

THE ABANDONED AGRARIAN REFORM: VALLEYS AND HIGH PLAINS

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BACKGROUND

At the beginning of the 1950s, Bolivia underwent profound social upheaval as an effect of the generalised occupation of haciendas in the valleys and high plains (altiplano) regions of the country. When the MNR party forcibly took power in 1952, it did not have a clearly defined land programme, although it had produced a series of essays that did not explicitly touch on the subject of Agrarian Reform. This came about as a result of the indigenous rebellion and generalised seizures of land. In Ucareña, just one year after taking power, the revolutionary government issued the decree that legalised the freeing of the rural-indigenous labour force and the redistribution of lands. The Bolivian Agrarian Reform Act was deeply inspired by a similar process begun in Mexico 35 years previously, except that the Bolivian revolution ended up opening the doors to the birth of a new large landholding or estate system with respect to land in the eastern part of the country, doling out huge portions of territory left and right to supposed landowners.

In the mid-1970s, over twenty years later, the Reform had been abandoned, with no one knowing when it had concluded. It ended up in the corners of a handful of offices as thousands of files with no political backing or direction. All government administrations were negligent in directing this process. The country's military dictatorships were noted for their arbitrary and gratuitous distribution of lands, especially in the eastern lowlands (Santa Cruz, Beni, Pando and El Chaco) as rewards for political loyalty and support.

In the face of the 1992 scandal in which 100,000 hectares of land were misappropriated by the Minister of Education at that time, the government led by Jaime Paz Zamora intervened in the National Agrarian Reform Council and the National Institute for Colonisation in order to put a stop to corruption and restore order in the midst of administrative chaos. A three-month deadline was given.

Those three months turned into four years of efforts and difficulties while trying to reconcile a National Land Administration Programme and simultaneously draft a new law with a more modern conceptual and juridical vision for the administration of the country's Agrarian Reform.

Between 1992 and 1996 the country went through times when great debates, arguments and rural-indigenous demonstrations took place, as well as protests from the business sector and civil society, that ended in the enactment of the INRA Act at the end of 1996. This law was passed without sufficient consensus, although it is clear that extremely large amounts of effort went into its co-ordination. It would be difficult to achieve a harmonised Agrarian Reform between landowners and landless country people. Those who contested the most

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were the eastern power groups and, to a lesser extent, rural and indigenous union organisations from the west.

The National Agrarian Reform Institute (INRA) has been working to apply the INRA Act for seven years now, having received nearly 40 million dollars from International Co-operation. These resources have been mainly applied to the processes of reclaiming and titling land (*saneamiento*) in indigenous territories (*Tierras Comunitarias de Origen* or TCOs) in the eastern and lowland areas of Bolivia, mainly through a third party process that hires private companies to perform legal and technical evaluations of agrarian files, field tests, geographic referencing, and registering of parcels with the land registry.

Nevertheless, the re-titling (*saneamiento*) process has taken place while ignoring the INRA Act's global framework, which provides for a simultaneous process of expropriation, reversal and redistribution. It has taken place as if Agrarian Reform were finished in Bolivia and as if all that was left to complete the cycle was the strengthening of owners' legal rights. This has been the greatest distortion of the Agrarian Reform's constitutional mandate.

Debate without empirical evidence

The issue of land in Bolivia has been the object of superficial, incomplete debates, with a lack of empirical evidence regarding the effects of the 1953 Agrarian Reform. In recent years, there have been arguments, sometimes very ideological, over the weaknesses and potential of the 1953 Agrarian Reform and the INRA Act as a new public policy. Much criticism is directed at the character of the State, the capitalist system, the market economy, the neo-liberal model and the land market that INRA would be promoting by World Bank mandate.

The fundamental agrarian draft law (LAF) of 1984

In 1984 the CSUTCB, led by Genaro Flores Santos, presented the country with an agrarian draft law (*Ley Agraria Fundamental* - LAF) that was the product of years of reflection. The most appropriate stage for its creation was the democratic process started in 1982, after many years of dictatorships, and it allowed the country's indigenous movements to debate and propose their own alternatives, especially with respect to changes in the orientation of the 1953 Agrarian Reform Act. The LAF had a markedly "Andean Community" bent that sought to give more power to rural-indigenous participation through communal self-governance.

The main argument and driving force behind the LAF was to broaden the reigning constitutional precept that "*the land belongs to he who works it*" to that of "*the land belongs to he who works it personally*". The allusion was made then to the need to link the character of the 'peasant class' with the idea of working the land: e.g. he who does not directly work with the land has no right to possess it. This was the LAF motto. There was a prevailing classist concept of 'peasantry' and the idea of indigenous territories at that time was dominated by the political administrative jurisdiction of local territory, disconnected from the idea of ownership of natural resources. It was International Labour Organisation (ILO) Agreement 169 that years later promoted the idea of indigenous territory, and in Bolivia, it was the indigenous peoples of the Amazon region who demanded it in their demonstrations at the beginning of the 1990s. Part of these demands were included in the INRA Act under

the concept of indigenous territories (TCOs) legislated and regulated for the Amazonian and lowland regions in response to the protests and demands of the Bolivian Indigenous Federation (CIDOB).

In this way the indigenous peoples of the Andean high plains and valleys – stimulated by advances in the territorial demands of Amazonian native populations and the efforts of several researchers that were promoting the re-construction of the Andean *ayllus*, especially in the north of Potosí – became heavily involved during the second half of the 90s with their own territorial demands, proposing the re-establishment of extensive pre-Colombian territories: the *Kollasuyo* of before the Spanish conquest. One of the arguments against titling in some areas of the high plains is precisely that of the demands for political autonomy over native indigenous lands, along with full access to and control over the whole of their natural resources and forms of self-governance.

Beyond the aspirations and proposals of several indigenous leaders, the reality of the situation is that two centuries of republican life have gone by, as well as fifty years of Agrarian Reform, that have promoted apparently irreversible forms of private ownership of property. The majority of land in the valley and altiplano communities belongs to families, but is managed within the framework of the community and in terms of a complex set of legal frames (1953), customary laws.

For some, the LAF (1984) was key to the inspiration of the INRA Act (1996), while for others INRA constituted a total distortion of the LAF. The element that was possibly most explicitly orientated towards strengthening communities under INRA was the decision to provide exclusive deeds not to individuals, but to entire communities, in order to strengthen these communities. It is interesting to note that the study on the valley areas carried out by Fundación Tierra (Pacheco-Valda 2003) found heavy demand on the part of small farmers and indigenous people for the deeding of property that granted mixed tenure: individual ownership for all families, but within the framework of community territory.

In the valleys and high plains there has been explicit rejection of the collective titling promoted by INRA that replaced the individual deeds granted by the Agrarian Reform of 1953. This is to say that nowadays the indigenous and small farmers of the altiplano and valleys prefer a combination of family and community-owned property. We do not as yet know how this demand for mixed titles is related to: a) the state of development of the productive labour force, b) the socio-economic environment and c) the immersion of the rural economies in the greater context of the national commercial economy. Neither do we know whether this claim is rooted in ethnic identity, nor how the processes of racial mixing or urbanisation operate, nor what trends the future will bring.

The environmental and geographic context of the 1953 Agrarian Reform.

In Latin America, 17 million people live in valley, mountain or high plain regions between the altitudes of 2,500 and 3,500 metres above sea level, with a further 7 million living at over 4,000 metres above sea level. Of these 7 million, almost 2 million inhabit the Bolivian altiplano, not counting urban areas. One and a half million inhabit the inter-Andean valleys at altitudes of over 2,500 metres.

The Bolivian altiplano is one of the few regions of the world where one finds significant populations living above 4,000 metres. Their main activity is raising livestock, but also

growing subsistence crops of native plant varieties that are highly resistant to freezing and drought. Population growth in these regions is beginning to create serious new environmental problems, due to the scarcity of natural resources.

This fact – three and a half million rural inhabitants living in highland ecosystems in valleys and plains above 2,500metres – is in itself a factor of significant social, economic, cultural, environmental and political consequences. It is generally forgotten that climatic conditions such as temperature, humidity, soil texture and quality, and erosion levels constitute serious limitations to increases in productivity and ever more frequently oblige the inhabitants of these areas to combine agricultural activity with other ways of generating income. In these high-altitude areas it is difficult to expand the agricultural frontier in a way that is sustainable and within the context of a globalised open-market economy where agricultural products from other countries with lower environmental risk and high levels of direct or indirect subsidy can be sold at much lower prices. In fact, mere subsistence in these ecosystems is an odyssey in itself, worse still when macroeconomic policies and public investment discourage rural development.

One of the world's primary mountain ranges is the Andes, which includes its valleys and the Bolivian altiplano. In this region "the small size of arable plots of land, lack of public investment in infrastructure, the naturally low productivity of arid high altitude land, extensive erosion of the soil and loss of fertility, all lead to a situation of endemic poverty and growing migratory expulsion. Poverty and food insecurity are very severe and widespread" (FAO,2002).

That geographic-environmental context was the physical stage for the 1953 Agrarian Reform. For several decades the Agrarian Reform concentrated on distributing land in the western part of the country. According to the Bolivian Superintendence of Agriculture (2002), after half a century, the environment has deteriorated as a consequence of population growth and over exploitation of natural resources and may have reached the limit of its sustainability. Half a century ago, when the Agrarian Reform began, the population inhabiting the mountain area was half what it is now. During the last 50 years, the western Andes' rural population has doubled and land has been subdivided to unsustainable limits.

The northern altiplano is a privileged sub-area of the Bolivian high plains region, due to the micro-climate surrounding the Lake Titicaca area, but also because of its nearness to and ease of communication with markets for agricultural products in the cities of La Paz and El Alto: e.g. a million and a half consumers. The same is true of the central Cochabamba valley and the influence of its capital city. In contrast to the central and southern altiplano, indigenous producers in the northern high plains and central valleys can be fully incorporated into a dynamic market economy – with its dominant business rationale – even in terms of private land tenure and legal security (demand for deeds/land titles). However, in other altiplano and valley regions, reciprocal economies still exist as only partly related to the market, which in turn would dictate a number of different types of land tenure.

The situation in the valley regions is perhaps more complex and heterogeneous. There is a wider variety of soil types, production systems and ways of accessing and owning land. Furthermore, the communal irrigation systems and irrigating communities are more extensive. This surely determines somewhat different expectations and behaviour regarding the ways in which lands are deeded in the processes stipulated by law and by region. This was not considered under either the Agrarian Reform of 1953 nor in the INRA Act of 1996.

New territorial demands and land abandonment

Discussion of the land issue is increasingly related to the debate over the issue of territory, which includes demands for political and administrative jurisdiction, with certain margins of autonomy, and of access to diverse natural resources. All of these, along with their subsequent demands, are elements that are inseparable from the agenda of indigenous and rural organisations.

Articulation is in constant flux between territorial jurisdiction, identification of elements that grant legal security to land tenure and its links to common law and rural-indigenous territorial negotiation scenarios where planning, resource management and the organisation of social and political power are promoted.

Different studies agree, indicating that the rural Andean population is increasingly older (CEPAL, FAO, 2002). There is little attraction to being a producer in depressed mountain regions under extremely adverse living conditions, not only because of the lack of public services, adequate roads, electricity, potable water, education and health, but also because of the extreme climatic conditions, with frequent freezes and droughts. That is why most young people migrate to the urban centres, in many cases abandoning the little land they have inherited from their parents, in search of better living conditions.

The exclusion of women

Poverty affects rural women most, as is shown by numerous sets of statistics. In Bolivia, rural and indigenous women are the last link in the chain of poverty. That is why many institutions are promoting affirmative action - a type of positive discrimination based on the idea that having land security is fundamental to the survival and empowerment of rural women with scarce resources (Salazar 2003).

Despite the fact that recent Bolivian agrarian regulations have opted for equal distribution of land resources², common law norms relating to inheritance are disadvantageous to women because the tendency is to leave the inheritance to the head of the household, usually a man. In rural farming and indigenous communities – governed by communal tenure norms – men also have the power to decide on how land is distributed and redistributed.

Despite a lack of quantitative information, case studies – partial and poorly systematised – show that in the altiplano and valley regions the way land is distributed between men and women is very different, with the tendency being to distribute more to men than to women. In general, women have the right to make use of their parents' land if they are single, and their husband's lands if they are married. These decisions on land usage are made in communal assemblies from which women are usually excluded.

Additionally, a widely held belief, especially on the altiplano, is that of complementarity and reciprocity, roughly understood as meaning equality between men and women.

² Article 3, point V of the INRA Act states: "The National Agrarian Reform Service, in accordance with article 6 of the State Constitution and in compliance with the dispositions contained in the Convention on the Elimination Of All Forms Of Discrimination Against Women, ratified by Law 1100 of the 15th of September 1989, will apply equal distribution, management, holding and exploitation of lands criteria to the benefit of women, regardless of their marital status."

However, other studies conclude that complementariness, which is based on solidarity, does not necessarily mean equality, and that with the argument of complementariness women would actually be blocked from land tenure³, restricting their activity to the home environment since they participate in public (communal) spaces through the man (Salazar 2003).

Changes in the tenure system

Beginning with the Agrarian Reform in 1953, the western Andean region of Bolivia has seen a profound transformation within the tenure systems that has affected the processes of change in production, rural society and agrarian structures as a whole. There are contradictory opinions on the usefulness of public land policy when dealing with rural development. The argument has been rather partial to date, considering only a few variables - population growth, availability of land and technology, and especially market factors, depending on how much weight is given to each one.

In recent years, attempts have been made to deepen our knowledge of the Andean region with a more integrated view that attempts to recover the complexity of changes in agricultural production and their impact on time and in space. One of the central themes around which the debate continues until now is that of *livelihood strategies* (called thus by several Latin American authors during the 70s and 80s, and that has now been re-baptised by northern authors), in order to better understand the complex interaction between rural means of support, economic policy and the institutions that influence them.

In the case of Bolivia, recent discussion of the land problem is more closely related to the two aspects of territory: land and territory and the subsequent demands for political autonomy in the administration of territory – new points on the agendas of some rural and indigenous organisations. They are demanding a strengthening of the right of indigenous peoples, rural farming and native communities to manage and exploit their renewable and non-renewable natural resources, as well as the re-definition of local and regional territorial jurisdictions. (Pacheco-Valda 2003)

Nonetheless, the debates on the land/territory issue are partial and in many cases biased by the State's exclusively macro policies. This issue is important because, beyond the level of understanding and assignments, land and territory⁴ are part of a multidimensional reality in conjunction with broader system elements: political structures or governmental systems, cultural and ritual systems, production and technology systems for the exploitation and management of the communities' renewable and non-renewable resources, larger social

³ In some ways this argument would be used as a way to legitimise the unequal possession of lands existing between men and women.

⁴ In the first place it expresses the need to have ownership of renewable and non-renewable natural resources, as well as the identification of jurisdictional **limits**. In the same way, territory expresses a combination of two ideas: the country's current state of territorial jurisdiction management and jurisdiction over land tenure. This context is the central factor around which territorial negotiation issues develop. They are articulated around the consolidation of political authority systems. Land and territory are two elements of a broader system whole, as are political structures or governance systems, cultural and ritual systems, production systems and technology systems. When referring to land, it is said that this also brings along with it the rights to its soil resources, and when territory is defined, these rights are expanded to include subsoil and air space. Nevertheless, this hides the broader dimensions of what we should understand as territory.

structures (*ayllus* and *markas*) and indigenous peoples (Pacheco-Valda 2003). In a country like Bolivia, whose population is primarily indigenous, this is a very important issue on the agendas of international co-operation, some NGOs and rural and indigenous organisations.

It was 15 to 20 years ago that some very prestigious authors (Albó 1985) called attention to the issue of the altiplano because of the significant presence of the Andean *ayllu*, which, despite internal and external colonisation, still kept certain essential features of the political, social and economic structures of its historical existence. Within the *ayllu*, and the Andean community in general, it is common to encounter a sort of fractional logic and rationale that is typical to the Andean peoples and which is expressed in the individual and collective possession of community lands. The dominant liberal macroeconomic context of the national and international environments of the last two decades could be weakening these organisational and resource management tendencies in favour of more individual tenure.

Residents and the land

Another important issue, especially for the altiplano areas near the cities of El Alto and La Paz – and which has not been properly analysed either – is the role played by ‘residents’⁵. This is a determining factor in creating new community power and land tenure structures. These ‘residents’ now have greater access to political parties, information, public institutions and mainly to education. This privileged access to benefits, urban as well as rural, allows them to play a leadership role in community organisational structure. They live in the cities but keep lands and property and are less poor than their rural counterparts. They are not interested in the titling provided for by the 1996 INRA Act, as it obliges them to declare all of their urban and rural goods and assets with Land Office and Real Property Administration, and which is why they are the main opponents of the INRA Act. However, given their access to knowledge and information, as well as their higher level of education, they could become dynamic agents of change and a driving force behind rural economic and agricultural development.

It is not clear what type of control these “residents” exercise over natural resources and more specifically over land access and tenure in their native communities. Neither do we know with any certainty if former rural natives, who previously lived in the valleys or high plains but are presently living in the cities, are impeding the division of land in their communities into environmentally and economically sustainable parcels. This could be through maintaining ownership lands that they received via the Agrarian Reform of 1953, thus jeopardising those who continue living in the countryside. It is necessary to find out whether their ‘customs and uses’ are not simply a pretext for accumulating land for those who do not work it directly, or whether indeed they are socially and culturally cohesive elements that go against the precepts of equity and environmental sustainability. It is not known whether these ‘residents’ are those who are creating and controlling the altiplano and valley markets from the cities, not by the ‘definitive’ mechanism of buying and selling, but by more temporal means disguised as rental or leasing.

⁵ A ‘resident’ is a rural or indigenous citizen who has not lived in the area for some time (10 – 20 years), and whose family income is mainly generated in the cities, but who maintains their land rights and social links to their native communities.

The dynamic of rural territorial development

On the high plains and in the valleys, there is a high degree of fragmentation regarding land tenure. Few people recognise that this fragmentation existed prior to the 1953 Agrarian Reform and was caused by environmental conditioning factors, particularly in the altiplano region. At the same time, an ongoing trend towards private property and the family economic activity that have accompanied the Agrarian Reform for half a century plays an increasingly greater role in social and communal relationships. Notwithstanding, since the 90s the third generation or grandchildren of the Agrarian Reform still do not have access to sustainable areas of land. This is why they are migrating to the cities more and more quickly and diversifying their survival strategies to extremes, or seeking land in other parts of the country. It was precisely during this third-generation movement that the land law (INRA, 1996) was passed, and decreed that all new settlements taking place on government land in the country's lowland areas that called for free titling (land donation) had to be exclusively for the benefit of communities that were requesting 'community land' and could not be subdivided or sold to others. This point, among others, was openly rejected in the INRA Act by almost all altiplano and valley community leaders who demanded free access to land in the eastern and Amazon regions of the country as private property. The Landless Movement (MST) was formed along these lines.

For the last ten years the rural altiplano population has remained relatively constant at around three million inhabitants, neither increasing nor decreasing, which shows that with current technology, productivity and yields, this high-altitude area seems to have reached the limit of agricultural expansion and farming/livestock production. This seems to indicate that other economic activities are used to offset losses or decreases in land productivity in the farming sector and do not always mean an increase in the total family income. It is known that the altiplano and valleys are exporters of young skilled labourers, both male and female, but we do not know exactly how the economic dynamic generated by the city market, new customs arising from exposure to mass media, especially television, and the attraction of life in the cities is affecting land access and tenure.

Public policy and land redistribution

Many scholars have criticised that once land was distributed – and mostly to families – through the Agrarian Reform of 1953, small farmers were abandoned to fate with no support or explicit public policies on rural development, while others hold that the Reform respects the self-determination of the indigenous by not imposing any set forms of organisational representation or land tenure, since it lets each family and community decide for themselves how to proceed.

The enactment of the Popular Participation (1994) and INRA (1996) Acts has aroused expectations and has brought conflict to the traditional relationship between rural civil society and the State. Since 1994 the State has reached rural and indigenous communities through municipal governments, which for the most part are now headed by rural indigenous officials (Albó, 2001). The Andean region is one with strong indigenous organisations who are zealous for their independence from State government. In addition to demands for political autonomy, demands for the deeding of TCOs in order to rebuild the pre-Columbian *ayllus* and strengthen their ethnic identities (art. 171 of the CPE, multicultural and multiethnic Bolivia), mark the beginning of a new era in republican history that questions the current political division of municipal administration which has been in effect since 1994. But

not only are municipal districts and their relationship to indigenous communities in question, but the very concept of the State as well. Current legal norms (the Popular Participation and Land Acts) will not be enough to comprehend the global nature of this problem from the perspective of rural territorial development with the participation of renewed public institutions at community level. In other words, a new form of territorial administration and political jurisdiction with local administrative autonomy has been proposed, creating indigenous municipalities that coincide with the territorial boundaries of their TCOs.

From very conservative points of view (Roca 2003), the INRA Act is seen as trading in the Agrarian Reform's liberal self-determination concept for a paternalistic State protection point of view that promotes the collective deeding of land, whether communal or TCO, and forces rural indigenous to choose exclusively between family property and community property. At the same time, regional business and power groups in the lowlands grudgingly consent to TCO titling for Amazonian indigenous groups as a sort of 'lesser of two evils'. In this way they can stop new human settlements of Andean indigenous groups in the lowland areas. They continue to believe, as they did in the 19th century, that "land in Indian hands is dead land".

There is no more available land in the Andean region

The simultaneous phenomena of the abandonment of eroded land and the search for new land is not exclusive to Bolivia. It happens everywhere population dynamics are not directed by public policies on human settlements and land redistribution, and where at the same time the deterioration of natural resources is aggravated by cycles of over exploitation. Clear cutting, stripping and burning practices are common in itinerant agriculture in the Amazon and lowland regions, while the productive dynamics – rotation and rest - of highland and valley lands have been interrupted.

It is exactly the combination of 'abandoning old land' and 'seeking new' land that most clearly shows that the previous minimum levels of equilibrium have been upset; those which allowed for family reproductive cycles while minimally meeting basic nutritional needs.

In the Andean altiplano and valley regions there is no more land to distribute. All or nearly all of it was distributed by the Agrarian Reform of 1953. And all or nearly all of the land given out or returned to indigenous communities is being submitted to severe overuse by rural-indigenous family units under their farming practices within their social or community framework.

The vast majority of collectively allotted lands are either used for livestock grazing – following complex formulas including turn-taking, rent, verbal agreements and time periods – or have been broken up and fragmented for family use. This has made intra-community relations more complex.

Proposals for debate

1. *The Agrarian Reform must continue via the retrieval of illegal land.*

Agrarian reform movements are moments of historical flux, breaking away from prevailing property ownership and tenure structures and working practices. This has been the case with the Mexican reform, which lasted over 75 years (1917-1992), as well as in Bolivia, whose reform began half a century ago and has lumbered on in a lethargic, manipulated, corrupted and ravished state for the last 30 years. It would seem that the frustration of the expectations that were awakened with the approval of the INRA Act (1996), the keeping of the majority of Amazonian and lowland property ownership in the hands of power groups, demands for the deeding of indigenous territories (TCOs) and the ever more frequently occurring occupation of lands by the Landless Movement, are all leading the country towards a new era of historical flux, during which it will be essential to rethink the global concept of Agrarian Reform.

It is not true that Agrarian reform is a thing of the past. Bolivian Agrarian Reform has not yet finished and that is why the INRA Act was conceived as an instrument to modernise the process of distribution, re-distribution and strengthening of the legal security of land for all those who work it. However, some public authorities and co-operation organisms are giving the process an 'Anti-Agrarian Reform' slant within the framework of neo-liberal adjustment policies which are exclusively centred on land titling with the sole aim of legalising land tenure. It is necessary to specify – from social movements to the highest level public office – that according to the law, the Agrarian Reform is still fully valid in Bolivia.

2. *The political system must explicitly state its position on the issue*

Agrarian Reform should be a central issue on the national political agenda. It is an issue that has been pending for the government, society, institutions and mainly for political parties for some time. From a modern point of view, Agrarian reform implies the use of a variety of instruments, and a combination of mechanisms and ways of accessing property - distribution, rent, leasing, and purchase (according to the circumstances and combination of methods applied) as a condition for sustainable rural development.

Political leaders prefer ambiguities and are not motivated to explicitly recognise that a new phase of Agrarian Reform is necessary. For this to happen we need an authorised public voice from public institutions and organisms that are part of the process. The clearer the message is from political leaders and the quicker the process is, the better the results. Nevertheless, with the distinct exception of the political parties of indigenous origin, such as MAS and MIP, the rest of the political system is unwilling to take a position on this fundamental issue because in one way or another, it prefers things to remain as they are. Bolivia needs a new era of Agrarian Reform that not only reinforces legal security but that also changes the structure of land tenure by eliminating the estate and smallholding systems, promoting the sustainable use of natural resources.

3. *The land to those who work it*

Some time ago, the Citizen's Council created to promote the reform of the State Constitution proposed the elimination of the basic principle that work is the source of property rights.

This proposal upset the agrarian legal framework. This wise precept is contained not only in the Bolivian State Constitution, but in those of many other Latin American countries as well.

Eliminating that principle would aggravate legal insecurity and promote the re-concentration of large tracts of land into very few, unproductive hands. It is not only a political issue, but an economic one as well. Within the framework of constitutional reform it is necessary to preserve the fundamental principle that the land belongs to those who work it because there is a close relationship between building democracy, building up of the citizenry and access to natural resources. There can be no economic democracy where there is no equal, legally secure and environmentally sustainable access to natural resources. There can be no economic inclusion if inequality of access to natural resources persists. The fulfilling of socio-economic function through the working of the land is, in its various forms, established in the INRA Act and is a key element in agrarian redistribution.

4. *Promoting ownership for women*

Another of the larger problems regarding land access in Bolivia is that of gender inequality. A great number of property titles granted by the 1953 Agrarian Reform are in the name of the male head of household. The line of inheritance provides for the equal distribution of property amongst sons and daughters, but in practice men have accumulated more land than women. This is based on sexist traditions in rural society – disguised as ‘customary laws’ – that relegate women to secondary roles.

The INRA Act contemplates proactive mechanisms for the deeding of lands to women, but in reality, this does not happen automatically. The process of land titling for women can be partially corrected by mandatory deeding in the name of couples and through systematic information campaigns on equal rights.

We must find mechanisms that favour balanced access to land tenure for women in harmony with traditional customs, norms and uses. This problem is as yet unsolved in Bolivia and no public policies have been encouraged in this area.

5. *Attend to the demands of indigenous peoples for TCOs*

Several weeks ago (July 2003), to stop the flood of land seizures that have been occurring in this country, President Gonzalo Sánchez de Lozada awarded land titles to several indigenous peoples in the Oriente and Chaco areas. These titles had been awaiting his signature for nearly one year. The Guarani People’s Assembly had expressed their great frustration at this fact because the areas deeded to them were clearly insufficient, something which they had shown the authorities during long years of negotiations and red tape. The land areas were insufficient because a number of landholders with adjoining properties had underhandedly managed to get the INRA institute to accept vaccination certificates for 4, 000 head of cattle as proof of compliance with the Social Economic Function requirements for their ranches. The cattle certificates had been extended by SENSAG and the cattle themselves did not in fact exist. This example shows how the enforcement of the law is systematically twisted – with the help of the authorities themselves – to favour the economically strong.

In the Andean region, a number of demands for TCO titling are being followed up. In some cases they are mega-demands that go beyond reasonable expectations, even from the point

of view of the most radical indigenous currents. Some of these demands are encouraged by foreign co-operation from the naïve point of view of recovering pre-Colombian territorial, political and legal autonomy.

It is necessary to bring new elements together that explain the peculiarities of the process of re-launching the Agrarian Reform in countries like Bolivia that have indigenous majorities. At the same time, these majorities are very poor and up to now have accessed practically all of the available land in the altiplano and valley areas, which is not sufficient in size to be developed sustainably, particularly in the mountain areas. Agrarian Reform in a context of diluted ethnic identity, such as in Argentina, is not the same as in countries like Guatemala, Ecuador or Bolivia, where indigenous identity, beyond its rural nature, has very powerful and particular connotations. In Bolivia, the current demands are not only for land access, but for the natural resources contained in local territories and for the reconstruction of traditional forms of social and territorial organisation, such as *ayllus* and captaincies.

Given Bolivia's uniqueness, the indigenous issue is a determining and central factor. The ethnic exclusion of which rural and indigenous peoples have been the victims for centuries is not yet at an end and is a subject which should still be at the centre of debate. Bolivia is a racist, exclusive country where, in practice, citizens do not have equality. Therefore, the call for access to land, water and forest resources on the part of these peoples continues to be a sizeable task for the nation.

6. Regulate land markets to make them transparent

Land markets are a widely disputed issue in Latin America, arising from postulates from multilateral organisations such as the Inter-American Development Bank (IDB) and the World Bank (WB). At the end of the 1980s these organisms launched a proposal that was heavily charged with it. It was called "*Market-assisted Agrarian Reform*". This kind of euphemism emphasises that land access should not be granted through public administration entities, but through the market. Nevertheless, the land market is the least perfect of all and therefore needs regulation. The State role in regulating land markets is a key one, since the behaviour of social, economic and productive agents connected with these markets tends to favour the most powerful, who have access to information and financing. But the main obstacle to setting a regulated market in motion in this country is the illegal origin of so many properties, especially in the eastern lowlands. The ways in which ownership of dozens and even hundreds of thousands of hectares has been acquired in Bolivia's eastern lowlands has been openly illegal. They have not been purchased on the land market, but rather received as free gifts from the State based on simple requests or favouritism to party or family members, thus jeopardising their legal security.

The large estate holders in Bolivia came about as a result of free land distribution. These lands, once they were received, were almost immediately put on murky markets that generated profits through mortgages, bank loans, "fattening", subdividing and resale of land. After a decade of proving its limitations, this has allowed the exacerbation of rural poverty along with the loss of opportunities for land access for thousands of small farmers and indigenous people. The latest reports from the World Bank (Deininger 2003) indicate that market-assisted agrarian reforms are only an additional tool for State land distribution.

The land market amongst the poor and/or small landholders is widespread. Thousands of small farmers buy and sell very small parcels of property amongst themselves. Generally,

these transactions are not registered with the Real Property Administration, nor with INRA, but are valid because they are social contracts that have been fully accepted by both parties, their socio-cultural environment and the community.

However, there can be no relatively 'normal' markets in Bolivia while the huge imbalances in tenure structures still exist, e.g. the unproductive large landholders created by direct State action within the scope of the 1953 law.

7. *Municipal involvement*

There is a gap between the land tenure regulations put forward by the INRA and the role played by the municipality as a local public organism. In contrast to other countries, in Bolivia there is no link between the titling processes and registration carried out by INRA and the municipalities. The municipality's role is yet to be established in land redistribution, soil use plans, land administration and the levying of property taxes, and the regrouping of land parcels and human settlements.

It is important to increase local power, in institutional authorities as well as in social organisms; not only for conflict resolution, but for local territorial administration as well. Those best equipped to confront and resolve tenure conflicts are in many cases local actors who can aid in reconciliation. In cases where solutions cannot be arrived at locally, it is then necessary for outside intervention. Neither the Popular Participation Act nor the INRA Act grant municipal competencies for managing the natural resources found on municipal jurisdictional lands. It is necessary to adjust the current norms to strengthen local actors and their institutions.

8. *Invest in reclamation legalisation (saneamiento) with more social control*

Mexico has invested more than eight million dollars of their own resources in the process of titling and land redistribution. Over the last ten years around 42 million dollars have been invested in Bolivia in order to make 10% progress towards reaching the titling and distribution goals set and financed by international co-operation.

The national government (2002-2007) has presented a programme to re-launch titling, which requires 131 million dollars in financing to conclude the process within the next four years. This plan centres on hiring outside parties and reducing INRA involvement in hiring, regulating, supervising and auditing the private businesses in charge of enforcement. The argument is that INRA does not have the capacity to carry out the titling process. In fact almost all new financing for titling will come from generous foreign donations which – faced with slowness, politicisation and indices of corruption in the process – will have placed this mode of functioning as a condition.

In the midst of public policies that exclude rural development, the trend towards abandoning lands continues. It is necessary to invest 131 million dollars in the re-launching of the Agrarian Reform to dismantle and expropriate large estates, promote more human settlements, to deed, register and strengthen land rights for those that comply with Social Economic Function.

In order to minimise the impoverishing effect of migration from country to city, it is necessary to strengthen property rights and legal security as a requirement for any rural development plan. The deeding process must be qualified and legitimised socially via effective citizen participation in authorities created by law, such as the Departmental Agrarian Commissions (CAD) and the National Agrarian Commission (CAN).

9. *Promote internal distribution and regularisation*

The last seven years have shown that the deeding practices for SAN-TCOs have followed a complex formula that needs to be simplified. This simplification has been provided by the communities themselves through what they call internal distribution and regularisation, which is to say that via agreement and approval in local assemblies, they solve problems of property lines and update and clarify property rights and lines of inheritance.

Official recognition of community internal distribution and regularisation practices (*saneamiento interno*) is a useful, effective and less expensive tool which employs greater social participation and harmonisation.

10. *Mixed land titles: individual and collective*

In contrast to the Agrarian Reform of 1953, the INRA Act establishes that no land parcel may be simultaneously deeded as community and family-owned land. The new land laws that have come into force in Latin America in the last decade generally attempt to artificially distinguish between mercantile (private individual properties) and non-mercantile (private communal) properties, and thus recognise exclusive ownership rights, e.g. either strictly individual or family property, or collective TCO property. This formula must be changed.

Reality shows us that since the beginning of the Agrarian reform, indigenous and country people have developed a complex and flexible combination of strategies that balance out and adjust according to situations, agricultural years, climatic conditions, illness, family growth, farming yields and off-site employment (Urioste 1976). With one foot in the market economy and the other in reciprocal relationships, sometimes favouring one over the other, they organise themselves and land-territory access and tenure through a complex combination of property rights, nearly always mixed as family property and/or community property. This happens especially in native communities and much less in new communities in which mercantile relationships dominate, with single crop tendencies and where property is exclusively private. Valid legal formulas must be created to allow for mixed titling. This is common practice on other continents.

11. *Regroup smallholding parcels*

Possibly the greatest problem with the productive structure of Bolivia's Andean region is the enormous fragmentation of land tenure, with terrains and soils that make it difficult to work or use technological innovations. Additionally, thousands of owners of small rural parcels no longer live in the countryside and have left their lands in the hands of other families. These 'residents' in the cities nonetheless maintain their property rights. They are absent smallholders.

Few countries have found a solution to the problem caused by the division of land into small unusable parcels, usually through inheritance. In general, the countries that have found a way to slow this universal trend have very solid institutions and clearly respected rules of the game. In some cases, inheritance can only go to the male heir, while in others it is forbidden to subdivide below a set limit and leave it to the heirs to make arrangements amongst themselves as to how it will be used.

In Bolivia, despite the express prohibition of subdivision – which is not obeyed for obvious reasons – the State has fostered unproductive smallholding by deeding small parcels of land. The height of frivolity was reached when a former president boasted that during his administration he had granted more titles than in the previous one, knowing full well that he had given up to 20 or 30 distinct and separate micro-parcels to one single owner, but with each parcel having its own deed. Until just a few years ago, multilateral organisms like the World Bank and IDB stated that “the market is the only way to regulate optimum farm size and productive family units.”

All the complexity of subdivision and deeding of smallholdings of 300 to 500 square metres is economically irrational. It is fundamental to promote the regrouping of parcels and the reconstruction of profitable, sustainable productive family units through the reconciling of families and neighbours, using financial stimuli for regrouping. Internal distribution and regularisation could be a useful tool in aiding this process.

12. Eliminate large landholdings

While distributing former hacienda lands to inhabitants of the altiplano and valleys, the 1953 Agrarian Reform simultaneously promoted a new kind of large landholding system in the country's eastern regions. Under the argument that livestock ranches could have up to a maximum of 50,000 hectares, the Bolivian Agrarian Reform granted millions of hectares to political leaders, power groups and ghost co-operatives free of charge. The Bolivian reform has been the only one to give away up to 50,000 hectares at a time by simply asking for it. This is an aberration that has created an asymmetrical dual structure for rural property and productive farming models. Enormous areas of the best land were given away to whites, *mestizos* and foreign immigrants and these were not worked or hardly worked at all. The western indigenous, Quechuas and Aymaras, were given former highland hacienda parcels of low productivity that had been subdivided to extremes. The Agrarian Reform confirmed the exclusive and racist nature of Bolivian society.

In Bolivia's lowland and Amazon regions, land is still concentrated in the hands of the very few, especially in cattle ranches that claim the need for up to 25 hectares per head of cattle. These large estates – enormous areas of un-worked land in the hands of the few – jeopardise equal opportunity for growth and development. Despite the 1953 Agrarian Reform and the advances made by INRA in deeding TCOs in the lowlands, there are millions of rural and indigenous people, families and small producers who have no access to land.

Large landholding is an obstacle from the past. It is a tenure structure that stops production. It is a way to impede farming development. It is a way to hoard abundant natural resources. The State Constitution, the Agrarian Reform and the INRA Act do not recognise any legal validity in large landholding. All large landholding is illegal and is not permitted by law. However, it still exists and has not been eliminated despite current legislation. To eliminate them the law must be enforced and lands that do not comply with Social Economic Function

requirements must be returned. This is precisely what INRA has not done in the last seven years. Eliminating large landholdings is a basic condition for regaining credibility for the agrarian process and reducing pressure on the land. As long as there are large landholdings, there will be land occupations.

13. Levy taxes on business-owned land

The INRA Act has established a complex relationship between property tax and property rights. This was the Bolivian Rural Workers Union's (CSUTCB) main objection in 1996, immediately after the law was passed, and has yet to be responded to. The INRA Act established a market mechanism to discourage unproductive land tenure. This was through the obligation to pay tax for all who declared land tenure beyond small parcels and was called self-appraisal. Each property owner determined the value of his or her land and based on this self-appraisal, paid the tax set by law.

But what has happened in practice is that the government under General Banzer (1997-2001) lowered this tax to absolutely insignificant levels and therefore those who owned 20, 30 or even 50 thousand hectares paid a mere 2 Bolivianos per hectare per year for land that was easily worth 20 to 30 thousand dollars per hectare. The payment of such paltry taxes as proof of compliance with the social economic function laughs in the face of the land redistribution process and has corrupted the agrarian process. In 1997, General Banzer's government sent a powerful message to large landholders to the effect that INRA would not affect their rights, which in many cases were acquired illegally. After one year in power, the Sanchez de Lozada government has done nothing to change the situation. There is no political will to replace the property tax and this is the most obvious demonstration that there is no real criteria for land redistribution or enforcement of the INRA Act.

14. Stop rural violence

Historically, the forces of law and order have only been used to repress small farmers and the indigenous. In recent land access conflicts the same has occurred. The police or armed forces have never been sent to force large land owners - who subjugate the properties of the indigenous, small farmers and colonisers - to obey the law. What happens in many cases is that this subjugation is supported by papers, red tape, seals, signatures and letterheads, but mainly by the impunity of those in power.

Rural violence is not created by the landless poor. It is created by power groups who are sheltered by public institutions that distort, manipulate laws and institutions. And when this fails, the powerful do not hesitate to use direct force. They use hired assassins (*sicarios*) to kill the landless. This occurred in Pananti near the end of 2001 (Miranda 2002). This case established a serious precedent, since those accused were landless people, and those absolved were the aggressors and victimisers of these people.

It is evident that all property, family or community must be respected, but it must be respected by all and especially while the State establishes its legality according to the regulations in force. In theory, all citizens are equal in the eyes of the law: small producers, indigenous peoples, business men and women, small farmers, colonisers, saw mill workers and timber men. Unfortunately, in practice, they are not so at the moment of enforcing the law.

In Bolivia, despite the existence of advanced laws, the law of the jungle prevails. There is a type of State paternalism that favours large landholders in a sort of east-west regionalism that hides a sordid anti-Andean indigenous racism. The impunity of these murders, and especially in the Pananti case, is opening the door to a generalisation that associates rural violence with land access. In several countries in the region, Guatemala and Colombia for instance, the land access conflict has unleashed painful civil wars that have yet to heal. Bolivia must make every effort to ensure equality for all and avoid rural violence through strict adherence to the law.

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