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EMPRESARIATO
DE LA MUJER EN
EL DIALOGO
AGRIARIO USAID

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AÑO 2012.

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SUCCESSES AND SETBACKS

Mediating Land Conflicts in Rural Guatemala | March 2015

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Executive Summary

The majestic, mountainous landscape of rural Guatemala appears idyllic, but combustible tensions permeate the fertile terrain that indigenous farmers hold sacred and depend on for their livelihoods. Indigenous communities across the departments of Alta Verapaz and El Quiché remain vulnerable to displacement when land they live on is acquired by wealthy outsiders. Land registry title errors, competing ownership claims, and land legislation rarely favor isolated and disenfranchised indigenous communities despite their historical ties to the land. Border disagreements caused by poor government record-keeping further destabilize the region, as indigenous groups claim overlapping parcels of land. Lacking titles to land they have long occupied, families face a vexing predicament: plant crops for subsistence and risk violent confrontation with the neighboring community or a large private landowner, or wait indefinitely for a resolution that is anything but guaranteed. Given those choices, communities often opt for risking violence.

To address the violent land conflict in Guatemala that undermines economic productivity and jeopardizes livelihoods, Mercy Corps implements a land conflict mediation program, *Tierras* (“land” or “earth” in Spanish). Since 2003, Mercy Corps has partnered with local organizations to promote peaceful solutions to agrarian conflict by bringing together disputants in a voluntary process that features neutral fact-finding and dialogue in participants’ indigenous language. The mediation efforts are the core part of a larger intervention that also seeks to augment agricultural productivity and economic development. To analyze the impact of our efforts on families and the broader communities in Alta Verapaz and El Quiché, we and our local partners interviewed in October 2014 farmers and other community members whose land conflicts had been resolved through mediation. We then analyzed the quantitative and qualitative data gathered from those conversations and reviewed key mediation materials to draw conclusions about our conflict resolution successes and setbacks, and remaining agrarian, governance, and economic challenges.

Our findings show that land conflict mediation in Alta Verapaz and El Quiché has been incredibly successful in resolving conflicts that were undermining productivity and contributing to hostilities between indigenous communities, and between indigenous communities and private landowners. Community members who participated in mediation credit the power of dialogue and the facilitative role of Mercy Corps, our local partners, and local government institutions for transforming a desperate situation of minimal trust between disputing parties and limited access to land into improved relationships and agricultural opportunity. Fifty-two percent of mediation participants said the biggest impact they have experienced as a result of the mediation process is that they now are able to live peacefully without fear of confrontation. Several other highlights from the data underscore the overall success of our efforts:

- » 97 percent of mediation participants said there is less violence between their community and the other party as a result of the mediation process;
- » 95 percent would recommend the mediation process to others;
- » 92 percent said both parties had complied with the terms of their agreement;
- » 88 percent said there is greater trust between their community and the other party;
- » 86 percent said they were “very satisfied” with the outcome of their mediation; and
- » 64 percent used the land to plant crops such as cardamom, basic grains, and fruits that they could not plant previously.

Challenges remain despite the positive impact experienced by families and communities as a result of mediation. Resolution of conflicts often did not result in legal documentation of the land, due largely to a lengthy, complicated, centralized, and expensive titling process. Only 32 percent of those without land titles obtained them during this process. The easing of tensions translated into only modest agricultural benefits, as farmers continue to struggle to use their land in new ways or secure a stronger financial future. Only 29 percent of farmers expanded their farming area and just 26 percent boosted their productivity. Thirty percent of participants gained access to services such as credit or technical assistance, and only 24 percent managed to sell crops that they did not sell previously.

We conclude that additional efforts are needed to address ongoing agrarian challenges and improve the livelihoods of struggling farmers in rural Guatemala. Specifically, we articulate the following four recommendations to maximize gains from Mercy Corps’ land conflict resolution work both in Guatemala and in the many countries (e.g., Liberia, Afghanistan, Kenya, Myanmar, Colombia) where livelihoods are dependent on land and governments struggle to emerge from civil conflict and/or implement land legislation:

- » Strengthen government capacity to resolve competing land claims and issue titles to promote economic growth through land tenure;
- » Augment productivity and access to new markets with technical assistance tailored to meet farmers’ needs;
- » Enhance and expand the mediation approach in Guatemala to ensure dispute resolution services generate the largest possible impact; and
- » Replicate an integrated land conflict management approach in other countries with similar challenges.



Overview of Land Conflict Resolution Work in Guatemala

LAND CONFLICT IN RURAL GUATEMALA

Land conflict has long plagued Guatemala, contributing to the 36-year civil war that ended in 1996 after an estimated 200,000 people were killed, 50,000 disappeared, and one million were internally displaced. Escalation of land conflicts, many of which date back more than 100 years, still occasionally result in death and consistently create widespread unrest, particularly in rural areas, where possession of land is critical to livelihoods. Inequitable and concentrated distribution of land ownership permeates Guatemala, where 2.5 percent of farms occupy 65 percent of the land and 88 percent of farms occupy only 16 percent of land. Uncertain access to land

is a key driver of poverty among the indigenous and peasant populations. Three-quarters of the rural population, of which 80 percent is indigenous, live in poverty.¹



According to Guatemala's Land Affairs Secretariat (SAA), 1,338 registered land conflicts were still in need of resolution as of December 2014; at least 238 of those disputes are in Alta Verapaz and El Quiché (see map on page 4), neighboring departments in a mountainous north-central part of Guatemala composed largely of indigenous people of Mayan descent.² Q'eqchi' and Ixil communities in these areas have long fought to secure their rights to the land where they make their homes and grow their crops. Farmers generally plant on steep, rugged slopes amid tall mountains and dense forests³, and families complain that the land is not very productive. Making matters worse, the persistence of violent land conflicts

between indigenous communities, and between indigenous communities and private landowners prevents impoverished indigenous farmers from accessing the land in dispute, forcing families to subsist on smaller harvests.

Three types of land conflicts are most common: property rights disputes, border disputes, and land occupations. **Disputes over property rights** often result from land registry title errors or poor government record-keeping that lead to multiple titles for the same parcel. Such disputes typically occur between two communities, between a community and the state, or between a community and a private individual, as when someone buys empty land only to discover later that it is titled to members of a community. Inaccurate and poor government cadastral records (intended to specify land ownership and coordinates) also cause **border disputes**, which arise from contested property lines. Like disputes over property rights, border disputes often occur between two or more indigenous communities or between an indigenous community and a private landowner, but unlike property rights disputes, they are more likely to arise between two private landowners than between a community and the state. **Land occupations** describe a situation in which landless farmers settle on land they do not own to express to government and large private landowners their historical demands for arable land. More recently, land occupation has arisen from labor conflicts, typically over money owed to farm employees. When the prices of coffee and other crops drop, farms' profits decrease, limiting wages.⁴ Just as uncertainty about the location of land boundaries contributes to border disputes, so does confusion about ownership lead to conflicts over property rights. Property rights disputes may become occupations, with one party accusing the other of "invading" its land. Land violence can also take the form of forced evictions, burnings of homes, and deaths.

¹ USAID Country Profile: Property Rights and Resource Governance, Guatemala: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Guatemala_Profile_0.pdf

² Land Affairs Secretariat, Agrarian Conflict and Policy, December 2014
http://issuu.com/secretariadeasuntosagrarios/docs/informe_diciembre__28_versi_c3_b3n_

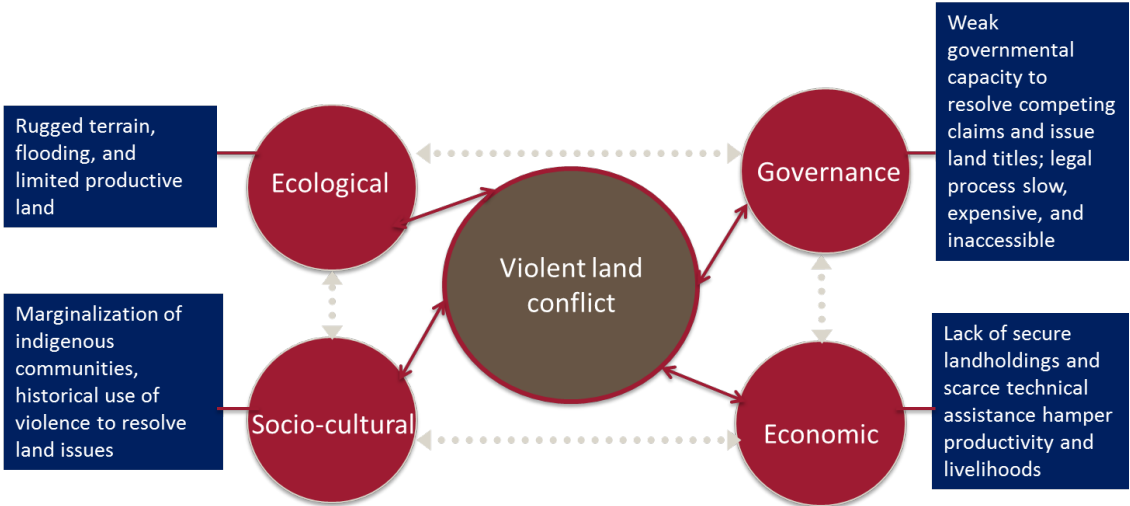
³ "Rural Poverty in Guatemala," <http://www.ruralpovertyportal.org/country/home/tags/guatemala>

⁴ "Tierras: Promoting Peaceful Solutions to Land Conflicts in Alta Verapaz: An Integrated Model for Land Conflict Resolution," Mercy Corps and JADE, Brian Atkinson

As in other countries plagued by natural resource problems, in Guatemala violent land conflict results from many interrelated systems not working as they should. In a region where families depend on land for subsistence, the rugged terrain makes the limited productive land a scarce resource in high demand. Government capacity to manage land tenure and resolve competing claims is inadequate, as evidenced by the abundance of conflicts over ownership and boundaries. Titling processes are complicated and poorly understood by indigenous communities. Unfortunately, a weak judiciary also offers few solutions because Guatemala’s civil courts are slow, overburdened, and inaccessible to marginalized indigenous communities. As a result, land conflicts endure for years and disputed land goes unused. Without access to secure landholdings, impoverished farmers struggle to sustain their livelihoods or invest in their future. Accustomed to historical norms around agrarian violence, communities often take matters into their own hands (see Figure 1).

Figure 1

LAND CONFLICT AS PART OF A LARGER SYSTEM



MERCY CORPS’ LAND CONFLICT MANAGEMENT WORK IN GUATEMALA

To address these underlying drivers of violent land conflict, Mercy Corps partnered first with the Association of Jurors for Legal Development (JADE) and later with the Association for Integral Development (ADRI), the Association for Integrated Multi-Sector Development (ADIM), and Fundemi Talita Kumi to deliver conflict resolution services, build institutional capacity, influence public policies to minimize agrarian conflict, and provide agricultural technical assistance in Alta Verapaz and El Quiché. Beginning in 2003, the core land mediation program has established 10 municipal mediation centers staffed by trained paralegals and a central mediation center in Cobán, the capital of Alta Verapaz, with lawyers, paralegals, and specialists in alternative dispute resolution who mediate in the Q’eqchi’ indigenous language. Mediation represents an alternative to resolving disputes through the courts, which are perceived to lack neutrality on land issues and can therefore result in highly unfavorable outcomes that are hard to reverse. Mediation, by contrast, is an inherently voluntary

process managed by a neutral third party.⁵ The mediation process relies heavily on open dialogue, research of cadastral records, and surveying and mapping tools and technologies such as GPS to conduct field studies. While the resolution of each land conflict is unique, the land mediation process typically produces one of the following types of agreements: the allocation of a parcel of land by private landowners to families in exchange for payment, the establishment of new land boundaries between two parties, or validation of land owned by one party and recognition of those property rights by the other party.

The initial project, called “*Promoting Peaceful Rural Solutions to Land Conflict in Alta Verapaz*” (see Table 1) funded by the United States Agency for International Development (USAID), Development Cooperation Ireland (now Irish Aid), and the Academy for Educational Development (now FHI 360), sought to enable the peaceful resolution of 40 land disputes. The mediation efforts were soon complemented by agricultural production assistance and efforts to influence agrarian policies. As part of its advocacy efforts, *Tierras* convened multi-sector fora that involved government agrarian agencies, civil society and indigenous organizations, landowners, the private sector, the church, NGOs, and academia. A key output of this effort was the creation of a regional multi-sector coalition, “CMTierras” (Multi-Sector Land Commission), to raise awareness of land conflict and indigenous populations’ land rights, advocate agrarian policy solutions regionally and nationally, and enhance government and public support for land conflict mediation.⁶ Additional efforts have sought to create systemic change by expanding the role of women in agrarian issues.

Recognizing that mostly centralized, institutional efforts to address land conflict in Guatemala have proven inadequate, Mercy Corps recently supported the creation of Agrarian Municipal Offices (OMAs) to promote more effective coordination among government institutions. Strengthening municipal capacity to provide land mediation services aims to ensure the sustainability of conflict resolution mechanisms in Guatemala. Initially subsidized by Mercy Corps but now largely covered by municipal budgets, the 11 OMAs in Guatemala are the first point of contact for community members experiencing land challenges.⁷

Table 1:

Mercy Corps Project Name	Donor	Duration
Promoting Peaceful Solutions to Land Conflict in Alta Verapaz	Academy for Educational Development (now FHI 360), United States Agency for International Development (USAID), and Development Cooperation Ireland (now Irish Aid)	2003-2007
Agricultural Pilot Project	Phoenix Fund	2005-2007
Promoting Peaceful and Economic Solutions to Land Conflict in Alta Verapaz	Irish Aid	2005-2007
Peace and Empowerment in Guatemala: Addressing Land Conflict and Economic Constraints in Indigenous Q’eqchi’ Communities	European Commission	2006-2009
Tierras II, Tierras Quiché, and CMM 2010	USAID	2007-2013
Resources for Equitable Development in	Irish Aid	2008-2011

⁵ USAID Country Profile: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Guatemala_Profile_0.pdf

⁶ “*Tierras*,” Atkinson

⁷ “Institutionalizing Municipal Government Management of Land Conflicts and Land Use in Guatemala,” 2014 World Bank Conference on Land and Poverty, Peter Loach and Carlos Aquino

Colombia and Guatemala		
Secure and Productive Land for Indigenous Communities in Northern Guatemala	European Commission	2009-2012
A South-South Approach to Protect Human Rights by Resolving Land Conflicts on Communal Land in Colombia and Guatemala	European Commission	2009-2012
Agrarian Conflict Resolution and Strengthening of the Rural Economy in El Quiché (Project AGROQUICHE)	European Commission	2010-2012
Empowering Women in Agrarian Dialogue	USAID	2010-2012
Empowerment of Women For Equality in Integrated Rural Development	European Commission	2012-2014
Strengthening Local Agricultural Management	European Commission	2013-2015

Impact Assessment Methodology

To assess the impact of the *Tierras* program, Mercy Corps and our local partner organizations conducted interviews in October 2014 with a representative sample of parties in 42 completed mediation cases in six municipalities in Alta Verapaz (31 cases) and two municipalities in El Quiché (11 cases). The 42 cases involving 4,210 families were selected based on a random sample of the 700 resolved land conflict cases in Alta Verapaz and El Quiché. Mercy Corps and our partners spoke during each visit with at least one party to the dispute, including indigenous community members, leaders of community land groups, and community development councils (COCODES). As the primary target group of *Tierras*, indigenous community members made up 88 percent of interviewees. All interview participants were asked the same set of 26 questions (see Appendix B).

In addition to the quantitative and qualitative data gathered from the community interviews, this analysis is also informed by the following sources of information: conversations with current and former Mercy Corps staff involved in *Tierras* program implementation; discussions with the staff of our partner organizations; and reviews of Mercy Corps materials, including land conflict management program proposals, donor reports, and documentation of Mercy Corps' and JADE's integrated model for land conflict resolution. The principal limitations of this analysis are that all of the interviewees were participants whose mediations resulted in agreement and we did not look at disputes that never went through mediation (i.e., no control group). No records were available for any mediations that did not yield an agreement. This report therefore cannot evaluate the mediation success rate or explore what factors may have caused some mediations to result in an impasse instead of an agreement.

Key Successes of Land Conflict Resolution in Guatemala

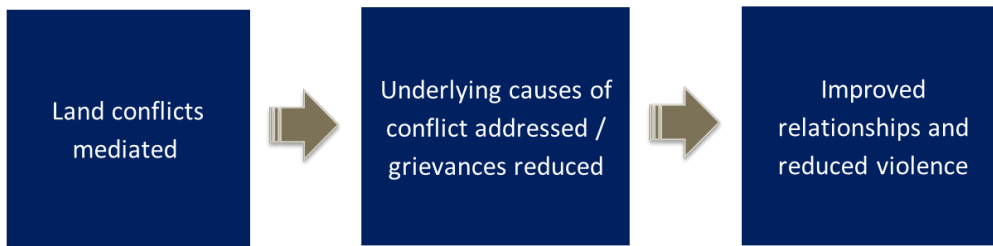
STRONG POSITIVE IMPACT OF MEDIATION ON FAMILIES AND COMMUNITIES

The mediation efforts in Alta Verapaz and El Quiché resulted in the resolution of 700 land conflicts since 2003, benefiting 32,796 families. We interviewed community members involved in mediation to better understand the impact of resolution of their disputes. We hypothesized that the mediation of land conflicts addressed not only

proximate causes of conflict such as property rights disputes and border disputes, but also satisfied underlying needs such as the ability to grow, consume, and sell crops. We also believed that effective mediation addressed injustices perceived by families unable to access land they considered sacred and that they had long occupied. We predicted that a reduction of grievances would lead to improved relationships and reduced violence across communities. Indeed, our conversations with participants in the land mediation process validated this chain of impact (see Figure 2).

Figure 2

LAND CONFLICT RESOLUTION CHAIN OF IMPACT

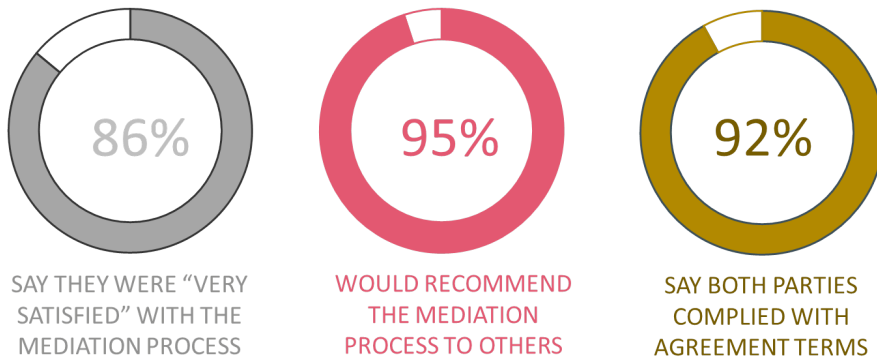


Eighty-six percent of participants reported that they were ‘very satisfied’ with the outcome of their mediation (see Figure 3), suggesting that the parties’ core needs were addressed quite well by their agreements, whether it was an allocation of land by a private landowner to families in exchange for payment, the establishment of new boundaries, or clarification of property rights. Several participants obtained legal documentation of their land: “Now we are owners,” one said. “We have our own land.” One party exclaimed, “No money was spent. We simply engaged in dialogue to reach agreements.” Another said that the parties have been “co-existing in harmony” since the completion of their agreement. It is not surprising then that 95 percent of participants would recommend the mediation process to others.

Figure 3

MEDIATION SUCCESS

% of mediation participants who...



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

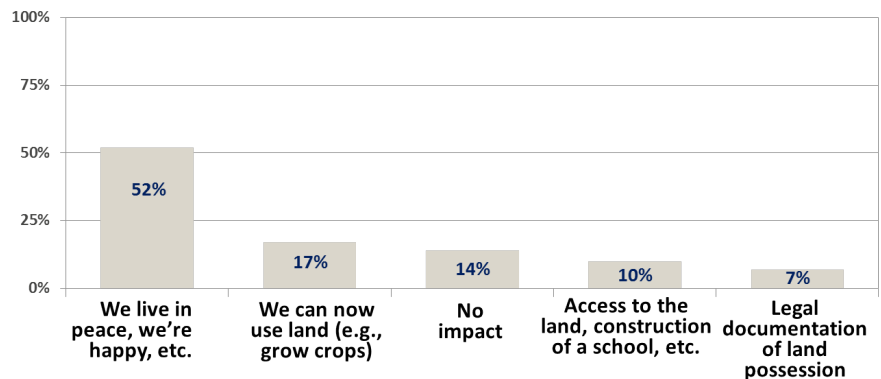
Many participants spoke of the significant impact peaceful resolution of their conflict has had on their family and the community compared to their pre-mediation situation. Eighty-one percent of participants say their conflict would still be unresolved if they had not participated in the process. In addition to not being able to access land they view as theirs, other negative consequences would have resulted absent mediation, including resorting to an unpredictable legal process or enduring a further worsening of relations with the other party. Community members described an alternate reality in which relations with neighbors would be tense, and uncertainty over their land would permeate the community. The mediation efforts have not only helped manage violent conflict by formally resolving ongoing conflicts that had, in many cases, lingered for several years, but also addressed longstanding grievances that, if not tackled, might have escalated into violent conflict. One participant said, “Enmity and poverty [would have resulted] because the families wouldn’t have anywhere to work or plant.” Others theorized that violence would have increased; at least one speculated that deaths would have resulted. And one even went so far as to say that the mediation process had prevented the “disintegration” of communities.

Unresolved conflicts had created insecurity and frustration, while their resolution has produced peace, security, and satisfaction. Fifty-two percent say the greatest impact of mediation on their community is the ability to live in peace without uncertainty about potential violent conflict (see Figure 4). “We now live in peace and there is good communication with the landowner,” said one participant. Another spoke of the value of mediation: “It’s a way to contribute to the friendship and peace of families and the community.” Eighty-eight percent of community members said there is greater trust between their community and the other, and 97 percent said there is less violence (see Figure 5). Addressing grievances has improved relationships and reduced violence (see Figure 2). As one participant remarked, “the community is very peaceful; we can locate the boundary with the other community and we are working the land.” Another said that resolution of their issues has helped “restore confidence and harmonious coexistence.”

Figure 4

BIGGEST COMMUNITY IMPACT: LIVING PEACEFULLY

What general impact, if any, has your community experienced between the start of the mediation process and now, as a result of the mediation?



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

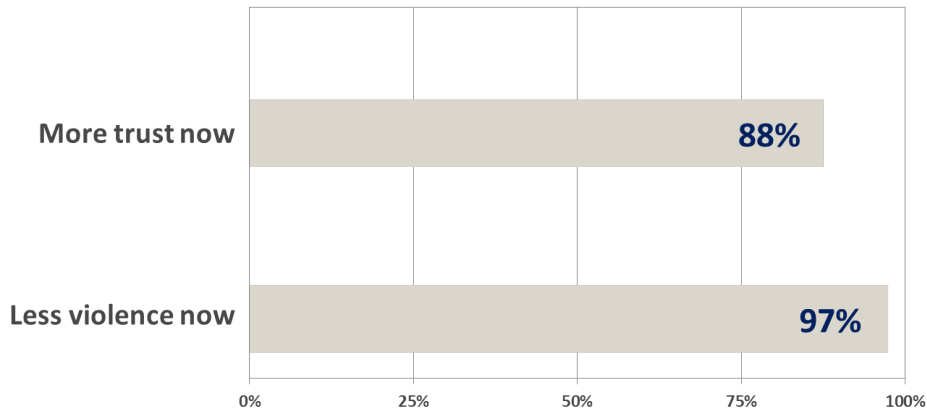
“Now my family and I live in peace; my children know the boundaries of our territory.”

Community member who participated in mediation process

Figure 5

REDUCED VIOLENCE AND INCREASED TRUST

What impact, if any, has the mediation process had on the levels of trust and violence between your community and the other party?



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

IMPLEMENTATION OF AGREEMENTS

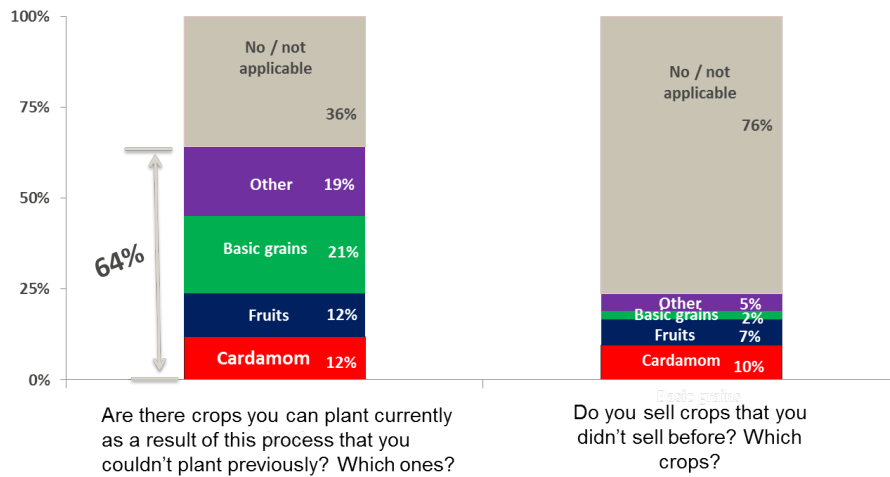
It is not uncommon for challenges to arise during the implementation of any negotiated agreement when the parties interpret the terms differently and therefore reach different conclusions about what each has committed to do. Even land agreements that specify an exact payment amount for a precise plot can produce disagreement as a result of different interpretations of when and how payments should be made or the consequences of a late or missed payment. However, an overwhelming majority (92 percent) of mediation participants said that both parties had honored their agreements (see Figure 3). As one participant said, “They have complied; there haven’t been problems between our community and the farm owner.” A high percentage of agreement compliance suggests that the parties’ needs (in general, community members’ ability to farm the land in question without fear of confrontation) were met, and that the commitments reached (for example, establishment of a new boundary or payment from community members to the private landowner) were clear, operational, and realistic. Some implementation challenges do exist, however. At least three parties interviewed in October 2014 described tensions and unresolved situations. In fact, 28 percent of participants said the biggest challenge they have faced between the end of the mediation process and today has been some aspect of implementing their agreement, from re-measuring the boundary and determining the exact quantity of land to exploring additional purchases of land from the owner.

“Dialogue is the best form of resolving differences.”

— A community member’s thoughts on what they learned from mediation, a sentiment echoed by many other participants

Figure 6

SOME EXPANDED CULTIVATION



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

Little information was collected over the duration of *Tierras* projects on the percentage of agreements that remained intact versus fell apart, limiting insight into why implementation might have faltered and what could be done to mitigate the risk of a return to violence in the future. Nevertheless, community members appear to be well-positioned to overcome implementation challenges, given their widespread belief that they have developed important skills during mediation. Seventy-six percent say they have a greater ability to resolve conflicts themselves because they have learned the value of dialogue. Many participants articulated during their interviews key elements of an effective mediation process, including neutrality of the mediator and gains made by both parties. They recognized the value of open dialogue to resolve differences peacefully. One participant spoke of the importance of dialogue to avoid taking a legal path, and another pointed to dialogue as a vehicle “to express how one feels and be able to resolve problems.”

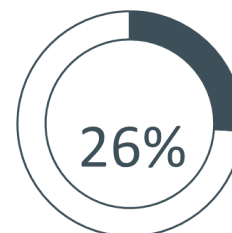
Figure 7

LIMITED AGRICULTURAL BENEFITS

% of participants who say their family or community has realized agricultural benefits from Mercy Corps' efforts



FARMING AREA IS LARGER THAN BEFORE



GREATER PRODUCTIVITY THAN BEFORE

Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

Connecting Land Conflict Resolution to Economic Productivity

Mercy Corps and our partners recognized that resolution of land conflicts alone was not the ultimate objective of the work; the hope was that when households were able to farm reliably, without fear of displacement or violence, they would become more productive economically. A 2004 field study of Mercy Corps' initial land conflict resolution work in Guatemala identified the challenge of helping farmers benefit from mediated agreements. Most farmers, the study concluded, had no formal plans for further developing their land or diversifying their crops.⁸ Agricultural support was needed to help farmers pay for acquired land and develop more sustainable livelihoods. In particular, the study emphasized the need to ensure "that agreements are carried out, legal requirements are met, and land title transfers are being properly registered" and to "provide agricultural technical support activities to communities in order to provide linkages between new landholders and resources to develop alternatives to the traditional subsistence crops." The land conflict resolution work in Guatemala therefore evolved to focus not only on resolving land conflicts in Alta Verapaz and El Quiché, but also on providing agricultural and economic technical assistance. In a subset of the *Tierras* projects listed in Table 1, Mercy Corps adopted more of a systems approach (see Figure 1) by partnering with governments and private sector companies to provide start-up training and help rural producer groups diversify crops, improve agricultural practices, and gain access to markets. It is not sufficient to just resolve conflicts when other key drivers such as poor governance, limited economic opportunity, and ecological obstacles also contribute to violence. As part of this study, we therefore explore the impact of resolving land conflicts on household economic productivity.

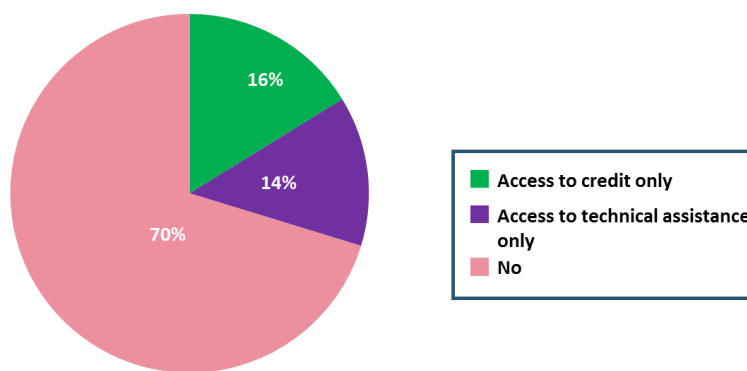
MODEST AGRICULTURAL PRODUCTIVITY AND ECONOMIC BENEFITS

Overall, Mercy Corps' land conflict resolution efforts have resulted in modest agricultural benefits. The most notable achievement is that 64 percent of participants used the land to plant crops such as cardamom, basic grains, and fruits that they could not plant previously (see Figure 6). These productivity gains resulted from farmers gaining access to land they had not been using and/or expanding their planting area. In many cases, families secured land they already used, but did not acquire substantial new territory. In rare instances, participants were able to use the land to build community structures

Figure 8

LIMITED ACCESS TO NEW SERVICES

"Do you have access to other services like credit or technical assistance that you didn't have previously?"



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

⁸ "Guatemala Field Study: A Study Of Lessons Learned Promoting Peaceful Solutions To Land Conflict In Alta Verapaz, Guatemala," Mercy Corps, 2004

such as a school, soccer field, or cemetery. Only 29 percent of participants said that the area where they plant grew in size, and only 26 percent say they have experienced greater productivity (see Figure 7). Twenty-four percent have sold crops they had not sold previously. Borys Chinchilla, Mercy Corps Guatemala Country Director from 2002-2010, suggested in a recent conversation that the minimal productivity improvements were in part due to impoverished farmers' view of land possession as the end goal, rather than as a means to improved agricultural production and financial security.⁹ The unshakable belief in land as a sacred possession may hinder farmers' ability to explore creative options for land use and distract from the focus needed to maximize productivity. It is also possible, Chinchilla theorized, that the high traditional dependency on crops such as corns and beans minimizes agricultural diversification.

On the other hand, many participants expressed a desire for help improving crop production because they see an opportunity to use the land for economic gain. They wish they had received technical assistance during or after the mediation process and still need it today to increase agricultural productivity. As Figure 8 illustrates, 70 percent of mediation participants said they still do not have access to services like credit or technical assistance that they did not have access to previously. As shown by Figure 9, getting help with agriculture projects is a principal challenge communities face today. "We wish we had received technical assistance or help improving the production of coffee and other crops," said one mediation participant. Another said the biggest challenge today is "improving production due to the land not being very productive." One mentioned the need for help with forestry issues. Another complained about a stalled project to grow pineapple. Others said they want to produce and sell agricultural products, and referred to the value of and need for development institutions that support the community. These perspectives suggest that there was an opportunity missed to generate creative land solutions by integrating more clearly into the mediation process an exploration of what the parties plan to do with the land once the conflict is resolved (i.e., why they want the land). For example, leveraging a community's comparative advantage in cultivating one set of crops with another's in farming a different set of crops (and perhaps selling them) could yield a mutually beneficial

collaboration. See Appendix A for examples of common land Interests and creative Options. A greater exploration of Interests could also support efforts to boost farmers' productivity as their conflict is being resolved. For example, an exploration of a community's need to access water resources specifically for irrigation could lead to parallel efforts to provide technical training on sound irrigation practices.

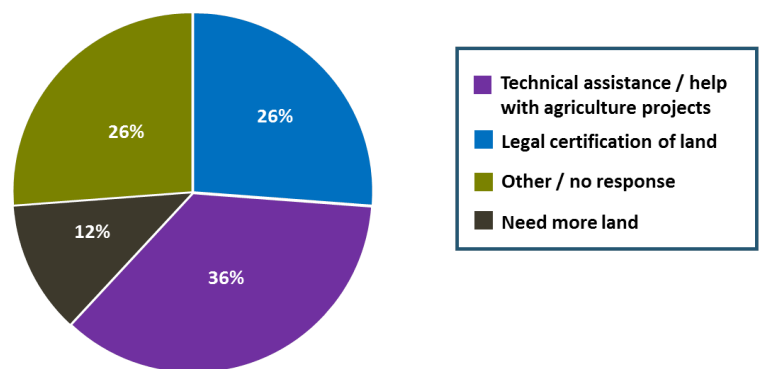
"Now my family and I live in peace; my children know the boundaries of our territory."

Community member who participated in mediation process

Figure 9

ONGOING CHALLENGES

"What are the biggest challenges your community faces today?"



Based on interviews conducted in October 2014 by Mercy Corps and local partner organizations with families involved in 42 land mediation cases (as a representative sample of 700 successful mediation efforts) in Alta Verapaz and El Quiché

ONGOING NEED FOR LAND TITLES

Access to formal property rights for the indigenous community has long been difficult because of land policy law. Historically, land held communally by multiple owners could not be registered in the name of only one of the owners, according to Guatemala's Civil Code. Because there were no procedures for registering the communal land on which many indigenous families live, most did not register their communal rights. This situation left indigenous groups vulnerable to the types of competing land claims that contribute to property rights disputes and border conflicts.¹⁰ The Registry of Cadastral Information (RIC), established by the RIC Law of 2005, now allows for the recognition of collective lands, although implementation is incomplete and the process remains cumbersome.¹¹ Mercy Corps and our partners have sought to provide families whose conflicts are resolved with the opportunity to initiate the process of acquiring formal titles, which are needed to obtain loans and securely develop landholdings. However, only 32 percent of those without land titles obtained them as part of our land conflict resolution work. Some mediation parties reported that, while signed agreements have been reached, they are still waiting for documentation of land possession.

Farmers' struggles to obtain land tenure throughout this process limit their ability to invest in their farms and therefore make it more difficult for them to leverage their agreements to augment productivity. Twenty-six percent of participants cited an ongoing need for legal documentation as one of the biggest challenges facing their community today (see Figure 9). Limited financial resources have contributed to families' struggles in obtaining land titles because the process not only takes substantial time but can require legal assistance from an attorney.¹² As one mediation participant said, "There are families that haven't been able to obtain signatures for lack of economic resources."

Recommendations to Funders and Facilitators for Addressing Smallholder Needs in Rural Guatemala

Families across Alta Verapaz and El Quiché achieved significant gains over the last 11-12 years, most notably in the reduction of violence reported. Nevertheless, the ongoing challenges expressed by smallholders underscore that a greater effort is needed to maximize gains already made and improve the livelihoods of impoverished farmers. Opportunities for greater impact require a systems approach to natural resource conflict management, in which land mediation efforts are more clearly integrated with governance, sustainable development, and agricultural activities. Addressing the needs of farmers in rural Guatemala will require initiatives to strengthen government capacity to resolve competing land claims and issue titles to promote economic growth, augment farmers' productivity with technical assistance, and enhance and expand the mediation approach at the community level.

STRENGTHEN GOVERNMENT CAPACITY TO RESOLVE COMPETING LAND CLAIMS AND ISSUE TITLES TO PROMOTE ECONOMIC GROWTH THROUGH LAND TENURE

The acquisition of titles is necessary to provide families with the security they need to invest in their land. This is not happening today because the titling process is too long, complicated, and expensive, and local governments are not accessible or responsive to indigenous communities. Helping farmers get the land titles they need

¹⁰ USAID Country Profile: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Guatemala_Profile_0.pdf

¹¹ The REDD Desk, Registry and Land Cadastre Law <http://theredddesk.org/countries/laws/registry-and-land-cadastre-law-guatemala>

¹² "Guatemala Field Study," 2004

therefore begins with enhancing local agrarian governance so that the titling process becomes quicker, simpler, and more affordable. Future interventions should support collaboration with the Land Fund and the RIC to devise and implement a more effective titling system at the community level in areas where an antiquated process remains lengthy, complex, and expensive. We recommend that the Land Fund simplify the process so that communities can easily apply for titles themselves without having to pay for expensive legal assistance. We encourage municipal governments to invest in a campaign to raise awareness among indigenous communities about the titling process and ensure that such information can be easily understood by a low-literate population. COCODES and OMA officials should brief parties and answer questions on the titling process at the start of their mediations. They will also need to revisit existing cases in which mediation parties still await documentation, and begin applying a new process for future cases to ensure parties obtain titles once agreements are reached. Given our experience and credibility in Alta Verapaz and El Quiché, Mercy Corps is well-positioned to work with the Land Fund and RIC in those two departments to establish a model that can be replicated in other regions.

ENHANCE FARMERS' PRODUCTIVITY WITH TECHNICAL ASSISTANCE

Securing land titles is necessary but not sufficient to enhance farmers' productivity. It must be complemented by technical guidance on boosting productivity and strategic advice on tapping into new markets. Agricultural assistance should be tailored to meet the underlying land needs of rural farmers so that they can make the best use of scarce productive land. Integrating a more explicit focus on families' land goals (e.g., growing cardamom and beans, selling fruits and grains, obtaining credit from the bank) into the mediation process from the start will enable communities and our partners to begin addressing those needs (by providing agricultural assistance, guidance on obtaining credit, assistance in hosting a trade fair, etc.) quickly as the parties approach agreement. For example, farmers whose desire for land is predicated on a desire to sell crops would be helped immediately in finding buyers and bringing their products to market. Similarly, farmers struggling to boost coffee or maize production would be provided with timely, crop-specific technical assistance. Future interventions should focus on building farmers' technical capacity and positioning them to achieve similar success in the future without relying on external help. Tangible productivity benefits gained by communities whose conflicts are resolved peacefully should make the mediation process even more attractive to other families and private landowners mired in conflict.

ENHANCE AND EXPAND MEDIATION APPROACH IN OMAS AND COCODES

The land mediation efforts since 2003 have focused largely on supporting a professional mediation center, leaving community members to rely heavily on Mercy Corps, our partner organizations, and engineers, rather than working with local leaders to engage in joint problem-solving efforts within the community. Enhancing the mediation skills of the COCODES and OMA officials, with whom Mercy Corps is now working, will enable more effective community-level mediation and sustainable mediation services. Further, helping COCODES and OMA officials better coordinate their mediation efforts with technical experts from the start of the process will contribute to greater agricultural productivity, crop diversification, and financial security. And facilitating coordination between the COCODES and OMAs and the land administration officials at the RIC and the Land Fund will improve land tenure success rates. Given the considerable success of the land mediation process in Alta Verapaz and El Quiché, efforts should be made to expand *Tierras* where the need is similarly critical, including areas potentially impacted by controversial, high-profile development projects. For example, an opportunity for significant impact may exist in San Pedro Solóma, according to figures captured by the regional office of the SAA, the state agency charged with resolving land conflicts by providing free legal advice and

reconciliation.¹³ The 88 registered cases in Solóma, where indigenous communities complain that they have not been properly consulted about proposed hydroelectric dams in the region, involve more than 82,328 families and 510,031 people, more than three times the number recorded by any other local or regional SAA office.¹⁴

REPLICATE INTEGRATED APPROACH TO LAND CONFLICT BEYOND GUATEMALA

The successes and setbacks of land mediation efforts over the past 11 years provide a clear path forward, not only in Guatemala, but in the many countries around the world where violent conflict erupts over land. Struggles over finite natural resources will trigger an increasing amount of conflict where land is critical to livelihoods, economic opportunity is scarce, the rule of law is weak, and ethnic, religious, or other groups face marginalization. Successful interventions begin with a comprehensive analysis of the unique system in which natural resource violence is a part, and then adopt an integrated approach to tackle the various drivers of conflict. Enhancing land governance and integrating agricultural technical assistance into an effective mediation process can provide secure land tenure, address longstanding grievances, generate economic opportunities, and produce sustainable impact in regions long plagued by violent land conflict.

¹³ USAID Country Profile: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Guatemala_Profile_0.pdf

¹⁴ Land Affairs Secretariat, Agrarian Conflict and Policy, December 2014
http://issuu.com/secretariadeasuntosagrarios/docs/informe_diciembre__28_versi_c3_b3n_

Appendix A: An Interest-Based Approach to Land Mediation

Interests <i>(possible motivations of families underlying their desire for land possession)</i>	Options <i>(possible ways to satisfy Interests of mediation parties on both sides of a land conflict)</i>
<ul style="list-style-type: none"> • Construct a house • Ensure a source of food • Achieve economic stability • Obtain credit from bank • Diversify harvest • Build a garden • Avoid conflict with neighbors • Be able to play sports • Raise animals • Increase productivity • Access water resources • Increase likelihood of benefiting from reforestation and food security projects 	<ul style="list-style-type: none"> • Divide the land by establishing new boundaries • Families pay landowner to access land in dispute • Communities rotate using land in dispute • One community grows crops and other sells the harvest; communities split the profits • One party receives land of equal value in another area • One party apologizes for destroying other's harvest and both agree to no further destruction • One party gives property owner a percentage of harvest or profit • Communities jointly build a small farm and raise animals together • Communities jointly collect water (e.g., installation of multi-use tanks or rainwater collectors) for irrigation • Communities jointly organize a trade fair

Appendix B: Guide for Interviews with Community Members

Background

1. Tell us about the background of the dispute in which you were involved.
 - What was the typology of the dispute?
 - Who were the key parties?
 - How many families in your community were involved?
 - What were the main issues of the dispute and what caused them?
2. When did the dispute first arise?

Mediation process

3. Tell us about the mediation process.
 - Who participated?
 - What role was played in this process by national organizations, civil society, and municipal governments?
 - What was the sequence of activities?
 - How long did it last?
4. What was the outcome of the mediation process? Was an agreement reached? If so, what was the agreement?
5. Did you obtain a title to the land through this process?
6. How satisfied were you with the outcome of the mediation at that time?
 - Very satisfied
 - Somewhat satisfied
 - Neither satisfied nor dissatisfied
 - Somewhat dissatisfied
 - Very dissatisfied
7. How do you feel about the outcome now?
 - Very satisfied
 - Somewhat satisfied
 - Neither satisfied nor dissatisfied
 - Somewhat dissatisfied
 - Very dissatisfied
8. What has happened since the end of the mediation process? If there was an agreement, have the parties lived up to their commitments? If not, what has resulted?
9. Would you recommend the mediation process to others?
 - Yes
 - No
 - Maybe

Why?

Impact

10. What general impact, if any, has your community experienced between the start of the mediation process and now, as a result of the mediation?
11. What impact, if any, has the mediation process had on the level of trust between your community and the other party?
 - More trust now, compared to the start of the process
 - Less trust now, compared to the start of the process
 - About the same level of trust, compared to the start of the process
12. What impact, if any, has the mediation process had on the level of violent conflict between your community and the other community?
 - More violence now, compared to the start of the process
 - Less violence now, compared to the start of the process
 - About the same level of violence, compared to the start of the process
13. What impact, if any, has the mediation process had on your community's ability to resolve disputes with other communities on your own, without the help of a third party?
 - Greater ability to resolve disputes on our own now, compared to the start of the process
 - Less ability to resolve disputes on our own now, compared to the start of the process
 - About the same ability to resolve disputes on our own now, compared to the start of the process
14. *(Follow-up to #13 if the community reports a greater ability to resolve disputes with other communities on their own)* Why do you believe you have a greater ability to resolve disputes on your own? What specifically did you learn that is helpful? From whom did you learn it?
15. How has your family been impacted by the resolution of the dispute? Has your life changed in any way?
16. Has your family or your community experienced any agricultural benefits from the work with Mercy Corps? If so, how? (e.g., greater crop diversification, improved food security, enhanced farming practices)
17. What impact, if any, has Mercy Corps' work had on your family's or community's agricultural productivity?
 - More agricultural productivity now, compared to the start of the process
 - Less agricultural productivity now, compared to the start of the process
 - About the same level of productivity, compared to the start of the process
18. Has the area where you plant increased in size? What has been the increase?
19. Are there crops you can plant currently as a result of this process that you couldn't plant previously? Which ones?
20. Do you sell crops that you didn't sell before? Which crops? Where do you sell them?
21. Do you have access to other services like credit or technical assistance that you didn't have previously?
22. Do you invest more in your farm now than you did previously? Why?
23. What do you think your community's situation would be today if you had not participated in the mediation process?

Unmet Needs

24. What help do you wish you had received during or after the mediation process that you didn't receive?
25. What challenges have you experienced between the end of the mediation process and today? To what extent has your community been able to address those challenges?
26. What are the biggest challenges your community faces today?

ABOUT MERCY CORPS

Mercy Corps is a leading global humanitarian agency saving and improving lives in the world's toughest places. With a network of experienced professionals in more than 40 countries, we partner with local communities to put bold ideas into action to help people recover, overcome hardship, and build better lives. Now, and for the future.



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