



Building a Creative Utopia in Brazil

By Tiffany Linton Page

Brazilian Minister of Culture Gilberto Gil has a vision of government-sponsored, grass-roots cultural creation across Brazil. During his CLAS talk, Gil, who is also a world-renowned musician and one of the founders of the Tropicália movement, described how he has attempted to make this vision reality in his role as a member of the cabinet of President Luiz Inácio Lula da Silva.

As Minister of Culture, Gil's focus is on promoting what he calls full human development. He said that when governments and multilateral bodies talk about development, they often focus entirely on the economic dimension. However, he argued, development is multi-dimensional, and its social and cultural aspects must not be neglected. Gil sees his role as revolving around both "the economic dimension of culture and the cultural dimension of the economy." Above all he wants to validate cultural endeavors as an integral part of Brazilian society and development.

Gil insisted that art can be a mobilizing force that changes society by changing perspectives, moods and visions. However, he said that forcing art to serve specific political ends is not effective. Instead, the government should support communities so that art flourishes throughout the country. That, in and of itself, contributes to the cultural development of the country, he argued.

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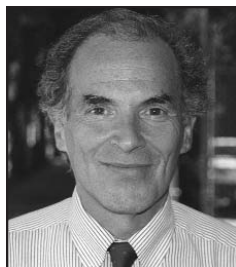
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Front cover: Brazilian Minister of Culture Gilberto Gil discusses his Pontes de Cultura program at UC Berkeley.



Letter from the Chair

This issue highlights three series at the Center for Latin American Studies: Brazil in Berkeley, Women in Latin American Politics and the U.S.–Mexico Futures Forum.

We lead with an article on Gilberto Gil, Brazil’s Minister of Culture, whose visit underscores a major emphasis on Brazilian culture as part of our Brazil in Berkeley series. We were pleased to host Senator Cristovam Buarque who contributed an original article on the Brazilian economy. In our next issue, we will be featuring Brazilian film director Walter Salles and Minister Luiz Dulci, Secretary General of the Cabinet, who both spoke at Berkeley in March.

Senator Cristina Fernández de Kirchner, First Lady of Argentina, inaugurated the new series Women and Politics in Latin America in the fall. During her visit, she engaged in broad discussions of contemporary politics and social directions in Argentina with faculty, students, staff and people from the community.

Finally, the U.S.–Mexico Futures Forum is well represented in these pages. The Forum brings together political leaders, intellectuals and academics, business executives and leaders of social movements from both countries for an annual conversation and continues throughout the year in programs on the campus of UC Berkeley and ITAM in Mexico City. This issue highlights the research of Professors Alain de Janvry and Elisabeth Sadoulet at UC Berkeley, Professor Philip Martin at UC Davis and graduate student Elizabeth Havice, also at Berkeley. Our next issue will report on the annual meeting which took place in Morelia, Mexico in late February.

We look forward to the special seminar on Popular Music and Social Movements to be taught in April by the noted Chilean musician and composer Horacio Salinas, a founder and the musical director of the Inti-Illimani, who is interviewed in this issue.

— Harley Shaiken

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Photo by Sebastián Cohen.

The Challenge for Democracy in Argentina

By Sebastián Etchemendy

Cristina Fernández de Kirchner, First Lady of Argentina and head of the powerful Constitutional Affairs Committee in the national senate, is a key political player in Argentina. She is a potential Peronist Party candidate for the governorship of the crucial province of Buenos Aires in 2005, and, some say, for the presidency in the near future. As the inaugural speaker in a new CLAS series, Women in Latin American Politics, Senator Fernández presented an overview of Argentine politics during the last 30 years and singled out the most crucial challenges that the country is facing in the years to come.

Senator Fernández started by pointing out the questionable role of U.S. foreign policy in Latin America during the latter half of the 20th century. She described the historic U.S. approach to the region as based on two types of interventions. The first was direct intervention by supporting

military coups against civilian governments that threatened U.S. interests. This type of intervention, noted Fernández de Kirchner, was inherent to the dynamics of a bipolar world where superpowers disputed the control of a large pool of countries in the periphery. However, after the debt crises, military coups were followed by a second type of intervention, one that was not carried out directly by the U.S. government but rather by the international financial institutions it dominates, such as the International Monetary Fund (IMF) and the World Bank. The Washington Consensus and the “trickle down” economic theory associated with it became the new means of spreading U.S. hegemony in the region.

Argentina experienced both types of U.S. intervention. The first was inaugurated by the 1976 coup, which according to Senator Fernández, led to one of the harshest dictatorships

Argentine Senator and First Lady Cristina Fernández de Kirchner speaks at UC Berkeley.

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New Directions for the Brazilian Economy

By Cristovam Buarque

“... but Ricardo never saw that the mistake was in the question and he kept right on trying to eliminate mistakes in his answers.” – Joan Robinson

“We can’t solve problems by using the same kind of thinking that we used when we created them,” Einstein once said. When a problem arises, the ideological causes that created it prevent a solution from being found. Not only do they cause the problem, they also dim reality, minimize understanding and hide alternatives. This is what is hindering the Brazilian economy from finding alternatives to meet the aspirations of the population. The same set of ideas that created problems continues to be used to seek solutions.

For five decades, six concepts have been the

pillars of our economy:

- Wealth is defined by the GNP and the country’s income;
- Economic growth is the path to building a rich, safe, sovereign, educated and healthy society;
- Investment in infrastructure and state support to the private sector are the means to induce growth;
- Foreign savings are the source of funds to finance this growth;
- Exports and the existence of a wealthy class are the basis for demand in the economy;
- The state, left unchecked, makes use of legislation to protect inefficiency and the unlimited and irresponsible use of public funds.

To escape from poverty, the poor must have access to essential goods and services. Here a boy repairs a makeshift water pipe at the entrance to his home in one of São Paulo’s impoverished neighborhoods.



Photo by AP Wide World.

Throughout our history, we have faced serious problems — social inequality, inflation and income concentration — and addressed them without changing the concepts behind the creation of those same problems. Brazil needs to revise its old guidelines by:

- Shifting from the outmoded view of political voluntarism bound to fiscal irresponsibility;
- Giving up the remaining obsolete concepts including: income concentration as an instrument to boost the economy, demand increased by exports, wealth increase as a path to poverty reduction and the economy handled as an organic structure set apart from society.

Finally, with a new set of ideas, we must look at the economic challenges as challenges to Brazil, in all its complexity and fullness.

Economic Challenges

Economists often make impersonal decisions without taking into account the negative impact they have on people. Instead, they look only at the positive impact that changes in the social system might have on the economy. The economic challenge is seen from within the economic paradigm, as a means and an end in itself. Shortsighted economists consider economic challenges as limited to the economy itself and to its GDP, the stock exchange and interest rates.

But the greatest challenges confronting economists are always to be found outside the narrow parameters of economics. To the shortsighted economist, the challenge is increasing growth and exports, guaranteeing stability and creating jobs. To those who are not shortsighted, the task is much larger: building a society without exclusion, with an educated and healthy population, with scientific and technological infrastructure, equitable income distribution and the preservation of monetary stability. An economist who is not shortsighted seeks to turn utopia into hope and hope into reality with the final target the improvement of people's quality of life.

The Failed Test

In the 19th century, there were just a few rich countries in the world, all in Europe. The

remaining countries were poor and backward; some of them, like the U.S. and Brazil, were at very similar points along the path of industrial and infrastructural development.

One hundred years later, the world had changed. First, there was a group of rich countries, old and new (the First World). In Eastern Europe (the Second World), another set of countries was engaged in socialist development. The rest were considered to be part of the Third World. Among these, Brazil had the best prospects: It boasted the highest growth rate of the century, new infrastructure and rapid urban development.

At the beginning of the 21st century, the world has changed again. The European Union today has 25 member countries with a much higher level of socioeconomic development than Brazil. The countries of Eastern Europe are undergoing a recovery process, building upon a solid social and educational base inherited from the socialist period. In Asia, countries famous for their poverty, wars and ethnic struggles have taken a huge forward step towards development.

Brazil has lagged behind. It even lags behind other Latin American countries like Mexico and Argentina as well as countries like Turkey. It lags behind at least 50 countries in fundamental indicators such as per capita income, primary education, public safety, public health, science and technology, higher education, cultural production, poverty reduction, income distribution and productivity.

Understanding how Brazil lost ground is difficult, but one cause was the mistake of concentrating solely on the economy. All of the countries that are doing well have invested in their citizens as vectors of social and economic change by focusing on education, meeting social needs, distributing income more equitably and developing science and technology. All have learned how to manage both their social and financial debts.

The Vicious Circle of Brazilian Debts

Brazil has thus reached the 21st century fully indebted. These different types of debt form a vicious cycle. They result from the shortsighted mindset which ideologically legitimates debts and makes them reproduce.

Social debt prevents 50 million Brazilians

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from entering the market, drastically reduces productivity, creates permanent insecurity and impedes growth. Slow economic growth denies the masses access to the market and brakes investment in social capital and infrastructure while demanding sacrifices to pay financial debts. These same financial debts also force the government to maintain a regressive tax policy and high interest rates. By definition, this restricted market limits internal demand. The lack of investment capital combined with high interest rates causes the economy to become depredatory, destroying nature and failing to modernize technology. Productivity falls. In the end, Brazil sacrifices its poor and young, especially its poor young. The impoverished younger generations, without education, reproduce poverty and increase social debt. The challenge is to transform the vicious circle into a virtuous cycle without threatening stability or general confidence in the country.

The Virtuous Cycle of Debt Repayment

Of all the kinds of debt, none is more urgent from the moral, political, economic and even financial point of view, than social debt. Fortunately, it is also possibly the easiest to repay.

A Leap Sideways

Economic shortsightedness has imprisoned our understanding of poverty within a simplistic conceptual framework revolving around income: To be poor is to be paid \$1 per day. The poverty line is horizontal — the poor are below that daily income line. This ridiculous definition of poverty excludes a six-member family with a household income of USD\$1.50 per day, unable to meet basic necessities such as food, transportation, health, education, housing, drinking water, sanitation and garbage collection.

In truth, to be poor is to have no access to public goods and services. The poverty line should be vertical, with those excluded from the access to essential goods and services on one side. On the other, are those who have access to those same goods and services. When the issue is

access, the leap out of poverty is sideways; it is only upwards when the issue is income.

The Path

Although our leaders perceive the urgency in seeking a solution for the social issue, their feeling is that it is not feasible. They insist on the “growth first” solution and claim that no funds are available to be channeled to direct social investment. Reality shows that poverty cannot be reduced through economic growth alone; conversely, growth cannot be sustained without a program to reduce poverty. Brazil can make social investments while fulfilling its financial commitments resulting from that investment.

The roadmap should comprise inclusive legislation and social incentives inspired by the Marshall Plan and the New Deal. When Roosevelt became President of the U.S. he changed the rationale: instead of attempting to grow to create jobs, he created jobs in order to grow. Brazil needs a New Deal, a national plan against poverty, with two main lines of attack: a program of inclusive laws and a program of social incentives to create jobs. The result of this social investment would not just be growth, but a leap sideways, over the poverty line.

The Independence Fund

By following this path, in 10 years we will have generated jobs for the unemployed, guaranteed production to ensure universal access to essential goods and services, eliminated exclusion and helped the economy. A total expenditure of USD\$17.9 billion, or 3.5 percent of the domestic debt, 2 percent of GDP or 6 percent of the annual tax burden, would eliminate the national social tragedy, and create a multiplying effect inducing a growth rate that could reach between 1 and 2 percent a year.

If we consider a tax burden of almost 40 percent of the national income, one third of that cost would return to the public sector thanks to the generation of new taxes. This would lower the net cost to \$12 billion. Of this amount, \$1.9 billion is already earmarked for the Poverty Eradication Fund to finance the Bolsa Familia (Family Grant) program. If we consider that the

annual growth rate will increase the domestic product by 1 percent, we may well assume that the program would increase the public sector income by \$3 billion, one-third of 1.5 percent of \$593 billion. Also, thanks to increased efficiency, we estimate that public sector income may reach up to \$1.9 billion a year. If we deduct those benefits, the cost of the entire program to eradicate poverty and pay the social debt would amount to \$4.7 billion. That is a small cost for a country with a national income of \$593 trillion a year, the projected revenue for the 2005 federal budget of \$267 billion, of which \$161 billion are earmarked for the union, with a primary surplus estimated at \$17 billion for the central government only, targeted to service a debt of \$371 billion.

If political obstacles hinder the reallocation of resources, one alternative could be financing the program by swapping part of the foreign debt for a commitment to supporting social development — issuing public social debt bonds in the amount of \$4.6 billion a year, for a 10-year period, to be offered in the market. In order to attract investors to this operation, five-year renewable maturity dates until 2022 could be established.

The creation of an Independence Fund would be the way to roll over, for 17 years, a percentage of Brazilian financial debt, as a way of releasing resources to address our social debt. If, due to lack of confidence by investors, the necessary resources cannot be raised, Brazil would still have two options: insisting on a budget sacrifice and reducing other public expenditures, or

give up building a society without poverty, thus avoiding the economic challenge and going through the 21st century ethically, economically and culturally behind the rest of the world.

Cristovam Buarque is a member of the Brazilian Senate. He previously served as Minister of Education and governor of the Federal District of Brasília.

Senator Cristovam Buarque on the Berkeley campus.



Photo by Dioncia Ramos.

Can Mexico's Social Programs Help Reduce Poverty?

By Alain de Janvry and Elisabeth Sadoulet

Mexico has been extremely bold in introducing a broad array of social programs to meet basic needs and reduce poverty. Some of these programs, such as Oportunidades, have become widely imitated international showcases. The question, however, is whether these social programs can succeed in not only meeting basic needs, but also in reducing poverty. We advance the proposition that to reduce poverty social programs need to be complemented by a set of initiatives that offer income generation opportunities for the poor. To date, this linkage has been seriously lagging relative to the implementation of social programs, limiting their effectiveness in reducing poverty.

What can be expected from public spending for poverty reduction?

Besides government management expenditures, a country's programmable public spending is composed of two categories. One is social development expenditures that consist of social assistance (broadly, expenditures to increase the assets of the poor, such as health, education, nutrition and access to land) and in social protection (old age pensions, health insurance and unemployment programs). The other is economic sector expenditures, principally for the purpose of improving the quality of the context where the assets are used (infrastructure, agriculture, rural development, energy, transport and communications). These two categories of expenditures are complementary in achieving poverty reduction. The poor need to have sufficient control over assets and to have the opportunity of using them in a context that allows them to derive value from these assets. The outcome is improved well-being, with not only improved satisfaction of basic needs such as health, nutrition, education and housing, but also income poverty reduction. According to this framework, social development expenditures need to be complemented by economic sector

expenditures for well-being to rise.

Recent evolution of poverty and basic needs in Mexico

Seven features characterize current poverty in Mexico. Any effective poverty reduction strategy needs to be tailored to these specific features of the poverty problem.

1. The incidence of poverty has been highly resilient over time. In 2002 the poverty rate was 50 percent, the same as in 1992. Taking demographic growth into account, this reflects a rise in the actual number of poor.
2. Mexico's long term economic growth has been quite modest compared to, for instance, East Asia and the Pacific. With growth the main instrument for poverty reduction, it is not surprising that performance in poverty reduction has been modest compared to what has been achieved in the fast growing regions of the world.
3. Economic instability has been a major feature of Mexican growth. The rapid succession of the debt crisis, peso crisis and 9/11 crisis has contributed to the reconstitution of the numbers of poor, with poverty declining during expansions and rising during recessions.
4. Poverty rates are much higher in the rural sector than in the urban sector, reaching 68 percent in the former as opposed to 40 percent in the latter.
5. There is a very strong geographical dimension to poverty, with the southern states displaying much higher poverty rates.
6. The indigenous population is more likely to live in poverty, with 44 percent of indigenous people in the bottom 20 percent of income ranges.
7. Inequality is both very high (the overall Gini coefficient was 51 percent in 2002) and stagnant, limiting the ability of aggregate income growth to reduce poverty.

While poverty reduction performance has

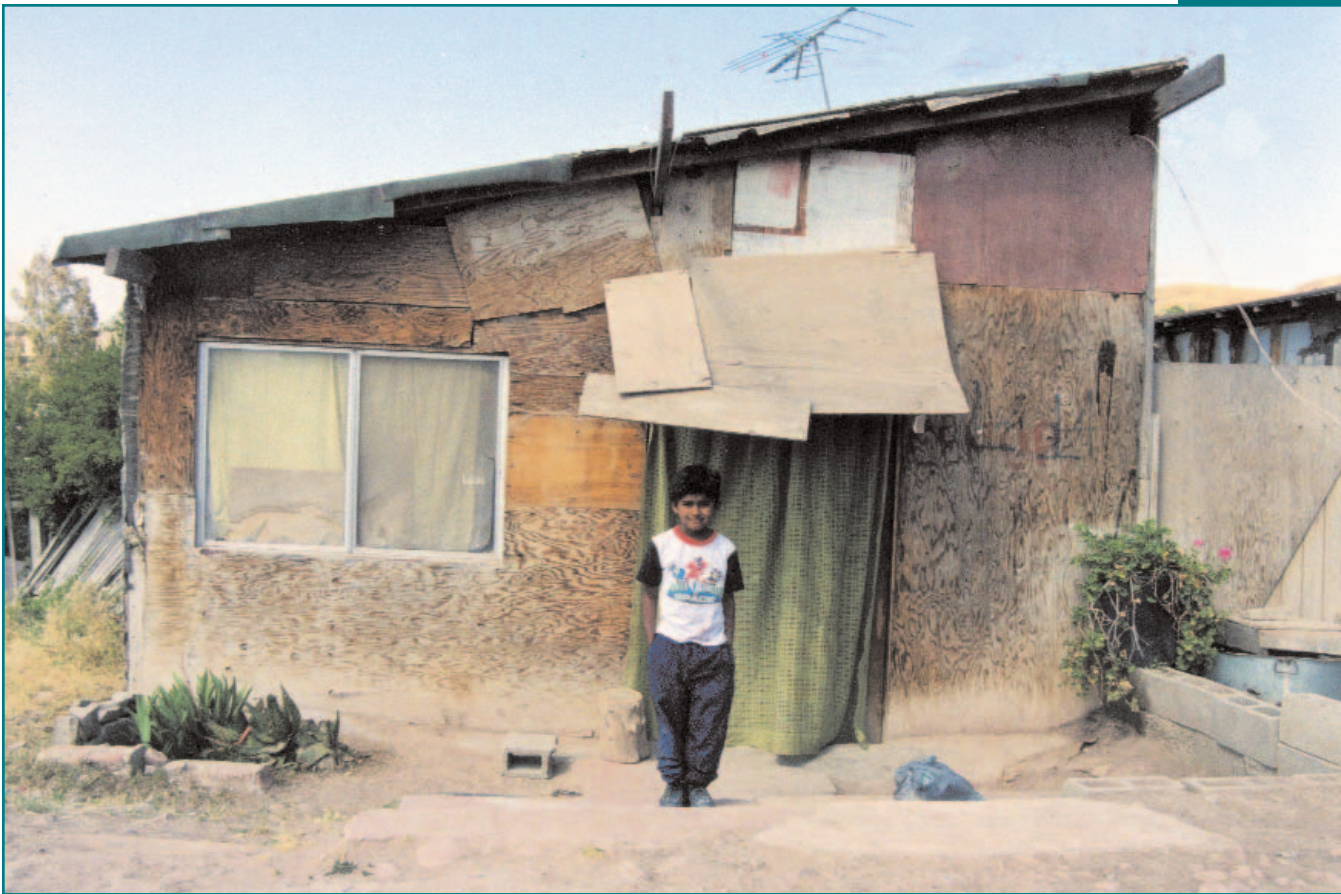


Photo by CLAS staff.

been highly disappointing, there has been significant improvement in the meeting of basic needs. While lagging behind other countries at similar per capita income levels until 1980, Mexico has achieved a remarkable catching up in health, education and nutrition. Indicators such as infant mortality, life expectancy at birth and gross secondary enrollment place Mexico in a better position than countries at similar levels of per capita income.

The conclusion we derive from these observations is that, using international standards as a benchmark, progress in reducing monetary poverty has been lagging behind progress in improving basic needs, this in spite of ambitious social programs aimed at reducing poverty. Since reducing monetary poverty depends significantly on the balance between social development expenditures and economic sector expenditures, we need to look at the evolution and balance in social spending.

Mexico's social programs

Under the Fox administration, Mexico's social programs have been coordinated through the inter-ministerial Contigo strategy which seeks

to achieve complementarity between programs through coordination at the level of the Social Cabinet. The design of this strategy has been hailed because it addresses the multidimensionality of well-being, namely both income poverty and basic needs satisfaction while also offering an array of services patterned according to life cycle needs, with programs tailored to prenatal, childhood, youth, adult and elderly stages.

However, delivery has been stronger in meeting basic needs than in reducing income poverty for the following reasons:

1. Overall public spending has been low due to weak fiscal capacity. Compared to other countries at the same level of per capita income, Mexico has a large deficit in tax collection. The tax and institutional reforms aimed at increasing fiscal revenues that were high on President Fox's policy agenda have failed. As a consequence, Mexico continues to have a low and stagnant level of public spending and correspondingly, a low and stagnant capacity to redistribute income.
2. Rising expenditures on social development, with a stagnant overall fiscal capacity, have

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Although increased social spending has enabled more Mexicans to meet their basic needs, reducing poverty has proved to be a more intractable problem.

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been achieved at the cost of falling economic sector expenditures. As a result, while economic sector expenditures were higher than social development expenditures in 1990, they were only about a third as large in 2003. Public expenditures in infrastructure, an important component of economic sector expenditures, have declined and have not been complemented by rising private investments as expected with implementation of structural adjustment policies.

3. While rising, social expenditures are dominated by a few large social insurance programs that are quite regressive in coverage, providing health and pension coverage for active workers (IMSS) and for government employees (ISSSTE). Overall, including expenditures on higher education and electricity subsidies, social development expenditures are regressive.
4. Programs that differentially reach the poor are: SSA for health; Oportunidades for education, health and nutrition; expenditures on preschool and primary school; and Procampo that compensates farmers for the decline in the price of basic agricultural commodities affected by NAFTA. It is notable that these programs are more effective in reaching the extreme poor than the moderate poor.
5. Lack of social protection for the moderate poor leaves them exposed to shocks that may well throw them into poverty in an irreversible fashion. This is what we observed with Oportunidades which uses conditional cash transfers effectively to protect the children of the extreme rural poor from being taken out of school when hit by a shock. By contrast, when exposed to a shock, many of the children of the moderate poor are removed from secondary school by their parents to save on school expenditures and derive income from child labor. Lack of protection for the moderate poor may thus well be a source of replenishment of the stock of poor, in spite of successful programs to lift the extreme poor out of poverty, explaining the observed resilience of poverty.

Why a lag in poverty reduction relative to progress in social development?

These observations lead us to propose nine answers to the puzzle of stagnant poverty and improving basic needs, and a tenth reflecting a bias for hope in achieving a better balance.

Weak and unstable growth performance has been a persistent problem which, in a context of high inequality, has implied lack of income gains for the poor. The policy implications of this observation are clear, although easier said than done. To be successful in reducing poverty, Mexico needs to achieve higher economic growth and greater macroeconomic stability and to introduce policies to reduce inequality since this will not be achieved by economic growth alone.

A low level of tax revenues, due to failed fiscal reforms, has also impeded Mexico's progress by weakening redistribution capacity. Social expenditures have increased but at the cost of falling economic sector expenditures. Success in implementing tax reforms thus remains a precondition for a successful program to not only improve basic needs but also reduce income poverty.

Another weakness lies in the lack of administrative coordination between social and economic expenditures. This is due to three factors that will need to be addressed:

1. Ministerial parallelism, implying lack of coordination and separation in the activities undertaken by different ministries as well as replications increasing costs;
2. The Contigo strategy is largely owned only by the Ministries of Health and Education, in spite of formal coordination by the inter-ministerial Social Cabinet;
3. Territorial approaches do not integrate social expenditures (SEDESOL's Microregions Strategy) and productive expenditures (SAGARPA's Sustainable Rural Development strategy).

In addition, current public programs that support income generation and competitiveness hardly reach the poor: they benefit large producers while excluding small and medium

enterprises and small farmers. Alianza Para el Campo, a co-investment program in agriculture, and Apoyo a la Competitividad, are almost exclusively oriented at large producers. Procampo is progressive but not complemented by investments in support of smallholder competitiveness, resulting in investments that do more of the same instead of adjust production to the new comparative advantages defined by NAFTA. *Procede*, the land certification program for the *ejido* sector that was created by the extensive agrarian reform that followed the Mexican revolution, is effective in providing security of access to land for *ejidatarios*. It does not, however, provide support to the competitiveness of beneficiaries, resulting in an incomplete land reform to fight poverty.

Lack of accountability has also held back the integration of economic and social expenditures at the local level that was the goal of decentralization. Municipal expenditures funded by transfers (Ramo 33) that could coordinate economic and social programs at the local level are not accountable to the federal government. Federal transfers are, in turn, not related to local performance, preventing implementation of a results-based approach to public spending of the type desired by the Mexican Congress. In general, there is a general lack of training at the municipal level in defining and implementing an expenditure program.

Another challenge to be faced is the low quality of public services. Conditional cash transfer programs such as Oportunidades have focused on the demand side of social services, neglecting improvements to the supply side. The excessively short (three years) municipal cycle without reelection provides weak incentives for improving the quality of service delivery at the local level. In addition, the social development agenda for the moderate poor is not well defined.

Inadequate social insurance programs leave the poor in a precarious position. The programs that do exist for health, old age pensions (with the exception of Mexico City) and unemployment insurance are highly regressive. The exposure to risk of the moderate poor remains excessive, making them into a source of new poor when affected by shocks.

Even for ambitious programs like the Contigo

strategy, the social incorporation of the poor remains a marginal concern. Civil society organizations remain weak due to a long tradition of a strong centralized state and anticlerical attitudes limiting NGOs. There is little stakeholder participation in guiding and monitoring local expenditures of highly centralized programs such as Oportunidades, Alianza para el Campo, and Procampo. The INDESOL program, which focuses on strengthening the capacity of NGOs and municipalities, is an exception. However, lack of evaluation leaves uncertain its degree of effectiveness in achieving these tasks.

Finally, lack of monitoring, evaluation and impact analysis limits implementation of results-based management. With a few notable exceptions (largely in the case of Oportunidades), the culture and the practice of evaluation remain weak, leading to a lack of accountability at the national, state and municipal levels, despite the existence of regulation which specifically requires evaluation of all federally funded programs. Evaluation and impact analysis are needed to put into place the system of results-based management desired by the Mexican Congress.

In spite of these difficulties, significant progress is being made on several fronts. There are a number of recent initiatives that offer the possibility of greater integration between basic needs programs and income poverty reduction. They include:

- The IMPULSO program that gives support to productivity gains and to formalization of small and medium enterprises, assisting the moderate poor in their income strategies.
- The Law on Social Development which aims to make social programs into state, as opposed to government, policies in order to secure continuity beyond presidential cycles and gives a greater role to the municipalities in implementing these programs.
- The Law on Sustainable Rural Development which gives an explicit role to newly constituted municipal, district, state and national rural development councils with the capacity to integrate social and economic programs at different levels of governance on the basis of participatory planning and supervision of implementation.
- The congressional mandate for the annual

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evaluations of federal programs and the Manual Ciudadano which allow for greater accountability and make it easier for individuals to claim their rights.

- The new Law on Civil Service Careers which allows for continuity in civil service appointments and offers the possibility of a more professional bureaucracy and greater permanence and coordination of programs.

Conclusion

Mexico's remarkable efforts at improving well-being have had unequal success: they have met basic needs in health, nutrition, education and housing, particularly for the extreme poor, but have not delivered in reducing income poverty. The interpretation given here to this puzzle is that a poverty reduction strategy cannot be limited to a social development strategy. To be effective in reducing poverty, social programs

need to be complemented by an effective income generation strategy for the poor based on significant and efficient economic sector programs that incorporate them. To date, this latter component of an integral strategy has been lagging behind, explaining the puzzle of the permanence of poverty in a context of satisfaction of basic needs.

Alain de Janvry and Elisabeth Sadoulet are Professors in the Department of Agricultural and Resource Economics at UC Berkeley. Professor de Janvry spoke at CLAS on January 31, 2005.

A dilapidated house
in a Tijuana
shantytown.



Photo by CLAS staff

Immigration Reform: Is AgJOBS the Answer?

By Philip Martin



Photo courtesy of Paul J. Miller, The Palm Beach Post.

Over half of the workers employed on U.S. farms are not authorized to work in the United States. In September 2003, employer and worker advocates in Congress announced a compromise proposal that would give legal resident status to some unauthorized farm workers and make it easier for farm employers to recruit additional workers via the H-2A guest worker program. This proposal was not enacted, but is likely to figure prominently in discussions of Bush Administration proposals for immigration reform in 2005.

Dealing with Unauthorized Farm Workers

The Agricultural Job Opportunity, Benefits, and Security Act of 2003 (S 1645 and HR 3142) — cosponsored by U.S. Senators Edward Kennedy, D-MA and Larry Craig, R-ID and U.S. Representatives Howard Berman, D-CA and Chris Cannon, R-UT — aims to legalize hired workers employed on U.S. farms. AgJOBS

provides a path to legal status for some currently unauthorized farm workers and makes it easier for farm employers to recruit additional workers via the H-2A guest worker program by easing requirements employers must satisfy to employ legal guest workers.

The major goal of AgJOBS is to ensure that the workers employed on U.S. farms are legally authorized to work in the U.S. Worker advocates also hope that legal status will make farm workers more likely to join unions and press for wage increases, reversing the 1990s slide in farm worker wages and benefits. These goals are similar to those of the Special Agricultural Worker (SAW) program of 1987-88, which legalized 1.2 million foreigners. However, continued unauthorized migration led to such a glut of farm workers that both wages and the number of union contracts fell in the late 1980s and early 1990s despite this massive legalization program.

Is AgJOBS a new solution for the employment

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Migrant field workers head for the truck with their full buckets of banana peppers.

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of unauthorized foreigners in agriculture? As with the SAW program 15 years ago, the answers depend largely on how the program is implemented, how workers and employers respond and whether unauthorized entry and employment continue. However, with AgJOBS touted as a model for earned legalization programs for nonfarm workers in construction, meatpacking and services, it is important to understand how legalization can help individuals but not change the underlying structure of a labor market that depends on a steady influx of newcomers.

In the early 1990s, the U.S. Commission on Agricultural Workers (CAW) concluded that there was “a general oversupply of farm labor nationwide” and that “with fraudulent documents easily available,” employer sanctions were not deterring the entry or employment of unauthorized workers. Newly arrived unauthorized foreigners soon became a significant share of the hired farm work force, and legalized SAWs soon recognized that economic mobility would require occupational and often geographic mobility. Many SAWs moved to cities to find jobs in services, construction and manufacturing. By 1993, the SAW share of the U.S. crop work force had fallen

by two-thirds, the unauthorized share had quadrupled and farm employers worried about losing crops if there was to be effective immigration enforcement.

Farmers in some regions, particularly tobacco growers in the southeastern states, turned to the H-2A program to obtain legal foreign farm workers. In states such as Georgia and North Carolina, heavily publicized enforcement actions encouraged some farmers to turn to ex-administrators of the H-2A program who opened labor brokerages. These brokers convinced growers that they could obtain highly motivated and legal H-2A workers for a relatively small brokerage fee if they had housing for the workers. The number of jobs certified by the U.S. Department of Labor (DOL) as needing to be filled with foreign workers began to rise sharply after 1996, and Mexican workers harvesting tobacco replaced Jamaicans cutting sugar cane as the major group of H-2A workers in the U.S.

Recognizing that enforcement could leave them without harvest workers, but still unwilling to undergo recruitment supervised by the U.S. Department of Labor and to provide housing for H-2A workers, western growers in the mid-1990s proposed new guest worker programs in Congress. There was widespread union, church

A labor camp for farmworkers in the desert outside Mecca, California. AgJobs would require employers to provide either housing or a housing allowance equal to average fair market rental prices.



Photo by David Bacon.



Photo by Gary Coronado, The Palm Beach Post.

and Hispanic advocacy opposition, and President Clinton threatened to veto any such program: “I oppose efforts in this Congress to institute a new guest worker or ‘*bracero*’ program that seeks to bring thousands of foreign workers into the United States to provide temporary farm labor.” (White House Press Release, June 23, 1995).

Farmers did not give up on their quest for an alternative guest worker program, and the election of Vicente Fox as the Mexican president in July 2000 and George Bush as U.S. president in November 2000 prompted farm employer and worker advocates to agree on a compromise version of AgJOBS in December 2000 that introduced a new concept: earned legalization. Earned legalization offered temporary resident status to unauthorized workers who had done at least 100 days of farm work during the previous year and allowed them to earn an immigrant visa if they did at least 360 more days of farm work in the next six years. Earned legalization satisfied employers, who received assurance that newly legalized farm workers would not immediately leave for nonfarm jobs, and worker advocates, who wanted legal immigrant status for unauthorized farm workers. However, Congressional Republicans who opposed “rewarding lawbreakers” with legal status, led by

Senator Phil Gramm (R-TX), blocked approval of AgJOBS.

During the spring and summer of 2001, there were Mexico–U.S. meetings on migration, the top foreign policy priority of Mexico, and a variety of proposals were introduced in Congress to legalize farm workers and other migrant laborers. The debate centered largely on whether currently unauthorized workers in the U.S. should be granted guest-worker status, immigrant status or a temporary resident status that would enable them to eventually “earn” immigrant status. The Sept. 11, 2001 terrorist attack stopped legislative momentum for these proposals.

AgJOBS 2003: TRS and H-2A Changes

AgJOBS 2003 would allow unauthorized foreigners who did at least at least 575 hours or 100 days of farm work (one hour or more constitutes a day of work), which ever is less, in a 12-consecutive-month period between March 1, 2002 and August 31, 2003, to receive a six-year Temporary Resident Status (TRS) that gives them the right to live and work in the U.S. The application period would begin six months after enactment and last 18 months. Applications for TRS could be filed within the U.S. or at U.S. ports of entry with Mexico. To avoid dealing directly with the Department of Homeland

Nine migrant farm workers live in this unfurnished 12-by-45-foot, one-bedroom trailer.

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Immigration Reform: Is AgJOBS the Answer?

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Security, unauthorized foreigners could file applications for TRS with Qualified Designated Entities (QDEs), and farm worker unions and employer associations would be favored as QDEs to receive applications.

TRS workers could earn permanent immigration status by doing at least 2,060 hours or 360 days of farm work in the following six years, including at least 1,380 hours or 240 work days during their first three years in TRS. Spouses and minor children of TRS workers would not be deportable, but would not be allowed to work lawfully, and could receive permanent immigrant status when the farm worker received an immigrant visa, regardless of queues and waiting lists.

The H-2A program would be made more “employer-friendly,” with farmers “attesting” to their need for foreign workers. The U.S. Department of Labor would have to approve employer attestations that they need H-2A

workers if employers filed job offers at local Employment Service offices at least 28 days before workers were needed. Employers would also have to advertise the jobs in local media at least 14 days before the need date but, if local workers did not appear, DOL would have to authorize the employment of H-2A workers.

Employers must provide housing to H-2A workers or “a monetary housing allowance,” provided the state’s governor certifies there is sufficient housing for workers to find their own housing. The housing allowance is the “statewide average fair market rental for existing housing for metropolitan or nonmetropolitan counties” assuming two persons per bedroom in a two-bedroom unit. In metro coastal counties in California, average rents for such a unit are \$1,100, so that the housing allowance would be \$275 per H-2A worker per month; in metro counties in the San Joaquin Valley, average rents are \$600, making the allowance \$150 a month

These field workers pay \$3 a day for transportation from their camp to the fields. AgJOBS would require employers to reimburse inbound and return transportation costs for satisfactory H-2A workers.



Photo courtesy of Paul J. Milette, The Palm Beach Post.

per worker. Only H-2A workers would receive housing allowances.

Employers of H-2A workers would have to reimburse inbound and return transportation costs for satisfactory workers and guarantee work for at least three quarters of the period of employment that they specify. In a bow to worker advocates, H-2A workers would be able to sue in federal rather than state courts to enforce their contracts. Housing and other H-2A provisions could be superseded by a collective bargaining agreement.

Farmers would have to pay H-2A workers the higher of the federal or state minimum wage, the prevailing wage in the occupation and area of intended employment or the Adverse Effect Wage Rate (AEWR). U.S. citizens, legal immigrants, and unauthorized workers need only receive the federal or state minimum wage unless they are working alongside H-2 workers. To win grower support for AgJOBS, the 2002 AEWRs would apply until 2006 — \$8.02 an hour in California, \$7.69 in Florida, \$7.53 in North Carolina, \$7.28 in Texas and \$8.60 in Washington.

Conclusions

If AgJOBS is approved, there is likely to be renewed interest in the farm labor market, as organizations are created to legalize farm workers (legalization will be funded by worker application fees) and a database records the days of farm work done by TRS workers as well as data on dependents, taxes paid and crime. A new adjudication system would be established under AgJOBS is to give TRS workers credit for days not worked in agriculture because of on-the-job injuries or if they were fired without “just cause.”

A key issue will be verifying the data in worker applications. During the Special Agricultural Worker program, there was widespread fraud, as unauthorized foreigners submitted letters (affidavits) from contractors saying they did qualifying farm work, and the U.S. government was unable to meet its burden of proof to show that the applicant’s information was wrong. AgJOBS puts the burden on the applicant to demonstrate “by a preponderance of the evidence” that the claimed work was performed; there may also be less fraud because of the continuing farm work requirement. Most TRS workers should be tempted to satisfy their farm work obligation as soon as possible. TRS workers seeking to complete their farm work

requirement — combined with easier admissions via the H-2A program and continued illegal migration — could increase the farm labor supply, putting downward pressure on wages and benefits as in the late 1980s and early 1990s, thereby speeding the exit of legal workers from agriculture.

Many things will not change as a result of AgJOBS. Most workers will continue to be young immigrant men from rural Mexico. H-2A controversies may shift to governors, who will be under pressure from farm employers to certify that there is sufficient housing so that farmers can pay housing allowances rather than provide housing, while advocates cite statements about the lack of farm worker housing common in state applications for federal housing grants.

AgJOBS continues to send mixed signals about the future availability and cost of farm workers. On the one hand, AgJOBS expresses a desire for a legal farm work force, which advocates assume will also be a higher-wage work force. However, an easing of admissions under the H-2A program combined with an AEWR freeze signals employers that workers will continue to be available at a predictable cost. Furthermore, if unauthorized workers continue to arrive and present false documents to employers in the hope of another legalization, the combined effect is likely to be no fundamental changes in the farm labor market.

Bibliography

Martin, Philip. 2003. *Promise Unfulfilled: Unions, Immigration, and Farm Workers*. Ithaca. Cornell University Press. www.cornellpress.cornell.edu/.

Martin, Philip L. 1994. Good intentions gone awry: IRCA and U.S. agriculture. *The Annals of the Academy Of Political and Social Science*, Vol 534: 44-57. July.

Martin, Philip, Wallace Huffman, Robert Emerson, J. Edward Taylor, and Refugio Rochin. Eds. 1995. *Immigration Reform and U.S. Agriculture*. Berkeley, CA: Division of Agriculture and Natural Resources Publication 3358.

U.S. Commission on Agricultural Workers. 1992. *Final Report*. Washington DC. Government Printing Office.

U.S. Department of Labor. March 2000. *Findings from the National Agricultural Workers Survey (NAWS) 1997-98*.

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Remittance-Based Development?

By Elizabeth Havice



Photo by Lannis Waters, The Palm Beach Post.

Ambrosia Carmen Benítez in her home store which was built and furnished with money her son sent back from the U.S.

Mexican migrant workers in the U.S. will this year send more than \$17 billion in remittances back to their country of birth. Individual money transfers are Mexico's largest source of foreign exchange, outstripping revenues from oil exports and tourism, and totaling more than 10 times the amount of U.S. aid to Mexico. The increasing flow of money from workers in the United States to their family members in poor communities back home is having a significant impact on the receiving communities and the Mexican economy as a whole.

Remittances have become a unique source of “development” financing, offering a range of advantages over developmental funding

from government or multilateral agencies. Remittances come frequently and in small sums, and rather than navigating convoluted bureaucratic pathways, they go straight into the pockets of the intended recipients, giving individuals the autonomy to choose how the cash is used. And in contrast to official development assistance and foreign direct investment, which tend to fluctuate with global economic conditions, remittances have proven consistent, often even increasing during times of crisis.

These unique characteristics have opened the door to new development strategies in Mexico. Reviewing formal development projects explicitly funded by remittances thus allows us to assess out-migration as a solution for failing local

economies. Currently, there are three kinds of formal projects in Mexico that draw on remittance dollars to fuel rural development: matching funds programs, financial service programs and productive projects.

Matching Funds:

The Tres por Uno Program

The Tres por Uno (3x1) program is aimed at eliminating the push factors that make community members emigrate. It is a government initiative that commits federal, state and regional governments to each match every dollar that migrant organizations in the U.S. commit to hometowns in Mexico. Since its launch in 2002, the program, managed by Mexico's Department of Social Development (SEDESOL), has begun operating in 31 of Mexico's 32 states. Projects are selected by the migrants residing in the U.S. In 2002, 3x1 projects totaled just \$43.5 million, a quarter of which came from the contributions of Mexicans abroad. Since that time, the project

has grown significantly. In 2004, the \$17.8 million contributed by the federal government was complimented by a total of \$51.6 million dollars from migrants and state and municipal governments. Although the federal contribution to 3 x 1 is expected to double during 2005, the remittance money being filtered through 3 x 1 still represents only a minuscule portion of the \$17 billion flowing into the country each year.

Tres por Uno funds have been allocated mainly for the provision of social services: one third of the projects deal with public infrastructure including street paving and bridge construction; 10 percent focus on electrification; and more than 10 percent on social infrastructure such as parks, gardens and cemeteries. However, SEDESOL has expressed interest in moving from investments in social projects towards investments in new businesses and productive projects.

The projects funded by 3x1 have made a marked difference in often-impoverished

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Migrant workers wire money to family members.

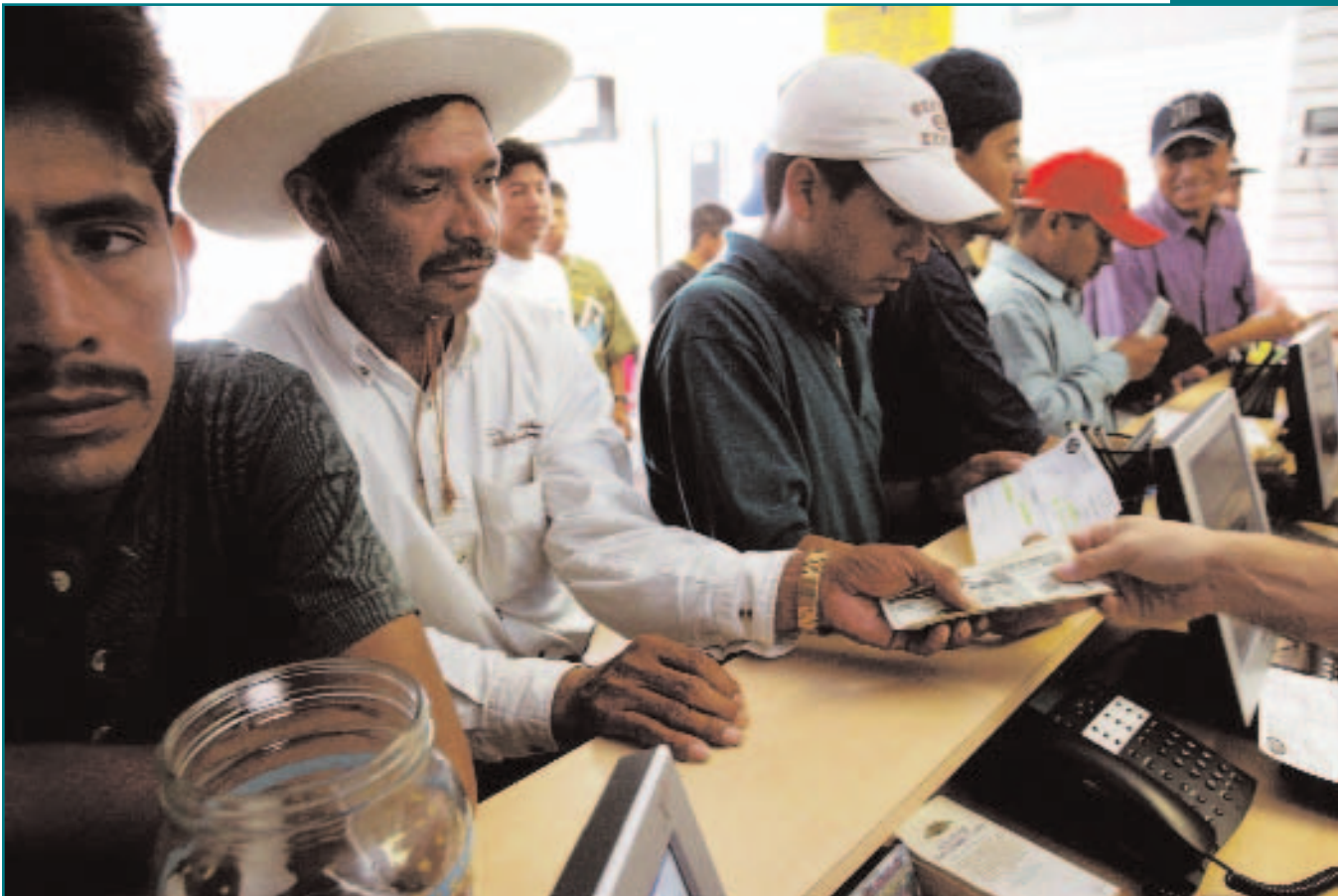


Photo by Gary Coronado, The Palm Beach Post.

Remittance-Based Development?

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recipient communities. However, the program has also been criticized as an unsustainable subsidy that does little to foster long term economic growth in rural communities. Soaring migration rates provide evidence that 3x1 has had little success curbing outward migration. Furthermore, the program is completely contingent upon the existence of outward migration for rural economic development.

Financial Service Programs

Provision of financial services is one of the current dominant paradigms in international development and poverty reduction. Providers offer access to savings accounts and credit, and, in Mexico, connections to large U.S. banks, thus increasing the efficiency of money transfers southwards across the U.S.–Mexican border. Lending to the rural poor is the long term goal of development officials who see credit as a pathway for local investment, entrepreneurship and growth.

Financial services further impact development because in remote rural areas where large numbers of people receive remittances, access to local banks means money once used for transportation to larger commercial centers where remittances could be accessed is freed for more efficient uses. Most important, however, is the impact banks and financial services have on the price of sending money home. Traditionally, migrants have relied on companies that specialize in money transfers, such as Western Union and MoneyGram, which charge upwards of 10 percent of the amount transferred. Increased competition among money transfer companies, commercial banks and financial service providers has driven the cost of transfers down more than 35 percent.

Financial service programs have been acclaimed as a win-win situation that provides much needed banking services to the rural poor while simultaneously offering a new and lucrative market to financial institutions. But this element has also provided ammunition to critics who argue that financial service

structures have been adopted primarily to facilitate financial sector liberalization. Critics question whether commercial banks are capable of achieving “development” goals that are incidental to the financial institutions’ primary purpose of maximizing profits.

Productive Projects:

New Business in Rural Mexico

“Productive projects,” new businesses supported by migrants, also harness remittances to achieve development gains in rural Mexico. These projects — which include clothing factories, water purification plants, refineries and food processing plants — are developed by entrepreneurs who either live in the United States and save in order to start a business in Mexico, or who reside in Mexico and operate businesses supported by remittances from family members. More formal productive projects are supported by teams of international aid agencies and private investors that offer loans to entrepreneurs that are partially subsidized by remittances.

These projects keep remittance dollars in local communities and, theoretically, create new jobs and local economic growth. However, the task has significant challenges. First, many communities lack the basic infrastructure that could connect them to markets. Even in places where the infrastructure is adequate, neophyte entrepreneurs are challenged by their lack of experience in the business world. The same problems prohibit potential investors from discerning which products will succeed in the marketplace. As a result, large capital investments are wasted when there is no market for a completed product. In projects that emerge out of communal investments there can be problems with ownership rights and profit sharing. Lack of confidence in macroeconomic stability also often prevents larger investment in such projects.

The challenge of energizing economies in depressed areas has, to date, prevented most new productive projects from taking off. However, as

new business creation is one of the only ways to create local economic opportunities, productive projects are slated to play an increasingly formal role in Mexico’s rural development plans.

**Remittances and Development:
Notes of Caution**

Any assessment of 3x1, financial services and productive projects as development strategies must also incorporate the costs, benefits and sustainability of the outward migration that brings in the remittances. Without migration, none of these strategies would work, creating a dangerous and self-defeating dependence among impoverished rural communities. Also, the divergence between the development needs of these communities and the economic goals of the private lenders slated to facilitate them appears to be a structural flaw in the attempts to harness both remittances and global capital

to accelerate rural development. These strategies also enable the Mexican government to avoid taking responsibility for failings in rural development. Utilizing remittances to enhance rural development requires a more comprehensive approach to poverty alleviation that considers the causes of migration and the most effective ways to curb it.

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The family of this young woman grows and cans nopal for the “nostalgia market” composed of migrants in the U.S. who miss traditional foods. Her father spent 16 years in the U.S. saving money for the venture.



Photo by Elizabeth Havice.



Street scene, Naolinco, Veracruz.

Veracruz



A couple dances in the city of Veracruz.

Photographs by Tino Soriano

The Legacy of the Pinochet Case

By Carlos Castresana Fernández



Photo by AP/Wide World.

Protestors wear masks of Augusto Pinochet and former British Prime Minister Margaret Thatcher at a 1998 demonstration in London supporting the extradition of Pinochet to Spain.

Chilean General Augusto Pinochet Ugarte is currently indicted on charges of crimes against humanity in Spain, Belgium, France and Switzerland, among other countries, and, after many years of impunity, also now in Chile. Although all these proceedings remain open, we can nevertheless already draw several lessons from the “Pinochet Case.”

Pinochet’s life is a paradigm in several different senses. First of all, he is an example of treachery. Pinochet was appointed commander in chief of the Chilean army in 1973 by the constitutional president, Salvador Allende. At the time, Chile was the oldest democracy in Latin America, and the Chilean army was an exception among the Latin American armed forces due to its tradition of professionalism, loyalty and subordination to the democratically elected authorities. Pinochet broke that tradition, betrayed his president’s faith and destroyed the Chilean legal order and institutions.

Secondly, following the path of the most paradigmatic betrayer, Macbeth, Pinochet’s unlimited ambition drove him to continue murdering, year by year, anyone who might represent either a threat to his personal dictatorship or the hope of a return to democracy for Chile. In 1974, Pinochet ordered the murder in Buenos Aires of his predecessor, General Prats; in 1975, he tried to kill the Secretary of the Chilean Democratic-Christian Party, Bernardo Leighton, in Rome; in 1976, he had the former Chilean Secretary of State, Orlando Letelier, murdered in Washington. And so on. Like Macbeth’s, Pinochet’s heart is full of scorpions.

Thirdly, Pinochet was the purest symbol of impunity. After seizing power, killing more than 5,000 Chileans — the remains of many of whom are still missing today — torturing at least 30,000 and jailing and exiling many more, he enjoyed the presidency he had seized for 17 long years and decreed himself an amnesty. It wasn’t

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A Journey Toward Simplicity

In January of 2005, Professor Beatriz Manz spoke with Chilean musician Horacio Salinas about the formation of Inti-Illimani, life in exile, his return to Chile and his plans for the future. This semester Horacio Salinas will teach a seminar titled “La Nueva Canción and Popular Movements in Latin America” at CLAS.

Manz: When and why did you become interested in music?

Salinas: I became seriously interested in music after high school. Choosing music was not an easy decision because, in general, the arts were not considered to be a profession. Music was viewed as a diversion, something not really material, not really stable. In those days, the culture did not encourage artistic tendencies. That has changed a lot with the passing of the years. On the other hand, I grew up in a very musical family. Melodies and songs were always very present since my infancy.

Manz: In what year did you decide to really pursue the musical profession?

Salinas: I began studying classical guitar in the conservatory in 1967, when I was 16 years old. Before finishing school, I was already directing the group Inti-Illimani. And then for two years I combined my musical studies with the study of chemical engineering.

Manz: Are they related?

Salinas: There is a relationship that exists between music and math. I believe that my interest in chemistry was, above all, the enchantment that I found in chemical experiments: the unpredictability, the chemicals changing colors, the smoke. It was partly the suggestion of alchemy, more than chemistry, which caused me to study it.

Also, all the members of Inti-Illimani were studying electric, chemical or mechanical engineering. It is very curious that the groups that were revolutionary in musical terms did not come out of the conservatory or the music schools; they were born in the technical universities, in academia. Quilapayún and Inti-Illimani were both groups of engineers. Perhaps

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Horacio Salinas of Inti-Illimani in concert.



Photo courtesy of Horacio Salinas.

Horacio Salinas

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Photo courtesy of Horacio Salinas.

A crowd of 5,000 greets Horacio Salinas and Inti-Illimani at the airport on their 1988 return to Chile from exile.

the time has come to review the history of these very honorable institutions, the conservatories, which strangely enough have not been cradles for musicians.

I decided to focus on music after studying engineering for two years. Certain conditions paved the way for artistic work to be promoted at the national level and by the government. We began to talk about the government of Salvador Allende because our university, which was the public Technical University, had a progressive rector. As the Nueva Canción movement grew, it was transformed into a very important point of reference in Chile. The university hired various artists, among them Víctor Jara, members of Quilapayún and Inti-Illimani, Isabel and Ángel Parra, Charo Jofré and also a folk ballet. We became a team of artists and traveled throughout the country giving free concerts. We went into the communities where musical concerts had never been performed.

Manz: So already at the university the relationship between Nueva Canción and the social and political movements of Chile had begun.

Salinas: In Chile in the late 1960s, the university was an echo of these very strong reformist

winds. In those years the university was also undergoing profound change which put an end to the concept of the university as a bubble of study separate from society's problems and opened the university to the community. Therefore, it made sense for the university to hire these musicians. Of course we received modest salaries, but the experience allowed us to see the possibility of becoming professionals, of dedicating ourselves to music. That was a great push. The university was part of the process of change that was happening in the country.

Manz: How would you explain the relationship between your music and the political movement in Chile at that time?

Salinas: One must understand that it was a decade of very profound changes in the world. In political terms, it is the decade in which the hippie movement was born in the United States. Che Guevara's guerrilla warfare also arose. The events of May 1968 took place in France when the purpose and life of the university community were questioned; it took the university to the streets. Also, it was an important decade in the musical world because it was during the boom of rock and the revolution led by the Beatles. It was the era of singers such as Bob Dylan, Pete

Seeger; an entire appraisal was done of Woody Guthrie. In musical terms, in that decade all the problems of human beings surfaced and manifested themselves in the songs.

Here in Chile the pioneer of that movement was Violeta Parra. What she did was to democratize music. Before her, songs were not about the people's problems. For the first time, songs spoke of social problems in very poetic terms. They were not only about love, which has always been present in song lyrics, but also about the human condition, the social condition, the exploitation of the people. The protest song was born. Songs became a vehicle of humanization, and music contributed in a notable way to a moment of liberation of the spirit.

That is the incredible value that the Nueva Canción movement had — which even today is a point of reference — because the songs were full of images through the poetry of the lyrics, and musically they acquired a Latin American connotation. That is a very important part of the identity of Chilean music; it appropriated a part of Latin American culture that is indispensable for our musical expression.

Manz: Did you ever dream, let's say before '73, that the music of Inti Illimani would come to be known in all the corners of the world?

Salinas: No, because one ever knows what is going to happen. Really, life is always surprising, isn't it? There are always unpredictable moments, things that we didn't expect. Of course, when you write a song, the first thing you do is sing it to someone and, if possible, to many people. But beyond that, I believe that no one lives imagining what the future will hold. In our case, on Sept. 11, 1973 there was a break that none of us had imagined.

Manz: You were in Italy, right?

Salinas: We were in Italy, on a three-month tour that lasted 15 years. Against our will, we were very far from our country and alone with our music. We didn't have anything else. The only thing we knew how to do was sing. It turned out to be a magnificent time to get to know the world, through song and through the many tours we did in more than 60 countries. So, no, I never imagined any of this. I also never imagined and never intended to be away for so long.

It has been an incredible experience, for me as a person and as an artist. It forced me to grow in a powerful human environment: powerful for the music that I make and also for the relationships I have established around the world. We went to the United States almost annually for more than 20 years — to the United

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The London Symphony Orchestra performs a composition by Horacio Salinas.



Photo courtesy of Horacio Salinas.

Horacio Salinas

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States and particularly to where you are, to Berkeley. We felt practically at home in Berkeley. We arrived at a theater that we knew, whose corners were all familiar to us; we even knew the personnel.

In our case, I believe that we felt a duty to transform the unpleasant things into something productive for our community, for our continent and for the music. So, it was worthwhile to overcome any obstacles in our path as long as we were able to continue singing and showing the grace that Chile, this small and very distant country, has.

Manz: How was your return to Chile?

Salinas: Well, it was the culmination of a dream that had for so long been transformed into a nightmare. When you are in exile, you cannot know when your exile will be over. In my case I thought that living in Italy and traveling the world was a privilege. And I tried to transform that privilege into a learning experience. But, I always knew that my life was in the southern extreme of Latin America, that it was there where I would be more able to carry out our music, the popular music, with the folk music as a quarry that always nourished me. And then, when we knew that we could return, it was a moment of extreme happiness. We tried to do it immediately, to return as soon as possible to Chile.

Manz: How were you received?

Salinas: Well, the arrival was a bit unimaginable. It is one of those things that you never expect because there were 5,000 people waiting for us at the airport. They took us for a stroll in a great show of the pride and recognition that the Chilean people felt toward our group. Our return to Chile was the best possible because, with the stroke of a pen, those 15 years were erased. It was like we had been gone a short time and come back to the same affection that we had left.

We arrived on September 18, 1988 — the national independence day. It was magnificent. It was a very long day because I had never greeted so many people and had never given so many hugs. And that left an ulcer from the

superimposition of these tremendous emotions to find people that I believed weren't there anymore; they kept appearing: classmates, musicians. It was an unrepeatable moment of a very deep kind of love that exists in communities that have suffered a tragedy. There are moments in which the human being is very small, and all together they are transformed into one. There is a communion that unfortunately doesn't last long, but when it comes, it is a tremendously moving moment in life. And that was what happened when we arrived.

Manz: One last question: What do you have planned for the future?

Salinas: I'm going to continue playing and composing music that reflects all the varieties of challenges that life presents. I feel young enough, and my feeling of modesty toward what is understood as wisdom or knowledge continues to grow. It seems, as a friend once told me, that life is a journey to become young. That is a nice way of understanding maturity, or old age, and life. In my case, and in the case of working with music, it keeps challenging us to go toward simplicity, to say something in a brief amount of time. That simplicity becomes very wearisome at times, very complicated, very complex. Sometimes simplicity is complicated.

But that is done walking and discovering new paths. I believe that for composers there is always a beautiful surprise when a melody is discovered or a new piece developed. And almost always, these discoveries arise from the life that is forming and from the life that is discovered. In the future, I hope I will be able to do what I love most: music — partly for me and above all for others. I hope that I will always keep something that I bring from my childhood: the sense of playing with things and taking them a little bit seriously and a little bit humorously because I believe that one must also look at life with a bit of distance and without so much seriousness.

Beatriz Manz is Professor of Geography and Ethnic Studies at UC Berkeley.

Peace, Equality and Justice in Guatemala

By Simeon Tegel

Imagine a country where known perpetrators of genocide openly dominate national life as though they were upstanding and dedicated public servants. Imagine a nation where thousands of families live in indefinite mourning for murdered loved ones whose remains have yet to be found and given a decent burial. Imagine a society where racism is so entrenched that, despite the trappings of democracy, the majority of citizens are largely unrepresented within the state. Imagine a country where that majority lives a marginal existence overshadowed by the fear of violent, arbitrary retribution from a rich, corrupt elite. Imagine a country where most citizens are denied not just their fundamental rights but even the recognition of their humanity. Imagine Guatemala.

Yet despite painting this disturbing picture of her homeland, Rigoberta Menchú, the Mayan indigenous rights campaigner and winner of the 1992 Nobel Peace Prize, also offered many reasons for hope during a wide-ranging talk, marked by her gentle sense of humor, to a packed conference room on November 18. Quietly charismatic, Menchú touched on themes including impunity, racism, social justice, memory, the role of Guatemalan immigrants to the U.S. both within Guatemala and in their host country, and the importance of a sense of spirituality and humility in private and public life. The mutual affection held by Menchú and her audience of UC Berkeley students and faculty was almost tangible as she responded, sometimes playfully, to the audience's questions.

The heavy atmosphere of impunity that surrounds many powerful Guatemalans is a major hurdle on the road to justice and equality, Menchú said. The genocide of the 1980s and the ongoing violence and drug-trafficking,



Photo by Dionelia Ramos.

often involving corrupt elites, remain largely unpunished. An estimated 200,000 Guatemalans, principally Mayan “Indians,” were murdered during the civil war, and massacres continue to occur, particularly in rural areas. In particular, General Efraín Ríos Montt, who seized power in a coup in 1982 and who played an instrumental role in the initiation of some of the worst crimes against humanity of the 1980s, was someone Menchú wanted to see in one of the yellow uniforms worn by convicts in Guatemala's prisons.

“Guatemala is a country that has suffered a great deal. The genocide that took place in recent years is not truly over,” said Menchú. “There have been 214 exhumations since the

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Rigoberta Menchú on the UC Berkeley campus.

Justice in Guatemala

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signing of the peace accords. Yet there are close to 3,000 clandestine graves that must still be exhumed in the coming years.” Carrying out these exhumations will be an exhausting, expensive and time-consuming process. Challenges range from difficulties in identifying remains, which many times is only possible through DNA analysis, to simply providing enough coffins to give a dignified burial to these victims of a brutal and baffling civil war. Among the dead still to be discovered are Menchú’s two brothers, Víctor and Patrocinio. Only once those victims are laid to rest will Guatemala truly be able to “become a normal country, a country without an armed internal conflict, a country that can truly move forward,” Menchú insisted.

Three major, interconnected problems underlying the bloodshed still remain embedded in Guatemalan society: massive social inequality, widespread and deeply ingrained racism and a lopsided pattern of land ownership. While most Mayans live in absolute or relative poverty, the elite continue to enjoy a luxurious lifestyle. The ruling class’s ownership of most of Guatemala’s land, including most of its best land, has come at the expense of indigenous Mayans and *ladino* (mixed race) peasants who depend on agriculture to eke out a subsistence living. That problem has now been compounded by global warming and drought; more than half of the current crop of maize has not survived, Menchú warned, leaving a legacy of even worse hardship for many in Guatemala.

Race is everything in Guatemala. Thus, the issues of agrarian reform and the distribution of wealth cannot be clearly distinguished from the country’s racial divisions. More than 65 percent of Guatemalans are indigenous Mayans yet they are largely unrepresented within the state apparatus. The quotidian racism which drove the genocide is, if anything, more open now than in the 1980s. “Before, we were treated with indifference. We were treated as if we didn’t exist,” said Menchú. “But now we are starting to see verbal aggression, attitudes and open expressions of public opinion that are very racist. Lately, we have had incidents of

Guatemalan Mayan women being pulled from restaurants or hotels and being told ‘You can’t come in here. We only have respectable people here. We don’t have employees or Indians.’” Even Menchú’s own status as a Nobel Laureate and, perhaps, the only Guatemalan with a truly international profile, has failed to insulate her against this racism; she is currently embroiled in a court suit after allegedly being spat on, struck and insulted with racial epithets during a hearing in the nation’s supreme court.

Yet despite this racism, many political parties still try to win the indigenous vote. Mayans are thus put on their electoral lists, but towards the bottom. This provides the illusion of indigenous representation within the political system without delivering the reality; usually only those at the top of the lists win public office. Nevertheless, Menchú held out the promise of an electoral alliance between poor ladinos and Mayans based on their shared interests and need for land. “Democracy is something that is built day by day by all citizens,” she said. “In Guatemala, racism is cultural. Many ladino brothers do not even realize they are racists. It is not their fault because the system forms them that way.”

Menchú also talked about her own prominent role within Guatemalan society and politics, and the momentous impact of her Nobel Prize. Initially, many members of the national elite were simply incredulous that an uneducated, indigenous female could have been chosen for the prestigious international award. “The president had a problem with his hearing,” she joked. “He did not hear that I had won the Nobel Peace Prize.” Now the incredulity has been replaced with acceptance. The award has also placed a heavy burden of responsibility on Menchú’s shoulders. She is currently a member without portfolio of the Guatemalan cabinet and a governmental goodwill ambassador, an official role for which some supporters have attacked her. “If I am in the government they criticize me,” said Menchú philosophically. “If I am not in the government, they criticize me.” Menchú also now travels with her own security



Photo by Beatrice Manz

entourage and feels a duty to her people not to become another statistic of Guatemala's bloody modern history.

Championing several concrete policy initiatives, Menchú suggested that "equality" should become an explicit goal of state policy. She would like to see more done to allow young Mayans to gain access to higher education. Above all, funding in the form of scholarships is required to empower them to have successful careers and to become more effective community leaders. That education should also have a cultural element to encourage the survival of traditional Mayan knowledge and values and a newfound pride in them among all Guatemalans. And the Nobel Laureate wanted to see more cooperation and collaboration between Guatemalan immigrants in the United States and their home country. Those immigrants send remittances worth around \$3 billion back to Guatemala every year. In return, they should be encouraged to learn more about their own indigenous heritage, including the Mayan calendar: "Identity is something that cannot be bought. It can only be lived."

Even as she called for justice for some of the worst crimes against humanity anywhere in the

world in recent decades, Menchú insisted on the possibility of a brighter future for Guatemala. But achieving this goal will require hard work and intelligent tactics, she stressed. "When we talk about strengthening institutions and about strengthening democracy and civil society, and struggling for human rights, it doesn't just mean protesting in the streets," said Menchú. "It also means institutional changes, supporting ways of strengthening the attorney general's office or the civil, national police, trying to make changes in the army so that we establish a code of ethics to fully prohibit any more engaging in the type of abuses of the past. It means working with the congress, working with the political parties. The political parties should not just be involved with corruption or supporting impunity. On all different levels, we have to work for these changes."

Rigoberta Menchú received the 1992 Nobel Peace Prize for her work on indigenous people's rights. She spoke on "The Legacy of War in Guatemala" on November 18.

Simeon Tegel is a graduate student in the Latin American Studies program.

Rigoberta Menchú marches with other participants in the 1991 Pan-American Indigenous Congress in Quetzaltenango, Guatemala.

Genocide and Memory: Reflections on Santa María Tzejá

By Liza Grandia



Photo by Beatriz Manz.

Refugees living in Mexico look at photos of their friends and relatives back in Santa María Tzejá, Guatemala.

On March 10, 1999, President Clinton apologized to the people of Guatemala. “It is important that I state clearly that support for military forces or intelligence units which engaged in violent and widespread repression of the kind described in the report was wrong,” he said. “And the United States must not repeat that mistake. We must, and we will instead continue to support the peace and reconciliation process in Guatemala.”

The apology was a stunning symbolic moment. It came after the release of the report by the Commission for Historical Clarification (CEH), the Guatemalan truth commission created by the United Nations-brokered Oslo Accord. The CEH report concluded that during Guatemala’s long and tragic civil war over 400 villages were destroyed and more than 626 massacres perpetrated — of which 93 percent

were committed by U.S.-supported military and paramilitary forces, 3 percent by the rebels, and 4 percent by unknown forces. Based on an examination of 42,275 human rights abuses, the truth commission formally charged that genocide had occurred. It was the first and only time the UN has reached this conclusion in a Latin American country.

Beatriz Manz, a professor of geography and ethnic studies, spoke of the importance of Clinton’s apology after nearly four decades of civil war in Guatemala. In her talk, she discussed the legacy of the 1954 CIA-backed coup of Guatemala’s democratically elected President Jacobo Arbenz and what it has meant in the life of one village, Santa María Tzejá in the Ixcán rainforests of northwest Guatemala.

Manz began with a discussion of the Cold War and how it was used to justify this illegal coup in

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Fujimori's Quiet Coup

By Veronica Herrera

In 1996, President Alberto Fujimori of Peru initiated a campaign to have Article 112 of the Peruvian constitution reinterpreted. The effect of the change would be to allow Fujimori to continue in office for a third term. Three members of the constitutional court, Peru's highest judicial authority, ruled against any change to Article 112. They were subsequently dismissed and exiled. All three judges were reinstated in 2000 after Fujimori resigned due to a major corruption scandal.

When Fujimori took office following a run-off election in 1990, he inherited a broken country. Hyperinflation was at more than 7,000 percent per annum. Tax revenues were below 4 percent of GNP. The unemployment and underemployment rate was more than 70 percent. Peru's infrastructure was also extremely weak. Against this backdrop, the new president leveraged his position as a political "outsider" to promote an image of an honest, effective, hardworking technician. Fujimori also raised the stakes in the state's armed conflict with the violent Shining Path revolutionaries, using his successes in that battle to consolidate public support

during a time of heightened public fear. Behind the scenes, Fujimori also began dismantling Peru's political and legal institutions, bribing or blackmailing members of congress, the judiciary, the media and other influential actors on the national stage.

Fujimori reduced congress to a single 120-member chamber representing a single national electoral district. This new arrangement erased the accountability of legislators to their constituents and reinforced Fujimori's control over congress. Congress members who could not be bought were blackmailed. Most thus voted in favor of all of Fujimori's reforms. Justice Revoredo also recalled the "cell-phone" votes, where Fujimori's secretive security chief Vladimiro Montesinos would call members of congress moments before an issue was to be decided and tell them how to vote. The dismantling of the legal and legislative system was so intricately orchestrated that even Fujimori's supporters were not fully aware of how the laws were being manipulated in his favor.

By 1996, all government institutions had effectively been co-opted by new, rewritten laws;

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Former Peruvian President Alberto Fujimori on the campaign trail in 1995. Congress subsequently passed a law allowing him to seek a third term in office.



Photo by AP/Wide World.

Reflections on Santa María Tzejá

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Guatemala. Though Guatemala had a long history of repression and exploitation, it was the confluence of two factors in the 1960s — Marxism and Catholic liberation theology — that contributed to mass rebellion. In response, the Guatemalan elite characterized this rebellion as Soviet communism. With this rhetoric, the Guatemalan state positioned itself to receive the full support of the U.S.

Of course, many other Latin American countries received U.S. military aid during the Cold War. Why was it that in Guatemala state repression escalated to the level of genocide? Manz argued that the presence of a small and rigid minority in power, powerful class tensions, a long history of impunity and an ingrained, toxic denigration and devaluation of indigenous people were factors in this tragedy.

Moving the discussion from the national to the village level, Manz investigated how the civil war played out in Santa María Tzejá — an indigenous community that had “given up on the government” by settling in a site so remote it took eight days to walk there. From this community, nearly 50 men and women became guerrilla combatants, and many others aided the insurgency. For the military, any Guatemalan village in the area — including those that were sympathetic to the army — was suspect and often targeted. Santa María Tzejá did not escape this fate. The village suffered a massacre and was reduced to ashes. Half the survivors fled to refugee camps in Mexico where they remained for twelve years. Those who remained were placed in a rebuilt and militarized village and lived in a context of fear.

For Manz, telling the story of the village raised new questions about memory which she explored in her new book, *Paradise in Ashes: A Guatemalan Journey of Courage, Terror and Hope* (University of California Press, 2004). How do people affected by terror remember what happened? How does one carry out research within a context of fear? As an anthropologist writing about war, she emphasized the importance of building trust and spending time in the community. Sometimes that meant long periods of not doing any formal research at all in the village, instead just being with the women at the river as they washed their clothes.

For the villagers, the apology by the President of the United States for what happened to them was of great symbolic importance. It has fueled their courage to participate in calling for a genocide trial against Ríos Montt, the architect of the “scorched earth” campaign of the early 1980s. In discussing this trial, the villagers offered fresh and often surprising perspectives. One leader, Manuel Canil, responded to a reporter’s question as to whether Ríos Montt should be given the death penalty if found guilty of genocide in this way: “I don’t think that more people should be killed. I would want some justice, though...” When pressed about what that justice would be, he replied, “They should be put in prison so they have time to reflect on what they’ve done and other people, too, would know they were in jail and could reflect on that, too.”

After a lively question and answer session, Manz concluded her talk with a description of the initiatives the villagers of Santa María Tzejá have organized in recent years after returning from Mexico. Though there was potential for conflict between those who left for Mexico and those who stayed behind, Manz explained that they have made a concerted attempt to work across those divisions. As a cooperative, they run their own elementary and high school, with teachers from the local community. One hundred young people from the village now study at the university. Despite their success, many challenges remain. Manz reflected, “You cannot create a marvelous village in a sea of devastation.”

Beatriz Manz is Professor of Geography and Ethnic Studies at UC Berkeley. She gave a talk titled: “The Legacy of a Coup: A Guatemalan Village Perspective” at CLAS on Monday, November 15, 2004.

Liza Grandia is a graduate student in the Department of Anthropology

Fujimori's Quiet Coup

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Justice Revoredo commented: "What can look more legitimate than the law?" The Public Ministry (Peru's ministry of justice), the National Council of Magistrates (which selects judges and prosecutors in Peru), public and private universities, the bar association and the Constitutional Court were all under Fujimori's thumb. The president even abolished the guarantees of tenure for judges, making it possible for the executive to instantly dismiss judicial appointees without explanation. At this point Fujimori had control of all of the judges at every level of jurisdiction. "Montesinos had planned everything," Revoredo recalled.

The Constitutional Court has seven acting members with the autonomy to decide the limits of their own jurisdiction. Its three main functions are judicial review, deciding jurisdictional conflicts between congress and the judiciary and acting as final arbitrator when a citizen's constitutional rights have allegedly been violated. In 1996, during his second term in office, Fujimori attempted to pave the way for a third presidential run by proposing a re-interpretation of Article 112 of the 1993 Peruvian constitution, drawn up after the president's *autogolpe* (self-coup) of April 1992. The article allows for two consecutive, five-year presidential terms. Fujimori wanted his second term to be counted as his first, arguing that he had begun ruling the country as president under the 1979 constitution rather than the 1993 constitution. According to this interpretation, a 2000-05 term for Fujimori would be permissible even though he would have ruled continuously since 1990.

When the re-interpretation of Article 112 was presented to the Constitutional Court, Fujimori and Montesinos knew that they could count on the votes of two of its members, whom they had already successfully bought. Two other justices, buckling under pressure, decided to abstain from voting. Only three justices, Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo, had the independence and courage to rule that a third term for Fujimori would be unconstitutional. Justice Aguirre led the trio in voting under a special clause that allows for a simple majority to rule a law unconstitutional. Because the other two justices had abstained

from voting, Aguirre, Rey and Revoredo had the majority they needed to prevent Fujimori's constitutional sleight-of-hand. Fujimori's response was swift and uncompromising: The justices were dismissed by Congress for alleged wrongdoing.

The three justices were later exiled, with Justice Revoredo seeking shelter in Costa Rica. However, Fujimori's corruption was soon made public. Videos of Montesinos handing out more than \$3 million in return for congressional votes were later distributed to the small number of media outlets that had not been co-opted by the regime and remained impartial. Revoredo recalled that moment: "The international community woke up. All of a sudden, we were heroes." She also remembered a visit to the Peruvian countryside, where Fujimori had been so popular during the previous 10 years: One evening she heard a crowd and noticed a huge fire. Revoredo looked out the window and saw a makeshift coffin ablaze, an effigy of the president's coffin. This moment marked the beginning of the end for Fujimori, said Revoredo. The justice joked that she had felt like Evita Peron.

The broadcast, on September 14, 2000, of a video showing Montesinos handing cash to legislators, precipitated the end of Fujimori's regime. Apparently a wronged lover of Montesinos sent the tapes to the media after he left her for another woman. Fujimori and Montesinos fled the country in November, and a transitional government was installed. Fujimori, who had dual Peruvian-Japanese nationality, sent a short fax from Japan announcing his resignation as president.

The three exiled justices were reinstated and today sit once again on Peru's Constitutional Court. Justice Revoredo occupies a privileged position from which to discuss Fujimori's rise and fall, and the legacy of dictatorship: "Coup d'etats are not only [undertaken] with tanks and brute force, but can also be [undertaken] silently, almost in secret, through the law, without anyone realizing ... until it's too late."

[Justice Revoredo Marsano sits on Peru's Constitutional Court.](#)

[Veronica Herrera is a graduate student in the Political Science Department.](#)

ChevronTexaco on Trial in Ecuador

By Simeon Tegel

A man walks by an open pool of toxic sludge, a remnant of Texaco's operations in Lago Agrio, Ecuador.

A black toxic sludge oozes up through the ground and a thin carcinogenic film shines across the surface of the rivers and streams on which local communities depend. In those communities, incidences of deadly diseases, including leukemia, exceed normal levels by factors of ten. The Oriente, as the Ecuadorian Amazon is known, is the scene of a major environmental catastrophe.

Now, more than a decade after U.S. oil giant Texaco left the people of Ecuador to deal with this mess, its corporate heir, ChevronTexaco, finds itself the unwilling participant in a landmark legal suit; for the first time ever, a Transnational Corporation (TNC) headquartered in the First World is being sued for environmental negligence through the court system of a "developing" nation where the alleged damage occurred.

In her presentation about the case, Professor Suzana Sawyer, a cultural anthropologist from UC Davis, touched on issues from sovereignty and debt to the cultural clash in the Ecuadorian courthouse between indigenous plaintiffs and corporate lawyers. The case is still unresolved, with the judge, counsel and witnesses currently engaged in the arduous task of visiting some 250 sites of alleged pollution and toxic dumping deep in the rainforest.

Should ChevronTexaco lose, the case could have substantial symbolic power and possibly even legal ramifications for the numerous other TNCs that have negligently allowed ecocide and



Photo by AP Wide World

public health disasters to occur as a result of their commercial activities in developing countries. Embarking into uncharted legal waters, the case has drawn the attention of anti-globalization activists, environmentalists, human rights lawyers and others around the world.

The story begins in 1967, when crude oil was first discovered deep in the Oriente subsoil. By 1972, a pipeline had been built, and the following year Ecuador optimistically joined

OPEC in a bid to maximize its oil revenues. From 1967 to 1992, Texaco extracted billions of barrels of crude oil, much of it consumed on the West Coast of the U.S., principally in California, Sawyer said. At the time, Ecuador's environmental legislation was nonexistent, providing no statutory safeguards against corporate negligence. In an apparent bid to reduce operating costs, the oil company adopted antiquated and unsafe practices that were illegal in the U.S. at the time.

Instead of re-injecting the "formation waters" — toxic sludge brought up in the drilling process — into wells between one and two miles deep as was standard practice in the U.S., Texaco dumped them by the wellheads in a series of pits known as *piscinas*, some as large as soccer fields. Currently, there are more than 600 of these pits scattered across Oriente, the result of a practice that was stopped in Texas in 1919 and has been prohibited by U.S. federal law since the 1970s, said Professor Sawyer. Meanwhile, over the course of two decades, Texaco's principal pipeline in the region leaked roughly 1.5 times more crude oil than the Exxon Valdez disaster in Alaska. Predictably, there have been major impacts on the health of the local population, with some epidemiological studies finding rates of some cancers up to 30 times higher than in unaffected rural communities.

However, during the 1990s, with the help and encouragement of lawyers from the U.S., local communities around the "rough and tumble" frontier town of Lago Agrio, on the dangerous Colombian border, began to stir. In November 1993, a class suit was filed against Texaco in a federal court in Manhattan. The court was chosen because it was near the corporation's White Plains headquarters. Residents of the area around Lago Agrio — the name means "Sour Lake" and is derived from the eponymous oil boom community in Texas — alleged that Texaco had used substandard equipment and adopted practices that would have been illegal in the U.S. and that its subsequent multimillion dollar clean-up operation was inadequate. The cost-saving measures adopted as the result of decisions in Texaco's boardroom in White Plains caused massive damage to the Ecuadorian rainforest environment and the health of its human inhabitants, they claimed.

After various appeals, the U.S. court system decided in 2002 that the best place to try the case

was Ecuador. This decision was based on three conditions: Texaco would have to submit to Ecuadorian jurisdiction; information revealed in the U.S. "discovery" process could be used in the Ecuadorian case; and the decision of the Ecuadorian court system would be enforceable in the U.S. This ruling by a U.S. court, raising issues of sovereignty, legal governance and the accountability of transnational capital, was unprecedented. Effectively, a U.S. court told a U.S. corporation to show up in the dock in another country where it no longer operated.

Thus, the landmark case resumed in a packed courthouse in Lago Agrio in October 2003, taking advantage of a change in Ecuadorian legislation that paved the way for something akin to the U.S.'s class action lawsuits. A total of some 30,000 plaintiffs, mainly small farmers but also including some indigenous peoples, were collectively suing the oil giant. Journalists from around the world, activists including Bianca Jagger and environmental NGOs such as Acción Ecológica were all present as the proceedings resumed in the rainforest town, where most roads were only paved since the turn of the millennium.

After two weeks of hearings, the case went into the *pruebas* (evidentiary) stage, in which it is still engaged, with the judge, lawyers and witnesses leaving the courtroom to tour the sites of contamination. This stage is likely to take another two years. Both sides are expected to appeal the ruling up to Ecuador's supreme court, should they lose. A definitive judgment may take several years. However, just getting the case heard has already been a major achievement, one which at last puts TNCs on notice that damaging public and environmental health on a massive scale in developing countries may no longer be either an acceptable or a cost-free approach to business.

Suzana Sawyer is Associate Professor of Anthropology at UC Davis. She gave a talk titled "Suing ChevronTexaco: Citizenship, Contamination and Capitalism in the Ecuadorian Amazon" on November 1, 2004.

Simeon Tegel is a graduate student in the Latin American Studies program.

The Legacy of the Pinochet Case

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until the 1988 plebiscite that Pinochet finally asked Chileans their opinion of his rule: they answered that he had to go. He stepped down as president in 1990 but continued as commander in chief of the Chilean army. When he finally left that office, he remained a wealthy businessman and self-proclaimed senator for life, enjoying presidential, military, parliamentary, legal and diplomatic immunity. Until 1996 no one tried to make him accountable.

Today General Pinochet represents the paradigm of international justice. In July 1996, I proposed a criminal law suit against Augusto Pinochet to my colleagues in the Spanish Union of Progressive Prosecutors. Three months earlier, we had filed another one against former Argentinean dictator, General Jorge Rafael Videla. Both cases were admitted by two different courts.

Neither I nor the other members of our small professional association had any personal link with Argentina or Chile. So, this is the first lesson of the Pinochet Case: solidarity works. We did it simply because we thought it should be done, because we wanted to give justice a chance, to open the closed doors of the courts to the victims, as was their right. Under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, states must respect and guarantee human rights, meaning the state has a duty to punish those responsible for human rights violations and to provide reparation for the victims. Sadly, the violation of the rights to life, freedom and physical and mental integrity is too often followed by a second violation of the victims' rights: the denial of justice. This is what we call impunity. Yes, norms exist, but they are not applied. It is the black hole of justice.

Besides being unjust, impunity has other consequences: it transforms political systems into meaningless democracies, and it destroys the citizens' trust in their institutions. It happened in weak Latin American democracies. In addition, when the international community fails to punish those responsible for international crimes, as had previously been the case with Pinochet, it shows a very limited capacity to dissuade others from committing similar acts in the future. Sooner or later, the crimes are repeated.

Pinochet was never important himself: he was just one among many other dictators. In fact, he was widely known only due to the identity and achievements of his main victim: he destroyed Allende's dream. Salvador Allende, whatever his mistakes might have been, represented around the world the hope of a different order, the possibility of pursuing socialism by democratic means. He never betrayed the Chilean constitution. He nationalized the copper mines, Chile's main natural resource, only after the unanimous approval of the parliament. He cleanly won presidential and parliamentary general elections. Allende was destroyed because he was disturbing the world order established at Yalta, agreed to in 1945 by the Americans, British and Soviets and imposed on the rest of the world. In 1973, Pinochet was just the bloody bearer of Yalta's message: socialism, even through democratic means, was not permitted in the Western area of influence. Anything needed to avoid it would be done, without mercy, without exceptions.

The international community didn't respond immediately to that destructive message, but in 1998 the Cold War was over and the answer was ready. We, the Spanish prosecutors, were just the accidental postmen. The answer was loud and clear when Pinochet was arrested in London: We do not permit egregious violations of human rights, whatever the political reasons used to justify them. Perpetrators will be held accountable.

It was not only the answer to Pinochet. It had also been the message for the perpetrators of international crimes in the former Yugoslavia in 1993 and in Rwanda in 1994. It was the general message contained in the approval of the Rome Statute of 1998, creating the International Criminal Court after 50 years of efforts beginning in Nuremberg.

In fact, there had been a second agreement in Yalta. Churchill, Roosevelt and Stalin decided, among other issues, what was to be done with the main Nazi leaders responsible for the Second World War and the atrocities that followed. Churchill, considering the notoriety and seriousness of the crimes, supported the idea of shooting the most senior Nazis without a trial as soon as they were arrested. Stalin was also for shooting them, but only after a mock trial.

Roosevelt accepted that the Nazis might not deserve a fair trial but argued that the trial was not important for them but for us, for the international rule of law. He had come to Yalta with a memorandum from his secretary of war, Henry Stimson, which said: “The very punishment of these men in a dignified manner consistent with the advance of civilization will have the greater effect on posterity.” Roosevelt had his way and the Nuremberg Tribunal was born.

In spite of a 25-year delay, the international community has also fulfilled its duties in the Pinochet case. In 1996, the charges against Pinochet were received with skepticism, but they did open a new path for international justice. When a group of Scotland Yard officers carried out the warrant and arrested Augusto Pinochet in London, millions of people all around the world felt the same emotions as David probably felt when he defeated Goliath.

This achievement was the work of many people: the Mothers of the Plaza de Mayo, who alone defied the Argentinean dictatorship and kept alive the dignity and hope of justice of a whole country over decades; the Vicaria de la Solidaridad in Chile, whose lawyers took great personal risks by filing habeas corpus claims for disappeared Chilean citizens before the courts of the dictatorship: they were never successful, but they never gave up. Lawyers, professors, journalists, politicians, human rights NGOs from all around the world offered us their help.

As soon as we began the proceedings, hundreds of witnesses crossed the Atlantic Ocean to come to Madrid to give testimony against the indicted. After appearing before the judges, they spoke to journalists, and Spanish and international public opinion began to change. What began as a very small movement grew and became so huge that, after the arrest, when several governments and lobbies tried to stop the extradition request, they couldn't. Many countries, including the U.S., cooperated with the prosecution. The British House of Lords deprived Pinochet of his immunity, and one year after the arrest, the extradition was granted. An unprecedented phenomenon took place when the principle of universal justice was applied in an effective way. The Pinochet case proved that justice is possible. And this happened in Spain, a country that was absent from the international community for 40 years, a victim of its own dictatorship.

Pinochet was allowed to return to Chile in 2000. The country he returned to was very different than the one he had left. He and 300



Photo by AP/Wide World

other perpetrators of serious abuses during the “dirty war” are either now being prosecuted or have already been convicted. The doors of the Chilean courts are finally open to the victims.

The terrorist attacks of Sept. 11 created extremely difficult conditions for international justice. We live in a world that is very dangerous, due to terrorism, of course, but also because states tend to forget their duties to respect and ensure human rights and to prosecute or extradite egregious criminals. States don't enforce universal jurisdiction, and they don't support the International Criminal Court. To preserve democracy, a decisive and sufficient reaction from civil society, public opinion and the mass media is needed. We also need the judiciary to assume responsibility for enforcing the rule of law, thus ending impunity for serious criminal behavior and state abuses. We need a judicial power which, as Don Quixote would have it, “will safeguard truth, even if that entails risking one's life.”

Civil society must demand justice because there is no real dilemma between democracy and justice; the dilemma is between democracy and impunity. Today's Chile is no longer an example of impunity, but of truth, justice and reparation for victims. So the question must not be: how will the Pinochet case end? The question is: who is next?

Carlos Castresana Fernández is a prosecutor working in the Special Prosecution Office Against Corruption in Madrid, Spain. He is currently a Visiting Professor at the University of San Francisco.

Winston Churchill, Franklin D. Roosevelt and Josef Stalin confer at Yalta, 1945.

Building a Creative Utopia in Brazil

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Brazil's new cultural program, instituted by Gil, follows this philosophy by providing financial support for communities to engage in creative projects. For example, the program aims to promote community television and radio stations by providing digital recording studios in communities across the country. Members of the community can make and record music and shoot films, among other artistic activities, at these community "cultural points." By the end of 2005, the Ministry of Culture will be supporting six hundred cultural points across the country.

Gil's cultural program aims to strengthen the capacity of individuals, particularly in slums and rural areas, to produce and share their art. The goal is the production and diffusion of diverse cultural expression, representing the multiculturalism of Brazilian society. Gil views hip-hop, for example, as an important part of Brazilian culture and as a way for young people to positively channel their anger. Hip-hop is one means by which people can use their creativity to address the challenges they face on a daily basis, he said. Through this program, the

government is attempting to mobilize the population's creative energy and combat the social and cultural exclusion of the poorest groups within society.

The Lula administration, and the Workers Party more generally, have focused on empowering segments of civil society that were previously excluded from politics. For example, Gil involved civil society in the design and implementation of the new cultural policy. Moreover, communities have the autonomy to choose their creative projects. Gil explained: "The communities choose their activities, the equipment and the training. They shall be users and managers at the same time... It is a flexible program shaped to reality rather than shaping reality itself."

According to Gil, the government sees its role as one of simply encouraging shared management of cultural projects and helping to establish a network linking different community cultural sites. Gil described this network as "the means to link public power actions and community actions and the means to link the cultural actions of the diverse articulated communities."

Gilberto Gil gives an impromptu performance during his lecture.



Photo by Meg Skalcup.



Photo by Scott Squire.

Joan Baez joins
Gilberto Gil onstage.

Despite these lofty goals, Brazil has limited resources to devote to cultural development because of the repayments it must make on its enormous national debt and the need to prioritize spending on social services in a country with widespread, often extreme poverty. Gil acknowledged this economic limitation, and after describing his cultural program joked: “A lot of utopia. Let us go for it. Let us not be shy. Let us just go for it.” He believes that people must always have a utopian vision on the horizon to strive towards in order to continually enhance the condition of humanity. In pursuit of this ideal, the government has come up with novel ways to fund its cultural policy. For example, there are plans to create a lottery to help fund the community cultural projects as well as to implement public-private partnerships that give tax breaks to corporations that invest in culture.

Beyond the individual and community development that Brazil’s cultural policy promotes, Gil suggested that there is an economic benefit in promoting cultural development and creativity. Although developing countries are extremely restricted by the rules and demands of the neoliberal global economy, Gil said that governments still have some freedom to encourage creative alternative strategies to

promote local economies. Gil suggested that developing countries can develop alternative ways to build up their economies by drawing on local knowledge, culture and experience. Creative thinking, he said, can help the workforce, for example, find ways to adapt to changes in the global economy.

Just as Gil emphasized the importance of multiculturalism in Brazil, he highlighted the effectiveness of multilateralism in achieving development goals. Creative development strategies can be found through dialogue between people across countries, he argued. Brazil has recently taken a leading role in the development of partnerships with other countries in Latin America. Through collaboration and solidarity the power of developing countries vis-à-vis other global economic actors is strengthened. Gil said that countries should jointly develop strategies to promote creative economic solutions to the pressures coming from the global economy. An approach to development that focuses on creative thinking, he argued, is the key to success in today’s global environment.

In the 1960s, Gil first gained fame as one of the leaders of the Tropicália movement, which combined Brazil’s regional folk culture with international influences to create a new sound.

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Building a Creative Utopia in Brazil

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Tropicália influenced multiple areas of artistic expression, including cinema, literature and music. Gil is known for fusing music forms from all over the world in his compositions, creating his own unique sound. His songs have often touched on political issues and activism, leading to his arrest in 1969 by the military dictatorship that ruled Brazil. After his release, he left Brazil and took his music to the rest of the world.

Though his talk focused on his newfound role as a policymaker, Gil's love of performing came through in the question and answer session that followed his speech. He insisted, to the audience's delight, on playing a song before answering any questions. After that he quietly strummed on his guitar while Harley Shaiken, Chair of the Center for Latin American Studies,

read out several questions from the audience. Then he insisted on a new arrangement: "Another question and then I sing a song."

Gilberto Gil is Brazilian Minister of Culture. He is also regarded as one of the most important singers and composers in modern Brazilian music. Gil gave his talk on "Contemporary Brazilian Culture" as part of CLAS's Brazil in Berkeley series on February 17, 2005.

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The Challenge for Democracy in Argentina

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in South America. The consequences of this regime change were not only 30,000 disappeared and a "moral breakdown" of society in general, but a substantial change in the country's income distribution. When the military took power in 1976, wage-earners in Argentina received 49 percent of total income. Such an even distribution between capital and labor was part of the doctrine of social equality upheld by Fernández' Peronist Party. Almost 30 years later, wage earners' share in the national income had dwindled to 30 percent. The decade of the 1990s in Argentina, which represents the second type of U.S. intervention, only deepened the trend toward inequality that had started with the 1976 coup.

However, the events of December 2001 in Argentina, which Fernández characterized as an implosion rather than an explosion, marked the beginning of the end of the neoliberal trajectory that began in 1976. According to the senator, the crisis of 2001 had political and economic as well as moral origins. Its most palpable consequence was a widespread crisis of legitimacy that affected the entire Argentine political class. The fall of the Alianza government (a coalition between the

traditional and centrist radical parties and some center-left splitters of Peronism) led to the evaporation of public authority and chaos in the streets. The country went through five presidents in one week.

That unprecedented institutional and economic crisis culminated in the democratic election of President Kirchner in May 2003. For the senator, Kirchner symbolized the arrival of her generation to positions of power. This generation had been part of the struggle against military dictatorships and, according to Senator Fernández, was used to speaking in the first person plural, stressing collective values over those of the individual.

For Argentina's First Lady, this new generation of Argentine politicians, shaped by the ideals of the 1970s, has a specific challenge today: solving the representation crisis in Argentine politics. In other words, they must address the democratic crisis that emerged when politicians began neglecting the popular mandate and became responsive primarily to powerful economic interests. For Senator Fernández, the Alianza government of 1999-2001 was legal since it was elected with more than 50 percent of the vote.

However, after a few months it had lost all legitimacy in the eyes of the people. Reconciling the legality of representation with the legitimacy of power is the most acute challenge facing Argentina's political class.

Fernández pointed out three main avenues for closing the gap between legality and legitimacy. The first is a frontal attack on impunity. The current government has addressed the question of impunity by supporting and enforcing the prosecution of members of the military accused of human right violations during the dictatorship of 1976-83, many of whom had been pardoned or granted immunity by previous administrations. The second means of combining legitimacy with legality is a renovation of judicial power, which was tarnished by the rampant corruption of the 1990s. Senator Fernández takes pride in having promoted the renovation of the Argentine supreme court by appointing a number of independent judges with solid academic backgrounds.

Finally, Senator Fernández underlined the need to formulate an economic policy independent of the dictates of international financial institutions. In particular, she noted that the process of foreign debt rescheduling in

Argentina and the negotiations with creditor countries had to be carried out with dignity in order to avoid the aforementioned representation gap. Senator Fernández blamed the neoliberal economists of the 1990s for presenting a discourse that treated politics as a distortion. This approach attempted to estrange the political sphere from the economic sphere as if economic doctrines "were not profoundly political." In response to the orthodox economists who have criticized the interventionist policies of President Kirchner, Senator Fernández asked the audience if the same economic recipes that left the Argentine economy in shambles could push forward its recovery. In sum, for Senator Fernández, recombining the political and economic spheres, which should have never been separated, is another way to address the gap between legality and legitimacy that have affected Argentine politics for too long.

Senator Fernández de Kirchner gave a talk at CLAS on November 8, 2004.

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Cristina Fernández de Kirchner mingles with students and faculty.



Photo by Stefan Cohen



**An Olmec head in the Anthropology Museum in Xalapa, Veracruz.
Photo by Tino Soriano.**

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