

## Stateness as Landgrab: A Political History of Maya Dispossession in Guatemala

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The history of state formation in the Americas is largely a history of indigenous dispossession. But not all dispossessions function the same. In Guatemala the forms of stealing of indigenous territory varied over time. Spanish colonizers made Maya communities buy their own lands. After independence, the modern liberal state defined indigenous territories as “waste land.” Indigenous municipalities were forcefully assimilated into the nation during the 1944 revolution, while neoliberal governments expropriate Maya communities in the name of development. The landgrab of Maya territories initiated by Spanish colonizers never ceased; it evolved over time, perpetuated in times of war and peace by governments across the political spectrum.

This essay traces the changing forms of indigenous dispossession in Guatemala from colonial times to the present. We show that the stealing of Maya lands is not a historical episode linked to the Spanish invasion but a defining structure of Guatemala’s modern state. Our argument is twofold. First, various logics of colonization are at play. A historical approach illuminates a combination of settler colonial logics that erase indigenous presence and the colonial logic of racialization to control indigenous peoples. Second, the stealing of Maya territories is intrinsic to modern states. We connect colonial archives with contemporary neoliberal policies of extraction to reveal the continuation of colonial logics in Guatemala.

First, we analyze legal records dating back to 1621 in which the Spanish Real Audiencia (colonial court) recognized indigenous municipalities and their communal lands. Second, we explain the creation of land titles in bureaucratic strategies to erase indigenous authority after independence. In the late nineteenth century, state decrees declared Maya communities as nonindigenous *ladinos* to transform communal land into private property.<sup>1</sup> Third, we show how the Revolution of 1944, one of Guatemala’s most progressive and democratic governments, adopted a Marxist narrative that dismantled indigenous municipalities in the name of national unity. Lastly, we trace the landgrab related to resource extraction. In the 1970s a long civil war brutally displaced

and killed entire communities, in some cases erasing indigenous presence. Today, neoliberal governments license indigenous lands to extractive industries in the name of development.

### ***Comunes de Indios: Litigating for Territory with Spain***

The Mayas defended their territorialities through active litigation in colonial times. Amaqs, a sort of Maya federation, engaged in diplomacy with the Spaniards. Spain appropriated territory mostly in the lowlands (renting or selling land to the communities that most resisted invasion). In the highlands, strong Amaqs successfully preserved their territories, at times having to buy land recognition. The Real Audiencia recognized Maya territories as *comunes de indios*, a title for communal property encompassing autonomous political authorities. Maya authorities even used the Spanish Crown as a third party to address territorial conflicts among neighbors. In 1641, for instance, the *comun de indios* of Ch'orti' de Jocotan took a land dispute with Camotan neighbors to the Real Audiencia and in 1743 bought 635 *caballerias* of their own land to receive titles from the Spanish Crown.<sup>2</sup> The Spanish authorities recognized many *comunes de indios*, like the K'iches of Chiwila, who also bought their title to territory and have preserved it until today. Some Ancestral Authorities still invoke *comunes de indios*. The community of Santiago Atitlán has preserved its communal title; it is carefully kept with a piece of cotton depicting the territory by the maximum authorities of the Tz'utuhil people.

These titles to territory mean that Maya peoples and Spanish colonizers observed each other's territories. This territoriality encompassed legal and political authority. Since the sixteenth century, the Crown also recognized the authority of indigenous municipalities. The combination of territorial, legal, and political authority constitutes the foundation of sovereignty, indicating that Maya–Spanish interactions were conceptualized as nation-to-nation relations.

One of the oldest Maya indigenous municipalities to have kept uninterrupted authority over its territory is the Forty-Eight Cantones, or parishes, in Totonicapán. It was already a powerful Amaq when the Spaniards arrived and was among the first to have its authority recognized in colonial law. The territory of the Forty-Eight Cantones has existed since precolonial times, with communal land titles legally recognized for over four hundred years.<sup>3</sup> The Forty-Eight Cantones precedes the formation of Spanish colonization and settler state logics of government. It is recognized as a political government with the longest uninterrupted existence in the Americas. This indigenous

municipality has successfully defended its territory until today, maintaining over twenty thousand hectares of communal forest that functions as the core of social organization. It remains one of Guatemala's strongest Maya organizations, with complex political structures and forceful mobilization capacity.

### **Bureaucratic Erasure: Turning Territory into Private Property after Independence**

Indigenous dispossession took a different turn after Guatemala's independence from Spain in 1821. The newly formed state was marked by a dispute between conservatives and liberals to control systems of authority over land. While Conservatives forced Maya populations to buy their own land in exchange for titles, Liberals favored projects of unification that dismantled *comunidades de indios*. As a result, certain indigenous communities sided with Conservative parties that maintained colonial land titles against the Liberal project of state modernization. It was a political strategy to protect territoriality. The Maya Ch'orti' of Chiquimula, who secured a title to 635 *caballerias* of communal lands from the Crown in 1777, allied with Conservatives when Liberals threatened to grab their land in 1923.

The 1871 Liberal Reform, also known as the Liberal Revolution, used bureaucratic logics to appropriate land. We illustrate this logic by analyzing three interrelated forms of dispossession: the creation of a national registry of private property, the definition of Maya territories as wastelands, and the declaration of indigenous populations as *ladinos*.

Land demarcation is a key tool of state modernization. In 1871 Guatemala created the first national Registry of Property. Land titles had to be registered with the state as private property. Maya peoples who sought to protect their land titles by registering them were forced to give up communal land titles to accept titles of private property. The Registry transformed Maya territories into private property in a settler logic of dispossession similar to the 1887 General Allotment Act that permitted the US government to divide native territory into individual allotments. This challenged the coexistence of three different forms of local government: indigenous municipalities, *ladino* municipalities, and mixed municipalities. Indigenous municipalities had communal land titles (*comun de indios*), *ladino* municipalities individual land titles, and the mixed communities combined communal and private land titles from indigenous and nonindigenous populations. Mixed communities referred to Municipality and Neighbors (*municipalidad y vecinos*): the use of the word *neighbors*

was a Maya strategy to maintain collective land titles. As Maya populations faced assimilation into state municipalities based on private property titles, some communities sought to defend their political cohesion by registering as collective authorities in the form of *vecinos*.

The Registry was used to claim unclaimed land. Those who did not claim ownership over their land became prey to dispossession in a state-promoted policy of territorial occupation. The state declared unclaimed lands as “vacant” and “unproductive.” The newly founded state reframed Maya territories as wasteland in a bureaucratic logic of dispossession through erasure, a key tenet of settler colonial states. It then created property titles over those lands and used those new titles as currency to pay off debt.

This happened to ancestral Q’eqchi’ territories in Copones, near Ixcán on the northern border with Chiapas. In 1905 the state issued paper titles to fifty-six *caballerías* of “vacant” land in Copones, then granted them as “rewards” to militias demanding their dues for fighting in the Liberal Revolution. Copones lands were not empty: the geographer sent to measure the lots reported that local inhabitants prevented him from completing the assignment.<sup>4</sup> But the Maya Q’eqchi’ populations who had inhabited the region for millennia were never informed that their territory had been titled and granted to militias as a booty of war. They learned of the bureaucratic landgrab when militias showed up claiming property rights decades later. Militias did not settle in Copones, but they used the paper titles to force many Q’eqchi’ into paying rent or even buying their own land during the twentieth century.

Nearly ten thousand peoples are organized in thirty-six Q’eqchi’ communities living in Copones, caring for more than twenty thousand hectares of clean rivers and fertile land as they have generation after generation. Yet they still do not own their ancestral lands. The land titles of Copones remain contested in Guatemala’s Constitutional Court. In 2015 heirs of the militias showed up to sell Copones rivers for international corporations. This time, the Great Council of Ancestors sued the state, demanding that the paper titles granted to militias be canceled and new titles to collective territory issued for Q’eqchi’ communities. “We refuse to buy what is ours,” they claimed.<sup>5</sup> This litigation between owners in practice and owners on paper is emblematic of a history of dispossession achieved through state bureaucracies. The frame of the settler state invaded even strong Maya authorities. The indigenous municipality of Sololá has maintained its political assemblies, represented by seventy-one mayors, but has no titles and has lost the communal concept of territory, forcefully subjugated to the logic of private property.

In parallel, the state racialized the mechanisms of indigenous dispossession. Local governments redefined various Maya communities as *ladino*, the equivalent of *mestizo*. This ladinization relied on the concept of miscegenation, framing a logic of indigenous partial belonging to the nation as mixed-blood descendants of Spanish colonizers. Indians were whitened by decree. On October 13, 1876, Legislative Decree 165 declared that the Maya peoples of San Pedro de Sacatepéquez were from then on *ladinos*, a measure “to improve the conditions of the Indigenous classes.” The decree had one single article declaring that “for legal purposes, the Indians of both sexes in town are declared *ladinos*, and they will start using the *ladino* dress by next year.” The colonial rhetoric intended to modernize indigenous populations. In practice, these decrees sought to erase indigenous presence, revealing the racial entanglements of indigenous dispossession.

These whitening decrees were designed to racialize indigenous populations to erase Maya territories and privatize the land. If there are no Indians, there are no *comunidades de indios*. Once towns ceased to be Maya, they ceased to have communal property. After a *ladino* decree in San Pedro, in the province of San Marcos, inhabitants came to identify as *ladino* and consider themselves as superior to surrounding Maya populations. Yet when the town ceased to be Maya, it instantaneously lost its communal title. All the land was categorized as private property and fell within the authority of the modern nation-state. “*Ladinos* by decree” was a legal formula the state used to turn peoples recognized as *comunidades de indios* by the Crown into private property during the liberal era. Bureaucratic tactics used to disappear indigenous territories are a form of conquest masquerading as law, as Vine Deloria suggested.<sup>6</sup>

### **The 1944 Revolution: Assimilating Indians to the Nation**

Landgrab became a forced assimilation. The 1944 Revolution initiated Guatemala’s most progressive government. Guatemala’s “communist revolution” counted with the strong participation from students and middle classes, peasants, and workers. It lasted for a decade (1944–54), promoting deep social and economic reforms, the 1952 Agrarian Reform Law, and a redress of inequalities.<sup>7</sup> Yet for Maya peoples, it became one more process of dispossession, this time in the name of national unity.

The leftist revolution invoked nationalistic principles expressed in the slogan “somos todos guatemaltecos.” It rejected divisions between state and indigenous institutions to supposedly end racial subjugation, claiming that Guatemala was

one nation that should integrate all its citizens under one state. Yet this forced assimilation was another strategy to subjugate Maya authorities to the state. The nationalistic frame annulled many indigenous municipalities. The state called Maya Ancestral Authorities to turn in communal titles and abandon indigenous municipalities to join the state. Inclusion into the nation-state took the form of forced assimilation.

The communist government forcefully assimilated Maya peoples into its bureaucratic structures. It not only grabbed land titles to force Maya lands into the jurisdictional control of the state; it also dismantled indigenous municipalities. It was not simply a dispossession of land but of territoriality, thus sovereignty. The dismantling of Maya municipalities was inscribed in a broader national policy of assimilation under the argument of “homogeneous nationality.”<sup>8</sup> In 1945 the government created the National Indigenista Institute (IIN) to end inequality and homogenize the population. *Indigenismo*, a cultural and political movement that spread across Latin America in the early twentieth century, criticized the exploitation of indigenous peoples and vindicated their participation in the formation of the modern nation. In Guatemala like elsewhere, *indigenismo* was embedded in projects of modernization. The IIN proposed to solve the “Indian problem” through assimilation. The institute and its assimilatory policies survived the end of the 1944 Revolution, and it is now based at Guatemala’s public university. Underneath a rhetoric of equality, the 1944 Revolution marked another chapter of indigenous dispossession in Guatemala.

### **Resource Wars and the Neoliberal Landgrab**

Over the last decades, Guatemala has used new forms of dispossession to license Maya lands for resource extraction. Guatemala’s brutal civil war, which lasted thirty-six years, was fought largely on indigenous bodies, engaged in cruel forms of dispossession. Maya communities were displaced, others were massacred. Some massacres amounted to genocide, as the courts of Guatemala now admit. But the war is rarely analyzed as a larger strategy of indigenous dispossession. In fact, militarization served as a tool for eliminating Maya populations. War justified extensive displacements and mass killings that cleared land from indigenous presence. The army forcefully enrolled Maya men, invaded community land to establish camps, and enslaved women and children to serve the soldiers. The territorial control in the name of national security amounted to a massive landgrab providing state access to natural resources.

In the 1970s army engineers conceived indigenous lands as rich in resources for development projects, including “green energy” such as hydropower. One (in)famous example is the case of Rio Negro, where a Maya community contested the construction of a dam by Guatemala’s National Electrification Institute in 1975.<sup>9</sup> The community resisted displacement, refusing to relocate. In 1982 the army responded by killing, raping, and kidnapping men, women, and children. This massacre permitted the military to establish control over Rio Negro and consolidate its hydroelectric project in a land cleared of Maya resistance. In 2012 the Inter-American Court of Human Rights condemned the massacre as a human rights violation, but failed to recognize that it also constituted a new variation of colonial landgrab.

Landgrab took a new twist with the peace agreement, this time not in the name of security but for the market economy. If peace implied a progressive demilitarization of Guatemala, it also implied increased adjustment to a neoliberal economy based on resource extraction. The privatization of electricity and telephone networks demanded concessions of rivers and land. The 1996 Peace Accords were expected to end the tensions in rural Guatemala, yet resource wars have escalated, and with it state criminalization of Maya territoriality.

Today, Maya struggles for territory are fought on multiple fronts. There are Maya communities demanding the respect of international rights to free, prior, and informed consultation for development projects that affect their territories. But there are other Maya communities who had their communal lands transformed into private property; they do not claim prior consultation. For them, the defense of territory is a legal battle focused on redefining land titles. Their goal is to recover communal land titles and/or pressure the state into recognizing their communal lands and ancestral occupation of territory. This is the case for Maya communities in Copones and Nebaj, where they are demanding the recognition of property over land in practice, not paper.

These struggles for territory face intense state repression in the form of lawfare. Maya activists, lawyers, and intellectuals denounce ongoing forms of violence and intense persecution against defenders of collective rights to land. When activists are not killed, Maya authorities are charged with fabricated crimes by private companies. They are then arrested and taken to a preventive detention center by what can only be described as a corrupt and racist judicial system that collaborates with private companies invested in hydro or mining projects. By the time Maya authorities are allowed to prove their innocence in court, years have passed and the community’s resistance has de facto been “decapitated.”

The political actors involved in the landgrab for markets in times of democratic peace are all too reminiscent of Guatemala's history of indigenous dispossession. Q'anjob'al territory, in Huehuetenango, is one of many Maya territories coveted for its rivers. Guatemala's Ministry of Energy and Mining granted licenses for the construction of two private hydro dams without prior consultation. Hidro Santa Cruz, related to the Spanish company Hidralia Energía Ecoener, developed the projects of Cambalam I and II in the river of Santa Cruz. Promoción y Desarrollos Hidrónicos, S.A. (PDHSA) contracted the services of Hidralia Energía in Guatemala to build the Pojom I and II hydro dams in San Mateo Ixtatán. Indigenous resistance to this corporate landgrab has resulted in years of preventive jailing on fabricated charges for Maya Ancestral Authorities like Rigoberto Juárez and Domingo Baltazar.

Maya authorities are frequently taken as political prisoners by Guatemala's legal system. In the province of San Marco alone, over fifty Maya Ancestral Authorities are currently jailed for resisting landgrabs by private corporations. Indigenous authorities are perceived as dangerous because they structure community resistance. Military warfare was replaced with lawfare, as Guatemala's government allies with private companies to eliminate Maya authorities resisting development projects on their territories. Peace brought an end to militarization, but did not end the brutal dispossession of Maya populations.

The dependency on extractive industries expanded during the war to become a central tenet of Guatemala's current economy. The state now uses Maya lands as a currency not to pay militias but to participate in the global political economy, licensing natural resources to multinational corporations. Today's landgrabs are a continuation of centuries of colonial dispossession; only the weapons have changed.

## Conclusion

Throughout the hemisphere, indigenous dispossession did not take place overnight. It was a political process fortified through the consolidation of the state. The history of indigenous dispossession in Guatemala explains the bureaucratic mechanism of the landscapes of state violence. Colonial and settler colonial states crafted evolving tools to appropriate indigenous territories. Contemporary democratic governments in times of peace are in some ways more violent against indigenous communities than colonial authorities that successfully made Maya nations buy their land but recognized their communal titles. This historical approach reveals the legal mechanisms that trivialize



indigenous dispossession. It also indicates that colonialism did not end with independence; its logic shifted to settler colonialism shaped by the capitalist imperative of extraction and dispossession.

The experience of Guatemala matters because it shows that colonization is not static or past. It blurs the lines between settler states and coloniality, echoing Shannon Speed's argument that colonial forms shift over time in relation to changing needs of power. Guatemala's modern democratic state is anchored in the colonial state and operates under the logics of settler colonial states. The Guatemalan state is not postcolonial or emancipated: it is still founded on the principle of occupation. The making of Guatemala through the invasion of Maya territory and elimination of Maya peoples is not an event of the past: it remains the structure of today.

#### Notes

A los pueblos por heredarnos la historia y la lucha.

1. *Ladino* refers to a mestizo or white person whose maternal language is Spanish in Central America.
2. One *caballeria* is equivalent to 45.12 hectares, or 451,200 square meters. This measurement dating from the colonial era is still used today, revealing the extent to which Spanish colonization shaped relations to land in Guatemala.
3. Licerio Camey, "Gestión colectiva de los recursos naturales; Un análisis sociológico del uso y manejo del bosque comunal de la parcialidad Baquix, Cantón Juchanep, Municipio y Departamento de Totonicapán, Guatemala" (master's thesis, Universidad de San Carlos de Guatemala, Guatemala, 2017).
4. Juan Carlos Sarazúa Pérez, "Titulación y condiciones sociales Patio de Bolas Copón, 1871–1906," 2015, 24.
5. Manuela Picq, "We Will Not Buy What Is Ours," *Intercontinental Cry*, September 29, 2016 [intercontinentalcry.org/will-not-buy/](http://intercontinentalcry.org/will-not-buy/).
6. Vine Deloria Jr., "Conquest Masquerading as Law," in *Unlearning the Language of Conquest: Scholars Expose Anti-Indianism in America*, ed. Four Arrows (Austin: University of Texas Press, 2006).
7. Jim Handy, *Revolution in the Countryside: Rural Conflict and Agrarian Reform in Guatemala, 1944–1954* (Chapel Hill: University of North Carolina Press, 1994).
8. Abigail E. Adams, "¿Diversidad cultural en la nacionalidad homogénea? Antonio Goubaud Carrera y la fundación del Instituto Indigenista Nacional de Guatemala," *Mesoamérica* 29.50 (2008) : 66–95.
9. Nathan Einbinder, *Dams, Displacement, and Development: Perspectives from Río Negro, Guatemala* (Springer International, 2017).

