated in the program have been very successful with regard to their involvement in local and regional issues and have become references for work and advocates for local development

The methodology has been replicated throughout the country in a program for the development of indigenous and black villages, including approximately 200 Paralegals, all members of the National Network of Paralegals. This is important because when the program was launched it began in a single region of Ecuador.

Finally, the program has created a new way for local communities to view the law and legal system in Ecuador. In the past, law was seen as something distant and dangerous. Today, in the areas where the Paralegals and social organizations have worked together, law is viewed more and more as a means to exercise rights and fulfill obligations

## **II-B. The Case of Guatemala**

### *Agricultural Legal Assistant Program [Procuradores Jurídicos Agrarios] Agricultural Context of the Country*

The recent history of Guatemala closely relates to the armed conflict that brought military face to face with civilians, ladinos with indigenous people, Guatemalans with foreigners, and is also linked to the signing and implementation of the Peace Accords.

The analyses on the peace process, including both critical and supporting analyses, show that unanimity with regard to criteria does not exist. Some think that the peace accords do not contain all of the necessary elements for reintroducing the development of the country with the full participation of all sectors. Others, in contrast, indicate that what the country needs in order to create a road to peace is found in the accords. Some have indicated that Guatemala needs to analyze in the coming years whether or not they should consider revising these treaties.

The fact is that the treaties are currently valid and establish fundamental principles with regard to agricultural issues. Some have been implemented, such as institutional conformity, conciliation or conflict resolution commissions, the channeling of funds for agricultural issues, among others.

If all of this has taken place, why then is it important to continue analyzing the agricultural situation of Guatemala? The answer, it seems, is that land-related conflicts have not diminished, and in fact have increased more and more to the extent they are ignored.

The Guatemalan agricultural establishment is represented by: the Land Fund (FONTIERRA), CONTIERRA, the technical-legal unit PROTIERRA, the Guatemalan Ministry of Agricultural Affairs, and the Presidential Conflict Resolution Unit (UPRECO). Despite their efforts to confront agricultural issues, these groups continue to struggle with a lack of necessary resources and political will in order to effectively deal with the situation. Even today, the issue of indigenous lands is a topic that is practically taboo in the Guatemala's process of agricultural development.

One noteworthy group in Guatemala is CONTIERRA, the official institution for land conflict management. It includes several work teams operating in different areas of the country that deal with agricultural conflict mediation.

CONTIERRA is an entity that was created to be under the direct aegis of the President of the Republic, which places it in the line of executive power.

Its main objective is “...to facilitate and support, upon request of the parties, the conciliatory or legal solution for those situations where one or more interested parties are simultaneously fighting for the right to possess or own land”.

From an institutional approach, the first impression of CONTIERRA is that it is an entity with a great deal of responsibility that is lacking legal, administrative and financial tools.

First and foremost, it is important to point out that CONTIERRA deals with the most sensitive issue in Guatemala: agrarian controversy. Secondly, their efforts in fulfilling this role are well-known and finally, financial difficulties have prevented them from addressing many important issues in the conflict mediation process.

Only in this way can it be explained that an entity — which was formed to provide legal advisory and conflict management services and was created under the protection of the Peace Accords in

order to create a peaceful society and manage hundreds of conflicts — could have such a scarce results compared to the high demand that exists in Guatemala.

Furthermore, there are a series of legal gaps and development policies that aggravate the agrarian controversy situation, including: Absence of a law on indigenous territorial issues; weak incorporation of local governments in the management of conflicts; limited development of legal assistance to the parties in conflict, among others.

Together with this situation, CONTIERRA should prioritize issues and actions in order to strengthen conflict management and define its institutional role, since according to many sources, the role of CONTIERRA is currently unclear: it is competent to mediate but cannot obligate anyone to comply with its decisions.

In the case of Guatemala, CONTIERRA was not selected as a case study; the case examined was that of Agrarian Legal Assistants [*PJA in Spanish*], which is a case that relates more closely to civil society. A specific report on CONTIERRA is available for anyone interested learning more about that case.

#### *Origin and Nature of the Case*

Agrarian Legal Assistants originated as a result of the demand to resolve the agrarian issue in Guatemala. Community members asked the Catholic Church for this support, and so it was the catechists who first began to attend to these needs.

The demand was so great that the Church decided that a separate project should be created to train those individuals who would be managing conflicts. Lawyers were then hired to promote this training and now, the Church has practically handed the entire training process over to non-governmental organizations. This is therefore an entirely non-governmental activity.

#### *Institutional Support*

This activity does not receive support from any public or academic institution. Support for this training is however given by regional campesino organizations or the Church.

#### *Training Process*

There are two training models for Agrarian Legal Assistants: one for members of the church and another for members of regional campesino organizations.

The difference is that each individual receives training on specific issues that people will be dealing with. Therefore, the preparation of the training modules must be adapted to meet their different needs.

The training involves three levels: In the first and second workshops, training and field work are combined. Both levels include 10 to 12 workshops, which take place every two months and each of these workshops lasts for three days.

The first level involves training workshops for beginners. They analyze basic agrarian laws, constitutional principles and civil material.

During the second phase, work is carried out with Agrarian Legal Assistants (ALAs) in the field. This activity is referred to as “visits”, because the objective at this level is to work with the Legal Assistants in the field on real-life cases. The lawyers heading the training program reinforce any weak areas encountered. This is therefore a learning phase for the legal assistants where the facilitators offer technical assistance.

Training continues at the third level, but it no longer involves information on laws. The focus is moved to the analysis of the country’s agrarian and political reality. Here, the topics presented include analysis of the agrarian situation, agricultural development models, techniques for negotiation with government and case studies for which the legal assistants propose solutions, among others.

Training is carried out in the home cities of the ALAs and eventually in Guatemala City, the country’s capital, for a special workshop where conferences are combined with institutional knowledge and experience, among other activities.

#### *Activities and Scope*

The Agrarian Legal Assistants work in their native regions, which are typically grassroots communities. Currently, ALAs cover nearly 500 communities and their activities are planned in cooperation with the Church or with regional campesino organizations.

Furthermore, legal assistants not only deal with land issues, but also, once they begin working with local organizations, they work diligently on issues related to community life.

Once the ALAs have completed training and are actively working, they are paid by either the Church or the regional campesino organizations. If they encounter problems, they seek assistance from their former trainers. Agrarian Legal Assistants are frequently involved in discussion tables, particularly in the Verapaz area of Guatemala.

#### *Critical Analysis of the Case*

The case of the ALAs represents an experience of high importance in Guatemala for the following reasons:

- It is a pioneer project in the agrarian conflict management field, in a country where the very attempt to resolve conflicts was a conflict in and of itself. As explained in the analysis of the Guatemalan situation, the main causes of the armed conflict were rooted in the land tenure regimes. This may have been because it was the Church that began to deal with the issue.
- In many areas of Guatemala, Agrarian Legal Assistants have become obligatory guests at negotiation tables because they are trained and experienced in conflict management. In fact, CONTIERRA has often hired these legal assistants to work in the area of case management.

- The ALAs, in a county that resisted the development of human capital in agrarian issues, represent important resources because they provide technical and legal assistance to local communities and lead processes that over the long term are valuable contributions towards developing a culture of peace and discourse.

Some critics have called attention to the lack of authority the ALAs have, because the agreements they reach require the participation of an authority in order to be carried out.

Another weak area is the lack of sustainability of the interventions, because although local organizations are financing these activities, others still do not acknowledge the contribution of Agrarian Legal Assistants.

However, the contribution these legal assistants have made to the Guatemalan reality is significant. There is no national registry of cases managed and resolved by ALAs, but it is estimated that several hundred conflicts have been successfully resolved, the majority relating to land issues. Currently, legal assistants must cover a minimum of 500 communities, where they act as facilitators in the conflict management process.

The future of the ALAs is closely linked to advances on the agrarian controversy issue and the projects of the Church in Guatemala, due in part to the fact that the Church finances nearly all the work performed by the legal assistants.

Many of these individuals have begun to study law as a profession, have decided to enroll in a university or have at least decided to receive continuing education on land tenure issues.

Local communities view the ALAs as a closer and more efficient means of managing their conflicts, mostly because their work is endorsed by social organizations. In many cases the local communities prefer to submit their cases to mediators rather than to negotiation tables sponsored by the State.

## **II-C. The Case of Mexico**

### *Conciliation and Mediation Program of the Agricultural Attorney's Office Agricultural Context of the Country*

Unlike other Latin American countries, Mexico has one of the longest traditions with regard to conflict management. The Spanish tradition in this country has been active and has integrated into the system like in no other country. In fact, community paralegals, which were established during the colonial period, continued to perform their functions during the time of the republic. Later, with the land reform of 1915, indigenous communities were forced to surrender their lands to the State, including those for which they had titles from the colonial era. This problem persisted among legal battles until 1972, when Social-Agricultural Legal Offices were created, an event that would begin the modern road to what is today known in Mexico as the management and mediation of land conflicts.

Despite these advancements, Mexico has been unable to ease the large land conflicts in the country, particularly in the southern part of the country, in the Chiapas region where violence continues to increase day by day.

The agricultural establishment in Mexico is represented by the Ministry of Agrarian Reform, the Agricultural Attorney's Office, the Agrarian Courts as part of the legal system and the National Agrarian Registry.

#### *Origin and Nature of the Case*

In 1992, the Agricultural Attorney's Office [*Procuraduría Agraria Mexicana or PAM*] was created and based on that, the case of Mexico, which is the subject matter of this study, is developed.

This is therefore a case of public nature due to the fact that the PAM is part of the public administrative system of the State and its authorities are elected by the government. Agrarian Courts were created along with the PAM.

To perform its operations, PAM has offices in all states and over 120 regional offices that operate under State offices and are called centers. Agricultural Inspectors are based in these centers. These inspectors are called on to perform the job of mediation as a last resort and carry out mediation activities in the areas where they live.

#### *Institutional Support*

Support for this activity is provided by PAM, which is a public law entity. As a result, expenses for salaries and work resources are provided by the State.

#### *Training Process*

The training process for Agrarian Inspectors lasts one year and they must pass an evaluation exam. Upon the completion of training, they are qualified to work as assistants to agrarian inspectors. They then accompany inspectors and must also successfully complete a month of training on mediation techniques. At this point, they are qualified to serve as Agrarian Inspectors.

The main topics studied during the year of training include the legal aspects of land tenure and the structure of the Mexican State, particularly regarding laws such as the Agrarian Law and its regulations, the Law on Human Settlements, Technical Standards for the Demarcation of Collective Community Lands, Agrarian Courts Law, as well as the Constitution and other laws regulating the administrative system of the nation.

Training combines sections on local issues and sections on state issues and work is normally carried out in association with universities.

#### *Activities and Scope*

The Agrarian Inspectors are trained to join and practice in PAM offices throughout the country, and each Inspector is in charge of 22 to 30 ejidos [*common lands*] or communities.

In order to perform their duties, they have to be personally connected to their work, because the participation of indigenous and peasant communities, social leaders and actors, the Federal and state governments and the municipalities is needed in the conciliation processes.

At first, staff will usually work separately with each of the parties involved in the conflict in order to understand their goals. Then they develop a plan on how to resolve the conflict, because PAM's experience dictates that a new process needs to be created for each case, since conflicts and solutions differ from case to case.

### *Critical Analysis of the Case*

Despite the uniqueness of the case, because the system is promoted, financed and executed from the public sector, the conciliation and arbitration program of PAM is one of the most interesting regarding agrarian conflict management due to the following reasons:

- The conciliation and arbitration system takes into consideration the traditions of indigenous peoples and the non-indigenous peasant population in the country by promoting settlements through negotiation and dialogue.
- The fact that the Mexican state has decided to establish an agrarian conflict management system means there is a political will to meet the Republic's local needs head-on.
- PAM has managed to resolve 83 percent of the cases through conciliation and arbitration and only 17 percent have had to be resolved through the courts because agreements could not be reached.
- Is one of the few countries in Latin American that has successfully managed to institutionalize the alternative management of land conflicts together with support policies and a public budget that funds the activities.

Nevertheless, some critics point out that PAM only acts and is successful in the weaker and smaller claims, but that it has not been able to do anything in conflicts such as those in the Chiapas region.

It was also mentioned that maintaining the system represents a significant burden on the national budget.

An additional criticism is that most of the claims are resolved through payments or damages, although money is not handed out in every case. In any event, PAM is one of the largest and most successful models of conflict management in Mexico. In its 10 years of existence it has managed some 240,000 claims. The number itself speaks of the level of acceptance of this system. PAM's impact and its conflict management system have become deeply rooted in Mexico's country life due to the level of association between conciliators and the communities and ejidos. Therefore, the experience is expected to continue with similar force over the coming years.

## II-D. The Case of Brazil

### *Paralegal Program (Lay Lawyers)*

#### *Agricultural Context of the Country*

Brazil has one of the largest landless peasant movements in the world, which is an indication of the country's agricultural structure. Along with Mexico, it is one of the countries with the most unfair wealth distribution in America.

These characteristics, together with the size of the country, make up for a conflictive agrarian reality. There are enormous pieces of land devoted to agricultural production and ranching. At the same time, landless citizens are gathered in urban settlements known as favelas. Land reform policies have been unable to address the matter, and have actually aggravated things through policies for the colonization of new territories.

The biological diversity of the country is concentrated mostly in the Amazon region of Brazil, which today is threatened by settlements and by large national hydroelectric and production projects that displace more and more the nation's indigenous populations.

“From 1988 to 1997 the number of land disputes increased in all Brazilian regions, totaling 4,757 disputes, involving 496,405 families”. (TADEU, 1998)

This situation is one that must be regulated and organized by the Brazilian agricultural establishment, represented mainly by: the Institute of Colonization and Agrarian Reform.

### Source and Nature of the Case

In this context, the case we are going to examine is that of *Juristas leigos* (Lay Lawyers). Paralegal is perhaps the most adequate translation. These paralegals are a result of the efforts of the Asociación de Abogados de Trabajadores Rurales (AATR / Rural Workers' Lawyer Association), based in Salvador de Bahia, in Bahia State.

The association was created to support worker and campesino initiatives, and realized that lack of knowledge of legal precepts in different areas was one of the bigger problems for access to justice and legal participation. When the association was started it offered sporadic courses on legislation, until it designed a Paralegal Program to offer support to citizens.

It is important to emphasize that the organization not only offers paralegal training, it also provides training in the areas of: legal council for public policy and citizenship issues, project follow-up, and support to social movements.

Because of these issues, it deals mostly with governmental matters.

Therefore, this is predominantly a non-governmental activity.

### *Institutional Support*

In order to support AATR technical assistance, follow up and training projects, the organization has drafted agreements with a series of academic bodies and professional organizations. In the case of the Lay Lawyers, they have the support of the State of Bahia Bar Association.

### *Training Process*

Paralegal training is offered in the following areas: general state theory, general theory of law, civil law and provincial law, human rights, criminal law and criminal procedure, labor law, environmental law and agricultural law.

In the case of agrarian law, training begins with the study of land distribution and agricultural concentration in Brazil, as well as the history of Brazilian social movements.

Paralegals are also introduced to subjects such as: means to acquire property, from the viewpoint of agrarian reform legislation as well as through civil procedure, and especially in land contracts, which are particular to Brazilian law. Constitutional issues and those related to the *quilombos* [black settlements formed by escaped slaves in the 19<sup>th</sup> century] are also part of the study

### *Activities and Scope*

The activities of the Paralegals are planned and developed together with labor organizations and, in some instances, directly with the AATR. There are some cases in which Paralegals will handle their own cases, since the population has seen in the system a form of direct support for their conflicts.

Paralegals are backed by AATR lawyers, who will support them if there is a need for legal representation in a lawsuit.

The involvement of Paralegals have been highly successful., specifically in land disputes. Several conflicts have been resolved thanks to them.

### *Critical Analysis of the Case*

The case of Brazilian Paralegals is an important reference due to the following features of this program:

- It is an effort to promote citizen participation in its broader sense, because it is not limited to a single issue of development but instead offers direct assistance on various legal matters.
- Because it is an effort supported by the Bar Association, they are the ones who have decided to promote this level of citizen participation and they assume responsibility for the Paralegals' practices.
- The program now has the support of a university, which confers it the legitimacy of an academic degree and grants it professional recognition.

- The program is designed so that each Paralegal functions as an independent professional. That means that they are responsible for their success or failure and their self-support, since most of them don't depend on any organization to support their activities.

Perhaps the aspects that could be considered negative include that they are not formally involved with social organizations, which could transform their role into that of a group of intermediaries speculating with the needs of local communities. Fortunately, such a risk has not materialized.

Another weakness of the experiment is that, while the Paralegals offer a service to the community, they could compete unfairly with the lawyers, since they do have a recognized area of work, but they do not have the extensive training lawyers receive in university classrooms.

Despite this, the success of the program is evident in Northeastern Brazil, and it is likely that the AATR will continue to support it as a strategy and to promote new generations of Paralegals.

### **III. Comparative Analysis of the Case Studies**

The search for contrasting and comparative elements among the case studies allows us to identify some key issues that are common to all the projects and that, with the differences that cultural and regional differences demand, are common to all of them. The case studies share a series of mechanisms, elements of success, and weaknesses. In comparing them, the main issues that stand out are the following:

#### *Differences*

##### *Sustainability*

The four cases studied have not achieved self-sufficiency, since the cases of Paralegals in Ecuador and the Agrarian legal Assistants in Guatemala depend on the projects for which they work, and once those projects end they will no longer have financing.

In the case of PAM Conciliators, they receive a salary as public employees and therefore this model is dependent on government efforts.

Despite all the obstacles, the Brazilian Paralegals could be the group closest to self-sufficiency, mainly because they have legal status, thanks to the support of the university that allows them to practice independently and to have their own clients.

This is one of the issues that should be immediately addressed by all the professional training programs

##### *Professional Practice Methods*

The four models have a common element: They are supervised by an organization that trained them or that represents them. In the case of Ecuador's Paralegals and Guatemala's Legal Aides, their work planning and professional practice was supervised and supported by the organizations to which they belong.

In the case of PAM, which is dependent on a public institution, professional practice is dependent on rules and regulations of PAM, and therefore its role cannot extend into independent professional practice because its area of competency is limited by the rules of the public sector.

Once again, the Brazilian experience shows the most independence, since it combines the options of working with an organization or in independent service.

One common element is that, after training, they can all refer to their trainers to clarify any doubts or to request additional guidance.

### *Control*

In the training programs involving sensitive issues such as land disputes and conflicts in general, the question is always raised: Who controls or overviews the mediators? To what degree are they legally obligated to submit to a superior authority?

In all four instances, when working with social organizations, the organization for which they are working has the authority. Yet, this is not the case when offenses can be socially sanctioned or judged, although in some cases it is very difficult to ascertain which are social offenses and which technical errors associated with the tasks, since in both instances the community being served would be affected.

Nevertheless, in cases of technical infractions a different entity would exercise control, that is, in cases when legal precepts were not applied to certain conducts or when procedural errors were committed, or perhaps when there is a violation of principles agreed upon by promoters. In the case of Ecuador's Paralegals, control over performance and the possibilities to establish sanctions for matters of technical performance is not in the hands of Second Level Organizations, but falls on the National Network of Paralegals, who have regulations that function as a code of ethics.

Guatemala's ALAs are under the control of the NGO that trained them. The PAM Conciliators are under the control of the Attorney's Office, and the Brazilian Paralegals under that of the AATR.

### *Support and Validation*

This type of program should have academic, political and social support, since the issues they deal with require validation.

In the case of Ecuador's Paralegals, they have the support of the organizations that chose their Paralegals and the endorsement of the Pichincha Province Bar Association. The academic endorsement of an Ecuadorian university is in progress.

The ALAs have the support of the local organizations they work with and of the Church Pastors. The program has not sought any kind of professional or academic endorsement.

The PAM arbitrators receive legal, labor and academic support from the Federal Attorney's Office.

The Brazilian Paralegals have the support of AATR and the academic endorsement of a State University.

The main difference between them is that in Guatemala, Ecuador and Brazil are experiences stemming from civil society, while PAM is endorsed by the state.

### *User Trust*

According to this analysis, each program receives the necessary amount of trust from each community. Because of differences regarding training or names of the sponsors, it is difficult to establish the degree of trust of the users. The truth is that local groups are so hungry for justice and want so desperately to resolve their conflicts that all sponsors are welcome.

An element that must be emphasized is that whether groups are government or privately sponsored could be a deciding factor in the degree of trust. For example, in Guatemala, Ecuador and Brazil, non-governmental models are trusted more than government-sponsored conflict management initiatives, which generate distrust, although for the reasons mentioned above, Mexico is an exception to this notion.

### *Success of the Program*

The very existence of the programs and their continuation is an achievement that must be acknowledged, because it is difficult to remain in situations involving economic dependence. However, the success of the interventions in all four cases is worthy of distinction. The four experiences fulfill an important role within the environments and cultures in which they emerged.

This is indeed remarkable, and perhaps the case statistics of the PAM are even more impressive because in no instance did other cases' activities cover the entire country, but rather, a single region, several provinces or perhaps a town, while the PAM is present throughout all of Mexico, giving it a greater presence than the other three cases in point

### *Local and National Impact*

One important difference between the programs is that in Ecuador, Paralegals are trained to carry out activities both locally and nationally through processes of political influence, while the Agrarian Legal Assistants are trained to work only at the local level.

The Mexican conciliators are trained to work at the local level. The Brazilian paralegals are trained to perform at all levels, but are not trained to handle matters of political influence, because the AATR has another specific program involving political impact advocates.

*Similarities**Training Adapted to Local Needs*

This area is perhaps the most important similarity between the four programs, because all of them have selected content for the outreach workers.

All cases began with an awareness of the local reality and the preparation of an appropriate program agenda.

*Promoting the Exercise of Rights*

The four programs provide processes of access to justice and the exercise of rights through the legalization of land as a result of conflict resolution, or by advising a human group that requires information in order to act or submit a claim.

The exercise of rights is not based on the fact that the programs focus on specific regulatory framework, but because the programs encourage citizen participation and strive to have the laws applied in practice.

*Training Methods*

This is another similarity, because all programs chose to use alternative methods and have moved away from traditional forms of instruction. All support presenting the students with an analytical view.

This method is combined with alternative training tools and material such as: arts, painting, social drama, collage, and other techniques.

*Institutionalization of Conflict Management*

Based on these efforts, the programs developed in the countries covered in this study have contributed to some extent to the implementation of alternative conflict management methods.

In the case of Mexico and Guatemala, public entities working with conflict management are already established: PAM and CONTIERRA. In Ecuador and Brazil, although an institution competent to manage land conflicts hasn't been created, they do have solid legislation on mediation and arbitration.

**IV. Replication of Experiences**

The majority of social investments are directed at creating models that can be reproduced in order to make the best use of resources and efforts.

The case of land conflict management models are in line with this objective, since the constant search for more effective means of problem solving compels us to examine the viability of replication in previous program experiences.

The Paralegal Program in Ecuador has been one of the most replicated programs among the cases examined. It was first reproduced throughout the country, and in recent years, in other countries of two different continents. Its methodology and content are easily adapted to agrarian issues, as well as to environmental and local government matters.

The Agrarian Legal Assistant Program is a program that, despite being in operation as long as the Paralegal Program in Ecuador, has not disseminated successfully and has been more of an internal project.

The experience of Mexico is interesting due to its public form. Nevertheless, the perception is that a model such as the PAM works well for Mexico, but would be difficult to adapt to another country with conditions different than those of Mexico and without a deep-rooted tradition of conciliation.

The case of the Brazilian Paralegals is an experience that has not been reproduced in other areas of the country, much less outside the country. Perhaps this is due to the fact that they have built a model with a strong academic component rather than a social service based program.

Based on this, it appears that the potential to reproduce a model is found in its usefulness rather than its results, but dissemination-related aspects should not be disregarded. A product that it unknown cannot be sold, and this seems to be what is happening with land conflict management models.

All participants want to start from scratch, without having to review a series of past experiences that provide important information on lessons learned, such as those discussed in this document.

## **V. Conclusions and General Recommendations**

The presence of models of local agents trained with different types of methods shows the need to promote training models on specific topics relating to the agrarian reality. It appears that universities and their professionals are either unable to meet the demand or are too far removed from the issue to truly understand the dimension of local problems.

The agrarian establishment in Latin America is a reflection of out-dated models in the Ministry of the Environment. In the majority of the cases, institutions that are not up-to-date and operate in a bureaucratic framework do nothing more than prolong and increase tensions and disputes.

Agrarian legislation in Latin America has been revised in many countries. However, it is necessary to improve legislation even more with the goal to lessen the gap between existing laws and the reality of the local situation.

Organized civil society participates directly in the process through the different models of conflict management that have been developed. However, it is necessary to place more emphasis on the approval and implementation of alternative systems of conflict management.

In all of the countries, the Church has been a fundamental pillar in the development of conflict management models in some cases by promoting training projects or financing land regularization processes.

In order for the State to directly establish conflict management systems, the context of each country must be analyzed. In countries such as Mexico, that system works rather well, but in other countries this model would quite possibly fail.

These processes require institutional support. That is, States should become increasingly interested in seeking support for these initiatives and establishing a field of action through public or private universities.

These models must take into account the native or customary law that exists in indigenous populations. Therefore, this training must be imparted within the framework of providing tools that would facilitate a better understanding, but not to replace traditional models of conflict management.

A key element to these processes is monitoring. That is, training workshops and events alone will not achieve the goal. Monitoring and accompanying trainees during the work day is also an important part. This will allow for knowledge and information to be reinforced and to create a research-training-action model, which is the aim of most of these models.

Financing is an issue to be addressed and one which requires recommendations due to the fact that if the State does not pay, it appears that it is unlikely for there to be local recognition of the paraprofessionals' right to receive payment for their services. The organizations should at least establish rates for their work.

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