

Broad Participation, Diffuse Responsibility:
Peace Implementation in Guatemala

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In December 1996, the government of Guatemala and the Guatemalan National Revolutionary Unity (URNG) signed the final accord of a series of peace agreements designed to put a “firm and lasting” end to an armed confrontation that had continued for 36 years. During the conflict an estimated 150,000 people were killed, some 50,000 “disappeared,” tens of thousands fled abroad, and some one million were internally displaced.¹ Although the guerrillas had been, essentially, defeated militarily and the conflict had sputtered to low levels of fighting by the late 1980s, the war’s definitive end was nonetheless an important achievement. The war, even at a low level, had been a major obstacle to democratization, since it enhanced the political position of the military and served to justify retention of abusive institutions and practices associated with counterinsurgency.

Implementation of the peace accords between January 1997 and 2001 presents examples of both success and failure. On the positive side, the cease-fire and demobilization of guerrilla forces went virtually without incident. Guerrilla cantonment and disarmament was completed ahead of schedule, and government forces complied with troop and budget reductions. Few cases of political violence were directed at demobilized combatants. The ex-guerrillas transformed themselves into a political party and competed in elections in 1999. Refugee repatriation was completed, though some land and other issues remain unsolved.

Yet the mechanics of ending the armed conflict were never the primary challenge in Guatemala. Fighting stopped before the final accord was signed, and the URNG was so weak that there was no serious risk of renewed war. Within Guatemalan civil society, the peace process is perceived as integral to democratizing the country, and making it more equitable and culturally inclusive. The terms of democratization were the

primary issues debated by three consecutive presidential administrations and the URNG for six years. The government and the URNG transformed a negotiated surrender into an internationally supported peace process. The Guatemalan parties sold the international community an image of a war-weary country seeking to excise the roots of conflict through political and social transformation. The accords promise major political, institutional, social, and economic reforms aimed at democratization and greater equity. This chapter evaluates the implementation of the Guatemalan accords against this standard. As a result, we focus on shortcomings of the process that do not threaten the basic success already achieved -- the end of organized armed conflict -- but that may well threaten achievement of the democratizing goals laid out in the accords.

The peace agreement set forth ambitious but attainable standards of democratization; against these benchmarks, the peace process began stagnating by 1999 and in some areas showed signs of reversal. Many of the reforms in the accords have not been implemented, and overall political stability is questionable. The government committed itself to doubling notoriously low tax revenues as a percentage of GDP by 2000. This was later rescheduled until 2002, but that goal appears unlikely to be met. Without adequate revenue, commitments to increased social spending, support for small-scale agriculture, and state support for multilingualism in the schools and the courts have faltered. Excessive military influence within the state continues to be a problem, as illustrated by the 85% increase in the 2001 military budget which greatly exceeded both initial budget approved by Congress and the military spending limit set by the accords.¹ The government initially fulfilled its obligation to create a new civilian police force by “recycling” existing police personnel from the prior militarized, abusive system. In May 1999 voters in a popular referendum rejected complex constitutional reforms that had been attacked by right-wing opponents, halting the implementation of many key promises of the accords. Following the first national elections held since the signing of the peace accords, the conservative Guatemalan Republican Front (FRG) opposition party took control of the presidency and a majority in the legislature in January 2000. FRG leaders had not themselves signed the accords, and

despite the new president's initial pledge of support for the peace accords, there has been little success in delivering on the remaining commitments.

For international peace implementers, Guatemala presents both positive and negative lessons. On the positive side, international mediation appears to have been helpful. When the Guatemalan parties agreed to U.N. mediation, the peace process gained momentum. U.N. mediator Jean Arnault is regarded as having gained the trust of both parties, and translating government proposals into draft language acceptable to the URNG. At the same time, direct contact between the parties was crucial as well: extensive meetings late in the process between military officers and rebel leaders generated a high degree of confidence on both sides regarding the others' intentions. Both sides credit these direct contacts with facilitating the rapid and uneventful cantonment and demobilization process. Coordination within the U.N. system was exceptional in Guatemala, reflecting lessons learned in El Salvador. The Bretton Woods institutions participated during the negotiations phase, and have been supportive of the peace process and its financial requirements. The United States, despite being the neighborhood superpower, acted as just another interested power during much of the process, being supportive but not overbearing. The six Friends -- Norway, the United States, Mexico, Venezuela, Spain and Colombia -- were actively supportive during the negotiations, though their role declined once implementation began.

On the negative side, the difficulties during implementation derive in large part from a basic problem in the Guatemalan peace equation: both parties that negotiated the accords — the National Advancement Party (PAN) and the URNG guerrillas — were political actors with very limited representational claims.² The URNG rebels were strategically defeated as early as 1983. Although the URNG managed to survive and operate sporadically, it posed no threat to the survival of the state, and could not pressure the government to make concessions. The PAN government, which had come into office by a tiny margin, continued to confront the traditional weaknesses of civilian governments: a powerful military, a conservative business elite, a

¹ Report of the United Nations Verification Mission in Guatemala (MINUGUA) for the Consultative Group meeting for Guatemala, Guatemala, 18 January 2002.

² See David Holiday, "Guatemala's Precarious Peace", *Current History*, February 2000, pp. 78-84.

fragmented and unstable political party system, and one of the weakest fiscal bases in the hemisphere. Although three consecutive civilian governments negotiated with and made concessions to the URNG, these moves were motivated by a desire to gain international approval and hoped-for investment and development assistance. For the PAN government, which negotiated the last several accords, and was responsible for implementation from 1997-1999, the accords also represented an opportunity to gain international support for changes that could strengthen the Guatemalan state and produce institutions that might generate greater stability in the long run.

The partisan interests and weaknesses of the URNG and civilian governments converged to produce a set of accords that were unusually sweeping in their identification of key national issues, but that provided few specific measures. The accords distribute responsibility for implementation so broadly as to dilute the accountability of any one actor. That the URNG demobilized so quickly, thus discarding its (meager) military leverage, meant that implementation depended largely on the intentions and political capacity of the government. The government's desire for international support has in practice been outweighed by its unwillingness or inability to incur domestic political costs. When opposition has arisen to such measures as tax increases, the government has retreated. The UN and international donors have so far been unable to muster sufficient leverage to persuade the government to ignore such opposition and fulfill its commitments. The leverage of the United Nations Verification Mission in Guatemala (MINUGUA) has been further eroded by the fact that it lacks a UN Security Council mandate and instead operates under the General Assembly. While the Department of Political Affairs monitors MINUGUA in the same way as it would a Security Council mission, the lack of Security Council involvement weakens the international diplomatic pressures brought to bear on the Guatemalan government. The Guatemalan parties expected the United Nations to be handholders rather than hard-nosed verifiers, and the United Nations has generally accepted this role.

Other features of the Guatemalan process are difficult to assess. Government officials and U.N. observers have lauded the extensive participatory mechanisms called for by the accords.ⁱⁱ Dozens of special

commissions were formed to debate and make recommendations on issues ranging from reform of the educational system, to judicial reform, to official multilingualism and multiculturalism. These commissions have generated a rich debate and resulted in extensive mobilization of civil society to formulate positions. The increase in participation has been particularly noteworthy within the Mayan community. But questions remain regarding the impact of participation through these commissions: some have been deadlocked because of deep divisions; others have produced reports that have not yet resulted in legislation or changes in policy. It remains to be seen whether participation in these extra-parliamentary mechanisms, in and of itself, results in greater citizen interest in and enthusiasm for democratic governance or further dilutes political energy.

The complexity of the consultation and implementation process diffuses responsibility. The Arzú government has long asserted that final responsibility rests with Guatemalan society in general, thus deflecting attention away from the executive and legislative branches of government. The multiplicity of actors not only slows or blocks progress toward specific measures, it also makes it difficult to apply pressure for more timely progress toward implementing the accords. The defeat of the constitutional reforms illustrates the vulnerability of such a diffuse process and the inherent difficulty presented to international actors wishing to assist with peace implementation.

This chapter has three parts. Part I provides historical background on the conflict and the negotiations process. Part II examines peace implementation, focusing on the strengths and weaknesses of the implementation process. In Part III we draw tentative conclusions.

Civil War and Peace Negotiations

Military Context for Negotiations

Guatemala's civil war pitted an insurgency that sought to achieve socialist revolution against a state devoted to suppressing the revolutionaries and excluding leftist parties from political competition. Over the 36 years of conflict, the makeup of the revolutionary forces changed substantially, as did the nature of the official

political regime. The Revolutionary Armed Forces (FAR) were joined years later by the Guerrilla Army of the Poor (EGP), and the Organization of the People in Arms (ORPA). The Communist Party of Guatemala, known as the Guatemalan Workers Party (PGT), also had armed units during some periods of the struggle. In 1982, these diverse organizations formed the Guatemalan National Revolutionary Unity.

Originally an insurgency by the FAR in the eastern part of the country in the 1960s, the civil war was suppressed by the government by 1967.ⁱⁱⁱ After a period of relative quiescence, during which the EGP began to develop a political base in indigenous communities in the highlands, active rural insurgency resumed in the late 1970s and early 1980s, mainly in the highland areas and in the remote northeastern department El Petén. Government forces quickly and ruthlessly suppressed this rebellion, killing tens of thousands of non-combatants and displacing hundreds of thousands of people. By the mid-1980s the war was a prolonged, sputtering conflict in which the URNG managed to survive and periodically attack government forces or economic targets.^{iv}

The guerrillas, though resilient, never achieved sufficient military strength to pose an imminent threat to the state. They possessed only small arms, never obtained anti-aircraft weapons, and made minimal use of mines. Their equipment was eclectic, and of variable and generally poor condition. By the 1980s, AK-47 and M-16 rifles of various vintages and origins became the most common equipment, reflecting some increased strength, but by this point, rebel forces were quite small. While obviously a threat to the individuals and businesses that it attacked, the URNG was little more than a nuisance to the state by the late 1980s.

The initial defeat of the guerrillas in the 1960s was partly the result of their narrow civilian support base, and their limited area of operations in the western part of the country. When the EGP and ORPA organized in indigenous areas, this greatly expanded the rebels' potential support base. From the mid-1970s onward, the revolutionaries formed alliances with, and helped foment, social movements that emphasized the grievances of indigenous Mayan peoples. The relationship between the revolutionaries and Mayan communities was complex. The revolutionary movement never became a Mayan movement, though many

Mayan people supported the revolutionaries at times. Some Mayan individuals, communities and organizations viewed the URNG suspiciously^v and the URNG lacked the military capacity to protect the civilian population against government reprisals.

The government's military forces adopted a brutal, low technology approach to counterinsurgency, using ground forces and draconian measures against civilian populations to deprive the guerrillas of support and limit their area of operations. In the 1960s, the military received significant assistance from the United States in organizing special counterinsurgency forces, including irregulars known as "commissioners." Government and paramilitary forces were involved in mass killing of civilians in the eastern region of Guatemala, particularly in 1966 and 1967.^{vi} Guatemala terminated its military assistance relationship with the United States in 1977, in reaction to President Jimmy Carter's human rights policies. During the 1980s, the U.S. provided sporadic assistance under various anti-terrorism and anti-narcotics waivers, and Israel provided weapons and technical assistance, particularly in the area of identifying urban safe houses. In the early 1980s, during the peak of guerrilla activity, the governments of Romeo Lucas García and Efraín Ríos Montt massacred tens of thousands of civilians and eliminated some 400 villages, relocating hundreds of thousands of people into new government-controlled villages and forcing additional hundreds of thousands of men to participate in ostensibly voluntary "self defense" patrols. This approach quickly forced the URNG into a defensive posture.

Political Context for Negotiation

Until 1985 Guatemala was mostly ruled by authoritarian governments influenced by the military. During an exceptional period from 1944 to 1954, Guatemala enjoyed two consecutive elected governments. The second of these, that of Jacobo Arbenz, was overthrown in a military coup following intense pressure from the United States and an invasion of the country by a small-armed force trained and equipped by the United States.^{vii} Military officers governed until 1966, when civilian president, Julio César Méndez Montenegro, took office under a pact that gave the armed forces *carte blanche* with respect to internal security matters and an

effective veto over governmental policy. From 1970 onward, presidents were military officers, mostly veterans of the counterinsurgency campaigns of the 1960s. Elections were held to create a semblance of electoral competition.

This period of institutional military rule became unstable in the early 1980s, and a junior officers' coup in 1982 brought to power retired General Efraín Ríos Montt, who was subsequently replaced in another coup by General Humberto Mejía Victores. As part of a strategy by the military to achieve long-term stability by creating the perception of democratic competition within narrowly circumscribed boundaries,^{viii} the Mejía government initiated a transition to elected civilian rule. In 1984 a constituent assembly was elected, followed by the election in 1985 of civilian Vinicio Cerezo as president and subsequent elections for legislative and local offices. This did not end the military's predominant role in national politics, however. Repeated coup attempts constrained the Cerezo regime.^{ix} The military controlled the information available to the president through the Presidential Staff, which managed the president's agenda, briefed him on issues, and disbursed presidential discretionary funds.^x The military exercised a *de facto* veto over most policies, and for a period in the 1980s its reach extended to the local level as part of its counterinsurgency program.

Ambiguity regarding the governing authority of civilians and the military continued under the next civilian president, Jorge Serrano Elías, inaugurated in 1990. In 1993, Serrano Elías attempted to seize dictatorial powers. The so-called Serranazo, which initially enjoyed the support of sectors of the military, triggered near-unanimous rejection by a remarkable cross section of Guatemalan society. The negative, organized elite response, which included individuals and groups across the political spectrum, coupled with prompt imposition of international sanctions, convinced key sectors of the military to withdraw support for Serrano. After ten days of intense uncertainty, a civilian former human rights ombudsman, Ramiro De León Carpio, was elected by Congress and sworn in as interim president, apparently with the blessing of the military. Carpio was succeeded by Alvaro Arzú of the center-right National Action Party (PAN), who narrowly defeated

the candidate of the right wing Guatemalan Republican Front (FRG) in regularly scheduled elections in November 1996.

As might be expected following a prolonged period of military intervention in politics, civilian institutions are extremely weak. No political party is well organized at the national level. The Guatemalan Christian Democracy (DCG) came closest to being a permanent, national party in the 1980s, but was badly hurt by the corruption of many of its prominent members and the disgrace in which the Cerezo government left office. The leading parties, the PAN, the FRG, and the leftist New Guatemala Democratic Front (FDNG) are newcomers to electoral competition, and the loyalties of the electorate are very fluid. Earlier parties, including traditional parties of the right such as the National Liberation Movement (MLN), declined in the 1980s and no longer are competitive.

The Congress has been notoriously corrupt, divisive, and incapable of producing well-drafted legislation in a timely way. President Serrano's *autogolpe* in 1993 was at least partly motivated by his frustration with Congress, where he had no governing coalition. Serrano's own party was nothing more than a personal vehicle of recent creation and had minimal representation in Congress, so during his brief tenure in office he depended on logrolling and vote buying to pass legislation. His successor, provisional President Ramiro De León Carpio, faced similar difficulties in Congress as he, too, had no organized party backing. He called for a congressional reform referendum that reduced the size of Congress, but this resulted in little improvement. Although President Alvaro Arzú has a working majority in Congress, resulting in lessened legislative corruption and vote buying, he too has faced difficulties in gaining qualified majorities needed to approve constitutional measures.

The Guatemalan state is extremely weak; taxes are an exceptionally low share of GDP (approximately 7.7 percent, versus 15 percent for most Latin American countries and 30 percent for western industrial states), thus producing perpetual financial crises.^{xi} Line ministries have scant capacity to implement

programs and find it difficult to use what little money they do have. These weaknesses contribute to the poor performance of the state in such areas as crime, health care, and education.

Steps Toward Negotiations

In this context of tenuous civilian government, an entrenched but internationally vilified military, and fiscal weakness of the state, three consecutive presidential administrations negotiated to end the civil war. The process took six years and involved three different negotiating protocols, two different mediators, and several different negotiating teams. Three factors slowed progress: 1) the military incapacity of the URNG to create a climate of urgency; 2) resistance to specific agreements by elements within the armed forces, the economic elite, the URNG, and its followers; and 3) lack of leverage on the part of international actors because of Guatemala's limited dependence on international assistance.

Talks began in 1987 with a national dialogue, as called for by the Esquipulas agreement signed by the Central American presidents.^{xii} In 1990 the National Reconciliation Commission (appointed by the government but not directly representing the government) reached agreement in Oslo, Norway with the URNG on a process of negotiation. This initiated an expanded dialogue, called the Oslo process, which consisted of meetings in various locales in Latin America and Europe between the URNG and various representatives of the political parties, the business community, churches, unions, and universities.

During Jorge Serrano's presidency (1991-1993), the government and URNG met formally, and produced two agreements ("Mexico" and "Queretaro") that established general procedures and substantive themes, respectively, toward democratization and the establishment of peace. During the caretaker government of Ramiro de León Carpio, a "Framework" accord established more specific procedures, including U.N. "moderation," civil society input (the Civil Society Assembly [ASC]), and international support and consultations (the Six Friends).^{xiii} Substantive agreements on human rights followed: the resettlement of uprooted populations; establishment of a truth commission (Historical Clarification Commission), and

recognition of the identity and rights of indigenous peoples. The balance of the accords were signed during the government of Alvaro Arzú, addressing socioeconomic and agrarian issues; strengthening of civilian power and changes in the role of the military; constitutional and electoral reform; the calendar for implementation; and a final accord activating all the accords previously reached (excluding the human rights accord, and those relating to human rights in the indigenous accord which went into effect immediately upon their signing).^{xiv}

Negotiations under U.N. "moderation" proved more fruitful than earlier talks, in part because the Guatemalan parties were better prepared to make progress, in part because the United Nations focused more international attention on the process, and in part because U.N. moderator Jean Arnault gained the confidence of the two sides. The U.N.'s strategy during the talks, particularly the last phase, was to help the government to translate its proposals into terms acceptable to the URNG. Arnault also used shuttle diplomacy, minimizing direct contact between the parties on sensitive issues until some degree of consensus was achieved.

The Parties' Incentives to Negotiate

For the URNG leadership, a primary motive to negotiate was the impossibility of military victory and the need to buy time in hopes of generating more favorable military conditions.^{xv} Later, URNG's leaders perceived that real gains could be achieved at the table that exceeded those likely to be won on the battlefield.^{xvi} By participating in an internationally sanctioned process, the URNG gained greater visibility and leverage than their military strength warranted. The Oslo process provided a public forum for social sectors in which the URNG had significant influence, which both benefited and hurt the URNG's long-term political prospects. Civil actors that supported the URNG's goals took uncompromising positions on such issues as accountability for past human rights crimes, socio-economic reforms, and indigenous issues.^{xvii} When the URNG agreed to terms that fell short of its constituents' demands, further negotiations stalled while the URNG attempted to mend relations with disgruntled supporters.

Negotiations at times jeopardized the government's relations with powerful forces in Guatemalan society such as the military, the business community, and the traditional right. Any agreement that would satisfy the URNG was anathema to conservative power groups. Though major domestic political dividends would not necessarily accrue to the administration that ended the conflict, there were, nonetheless, strong incentives for the civilian governments (and especially the Arzú administration) to end the war through negotiations.

The civilian governments had only tenuous authority and autonomy. Civilians had been allowed to take office at the sufferance of the armed forces, which orchestrated the partial democratization that began in 1984. Four consecutive civilian presidents struggled to attain real power for elected civilian authorities. For these weak civilian leaders, peace talks, with their emphasis on compromise, consensus building, and international support, provided an opportunity to counteract the tutelary authority of the military and the resistance of reactionary domestic political forces. Peace talks brought international attention and political pressures, and increased the salience of international norms of democracy and good governance. If peace could be achieved, civilian governments could challenge the military's claims on powers and prerogatives, many of which were based on the counterinsurgency mission.

The peace accords also provided an opportunity to increase the financial resources available to the chronically weak Guatemalan state. Historically, the fiscal constraints on the state not only inhibited the state's role in developing and modernizing the economy (a role advocated by some in the private sector), but have also limited the ability of elected governments to play patronage politics and expand their support. The accords presented two partial solutions to this problem: first, the U.N.-sponsored talks brought expectations of substantial international assistance. Indeed, some \$1.9 billion was promised by international donors, and, while the Arzú government was slow to take advantage of this generosity, the funds did allow the government to move forward with infrastructure reconstruction. Second, the agreement on socio-economic reforms required the government to raise taxes from 8 percent of GDP to 12 percent by 2000 (since rescheduled to 2002 by the

Accompaniment Commission). Though this move appears to be a concession to the URNG, and has proven politically difficult to implement, it was actually proposed by the government's negotiators.^{xviii} Increased tax revenue would provide the government with an opportunity to improve its ability to deliver desired services to the population.

For the government of Alvaro Arzú, the peace process made possible a political strategy that could overcome the tremendous resistance to social, economic, and institutional change that has characterized the Guatemalan political system. The accords gave the PAN unprecedented room to maneuver: the accords promise the government a framework to rally support for modernization, while retaining the option of blaming unpopular measures on international pressure and the demands of economic globalization. At the same time, the implementation processes agreed to are so complex and involve so many different actors, that the government could easily allow individual reforms to languish if opposition proved too strong.

The peace negotiations could not have gone forward without the support and cooperation of the Guatemalan military. Given the weakness of the URNG, the Guatemalan military was not compelled to agree to the accords, and military officers sometimes questioned why the government was negotiating with a defeated insurgency. Yet in the final stages of the negotiations, the military led the way in directly contacting URNG commanders, establishing procedures and communications to avoid unwanted clashes, and building sufficient trust on the part of the URNG to make its demobilization possible. In the end, the military accepted an agreement that would eliminate a crucial portion of their institutional mission – their role in internal security. This support by the military for the peace process suggests that for at least portions of the military leadership, the peace process offered important benefits.

The military's acceptance of the negotiated settlement reflects factional shifts within the military in favor of moderate officers whose primary concern was the long-term stability of the country and the integrity of the armed forces. This group believed that national stability required a settlement, and that the interests of the military as an institution were not served by continuation of the conflict. The military's efficient but brutal

counterinsurgency tactics, which flagrantly violated international human rights standards, were reviled both at home and abroad. Moreover, the secrecy and institutionalization of illegal practices was leading to widespread criminality and decay within the military itself. While most in the military leadership considered their violent actions necessary and were willing to ignore their public image during the peak of the conflict, in the long run the military could not afford to remain a pariah. The best way to avoid ongoing institutional erosion, condemnation and loss of legitimacy was to accept and even support a negotiated settlement.^{xix}

From this perspective, acceptance of the negotiations extended the military's orchestrated transition to civilian rule in 1984-1985, and was based on the same analysis of how the military could best restore its legitimacy. The accords enabled the military to make these gains without sacrificing its core interests. The military was not required to undergo a purge by outsiders, nor is military education or doctrine subject to civilian scrutiny. In interviews with scholars and journalists, several officers stated that the military gains by losing its public security role, since it was one that would most likely expose them to accusations of human rights violations.^{xx} In the event, the military's role has not changed given the defeat of the referenda on constitutional reforms.

The following sections briefly examine the politics of peace during the administrations of Jorge Serrano, Ramiro De León Carpio, and Alvaro Arzú, focusing on what factors moved the negotiations ahead, which ones impeded progress, and how these competing pressures influenced the content of the accords reached.

Serrano and the Start of Direct Talks

During the National Dialogue that began in 1989, and the subsequent Oslo process, a consensus emerged in the government that it should treat the URNG as a counterpart in peace negotiations, and that the talks should go beyond disarmament of the rebels. At the same time, the private sector elite and the military opposed direct talks. Although President Vinicio Cerezo, named a "conciliator" and announced that his

government would begin direct, unconditional talks with the URNG in 1990, he was too weak to follow through, while Jorge Serrano Elías had greater leverage with the military. Serrano's presidential victory in 1991 represented the first transfer of power from one elected civilian president to another since 1950, and Serrano, a fundamentalist Christian close to retired General Efraín Ríos Montt, also had significant pro-military credentials.^{xxi} He demonstrated his authority within the military by firing a defense minister and bringing corruption charges against other high-ranking officers.

In addition, the United States in 1990 began to pressure for human rights improvements, and multilateral institutions such as the World Bank and the European Parliament began to condition aid on progress in human rights, social investment, and peace negotiations.^{xxii} Some business and opinion leaders began to see that ending the war might break Guatemala's international isolation and thereby improve investor confidence and Guatemala's prospects in regional trade talks. With these enabling conditions, Serrano proceeded to initiate direct talks with the URNG in April 1991. Serrano included military officers as part of the governmental delegation, with Msgr. Quezada Toruño acting as conciliator and the United Nations and Organization of American States as observers. These direct talks lasted two years, and produced two agreements that established the agenda for negotiations: democratization and human rights, identity and rights of indigenous people, constitutional and electoral reforms, socio-economic issues, the agrarian situation, resettlement of uprooted populations, the reincorporation of the URNG into political life, cease-fire, a schedule for implementing and verifying the peace accords, and the signing of a final accord. This agenda was affirmed by the "Framework Agreement" of January 1994 and used as the structure for the subsequent U.N.-mediated talks.

Serrano could not go beyond setting the agenda, however, because of reactions from the military and business associations such as CACIF (the Coordinating Committee of Commercial, Industrial and Financial Associations). These groups objected to the substance of the URNG's proposals and to negotiating with the rebels before they disarmed, and bridled at perceived international pressures. In response to the latter

complaint, Serrano demanded the removal of U.N. observer Francesc Vendrell on the pretext that he had acted improperly in arranging secret meetings with the URNG. Vendrell was replaced by a then relatively low-level U.N. official, Jean Arnault, in a concession to government pressures to lower the U.N.'s profile in the talks. Beyond these difficulties, at this stage in the process, the URNG appears to have been negotiating largely for tactical reasons, making substantive achievements unlikely.^{xxiii}

Serrano's domestic political position eroded quickly, as his legislative alliance with two other parties (the Christian Democrats and National Centrist Union) collapsed in early 1993, and he faced increasing accusations of corruption. This instability culminated in the *autogolpe* of May 25, 1993, which provoked a 10-day constitutional crisis and halted negotiations.

De León Carpio and U.N.-Moderated Negotiations

Congress selected former Human Rights Ombudsman Ramiro De León Carpio to complete Serrano's term. His position was not auspicious for the peace process. De León belonged to no political party, lacked a disciplined base of support in Congress, and lacked the legitimacy that would be accorded by a popular election. Thus it seemed unlikely that he would have the clout to negotiate an end to the war. He did, however, have resources that enabled him to achieve progress in the talks. First, the military had incentives to support De León, since backing a former human rights ombudsman would help convince international actors of the military's new democratic vocation. Second, he had initial support from civil society and popular groups, largely because of his favorable reputation as ombudsman and because he was seen as an improvement over Jorge Serrano. Third, international actors that had firmly opposed the *autogolpe* gave strong support to De León,^{xxiv} in the form of increasing pressures to re-initiate the peace talks under the auspices of the United Nations. Countries advising the government and the United Nations argued that having the United Nations as mediator and verifier would induce both parties to negotiate more seriously and make it less likely that the

parties would use the talks for tactical purposes. The successful performance of the United Nations in El Salvador influenced the international community's vision of the U.N.'s potential in Guatemala.

De León chose an effective new head for the governmental peace commission, Héctor Rosada. The government commission and the URNG worked closely with Arnault to formulate a new framework, which included an ambitious deadline of end of 1994, provided for the UN to serve as “moderator” (widely understood to mean “mediator”), and established a formal role for civil society organizations through the Civil Society Assembly (ASC).^{xxv} The ASC was to be headed by former Conciliator Msgr. Rodolfo Quezada Toruño, and was designed to produce consensus documents that would feed into the peace process and to certify the accords reached between the two parties.

These terms were combined in a “Framework Agreement” signed January 1994. The new procedure produced an agreement on human rights just two months later. As in El Salvador, agreement on human rights was seen as a confidence-building measure, facilitated by the reluctant acceptance by the government delegation of international verification by the United Nations *prior* to a cease-fire.^{xxvi} Much of the content of the human rights accord had already been informally agreed to in earlier negotiations, since it largely reiterated legal commitments the government had already subscribed to in the 1985 constitution and ratified in various international human rights treaties. Two sticking points had been international verification (which elements of the state viewed as highly intrusive) and accountability for past human rights crimes. The breakthrough was reached by postponing discussion of a Truth Commission until a later time.

Shortly thereafter, in June 1994 in Oslo, the negotiating teams also produced two further accords, one dealing with the displaced populations affected by the war, and the other regarding the creation of a Historical Clarification Commission (CEH), known colloquially as the truth commission. The latter prompted intense political reactions. Signed by the URNG under intense international pressure, particularly from the Nordic countries, the truth commission agreement called for the creation of an investigative body (with both international and national staff) that would look into cases of violence during the armed conflict, going back to

1960. The commission would work for six months, with the possibility of renewal for another six months. The commission would not begin its work until after the final peace accord was signed and most importantly, would not name names (as did the commission in El Salvador). Moreover, the CEH's findings would have no juridical effect.^{xxvii} Civil society groups criticized this last point, calling it a capitulation by the left regarding historic claims for justice for the victims, and a victory for the military.

The truth commission accord caused a nine-month delay in further progress. Political backlash against the URNG for having given up too much pushed the rebels to adopt a harder line and to withdraw from the talks until the United Nations could establish a verification presence that would provide greater assurances of respect for human rights. The United Nations hesitated to deploy a mission, as some in New York were skeptical that the negotiations would succeed. If the talks did not progress fairly quickly, the United Nations could find itself with an open-ended human rights verification role.^{xxviii} The United Nations eventually deployed a human rights mission, MINUGUA, in November 1994.

During the last quarter of 1994, as talks resumed, U.N. mediation played an active role in brokering the Accord on the Rights and Identity of Indigenous Peoples, which was finally signed on March 31, 1995. This agreement was enriched by the ASC's presentation of a broad consensus document on this issue, as well as by the receptivity of the government delegation to open discussion. Like many of the accords, however, this agreement was more a statement of principles than of governmental programs, and set into motion debate over how indigenous values should be incorporated into public policy. The country's increasingly organized indigenous population approved the accord, calling it a "minimal but important step forward" in the recognition of their rights and identity.

Further negotiations were held on socio-economic and agrarian issues, and a wide-ranging document on this matter was drafted and debated in the talks. This draft agreement prompted much opposition from the business community, which objected to language concerning property rights. Even diplomats and aid officials close to the talks considered the proposal too complex to implement. These difficulties might have been

overcome with time, but with elections scheduled for 1995, it became clear that the De León Carpio government would not be able to finalize the negotiations his government had set into motion. It was not in the URNG's interest to negotiate any further agreements with a lame-duck administration, especially given the lack of assurances that the next government would respect any agreements reached. To address this concern, Arnault, with the support of international actors, negotiated an agreement among all the political parties in August 1995 that agreements thus far negotiated would be considered by all future governments as “agreements of the Guatemalan state,” but this was insufficient to permit further progress during the remainder of the De León administration.

The 1995 Elections, the Arzú Administration, and the Final Phase

Although the 1995 elections temporarily stalled the negotiations, the results of these elections created conditions for the completion of the negotiations. First, the presence of MINUGUA opened political space for the left. For the first time since the 1954 overthrow of Jacobo Arbenz, an openly left party, the New Guatemala Democratic Front (FDNG), participated with a hastily organized campaign and little money. The result, which might appear to be dismal for the left -- six out of 80 congressional seats, and 8 percent of the popular vote -- was interpreted by the URNG leadership as a hopeful sign for their electoral potential. For the first time, the URNG leadership was heartened that they might be able to achieve at the polls what they could not achieve in battle or at the negotiating table. Up to that point, the URNG had tried to negotiate terms that would justify their 36 years of armed struggle, yet they were not strong enough to exact such concessions. The election results eased this impediment.

Second, the election of Alvaro Arzú to the presidency (and a majority representing his PAN party in control of Congress) provided the URNG with an acceptable interlocutor to conclude the negotiations. From one of the country's ultra-elite families, Arzú appeared to have the support of business and the dominant sectors of the military, lack of which had limited all previous civilian governments.

A month after assuming office in early 1996, Arzú and the URNG jointly announced that peace talks would resume in late February. The government also revealed that since December, Arzú and key advisers had held four secret meetings with the URNG under the auspices of the San Egidio community in Italy. When the talks began again on February 24, Arzú headed the government delegation, an unprecedented move that signaled his commitment to peace.

The peace process now moved at a rapid pace: five different agreements and the final peace accord were signed within a year. The sudden celerity of the negotiations was due to the view of the URNG that the Arzú government as an honest broker, and, over the course of the year, measures were taken to bolster the confidence of both sides. Arzú named a former guerrilla ideologue (and personal friend), Private Secretary to the President, Gustavo Porras, to head the government delegation, along with two former finance ministers and a top military officer. Porras was perhaps the first negotiator to understand the URNG's positions. Confidence between the new government and the URNG rebels following their initial talks was such that, one month later in March, the guerrillas announced a unilateral suspension of offensive military actions, followed the next day by a presidential order for the army to cease all counterinsurgency operations.

Steps were taken by both parties throughout the year that contributed to the sense that a final peace accord might be reached. In May, the accord on socio-economic and agrarian issues was signed in Mexico. This agreement, approved only after the removal of those sections deemed most unacceptable to the private sector, was sufficiently bland to receive broad support, even from CACIF. Like the other accords, it spelled out a framework for policy in broad terms, committing the government to increase tax revenues from 8 to 12 percent of the GDP, and to increase health, education and housing expenditures by 50 percent the end of 1999.^{xxix}

Arzú took several immediate steps to demonstrate his seriousness in seeking military reforms, which provided incentives to URNG to continue negotiating. In April 1996, the military proposed a revision to the military code so that common crimes committed by the military would be tried in civilian courts. In August

1996, the government announced that the notorious civil defense patrols would be demobilized by November 15 of that year.^{xxx} Through these initiatives, the government increased the confidence of the URNG in the government's good faith, but also satisfied military concerns by preempting negotiating of issues that the military leadership felt it should not have to discuss with an insurgency that it had defeated years earlier.

Some critics have charged that the negotiation process proceeded too rapidly in the final stages. The lack of specificity in the latter accords, compounded by the relative lack of specific benchmarks in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Accords, made it less likely that the accords would produce reforms of adequate depth and consistency to achieve the lofty goals laid out in the preambles. Once the URNG decided to end the war and pursue its goals through elections, it proceeded with almost indecent haste to reach agreements that were short on substance.^{xxxi}

Implementation

The Context of Peace Implementation

On May 16, 1999, a popular referendum was held on a set of 50 constitutional reforms, essential to the peace accords. Implementation of these reforms had already been slowed because Congress could not pass the package by a two-thirds majority.^{xxxii} To the chagrin of Guatemalans who supported the reforms, as well as international observers, all four ballot questions were defeated by margins of roughly 2 to 1, reflecting a particularly strong no vote in the capital city.^{xxxiii} Turnout was only about 18 percent (21 percent in the capital) despite months of publicity and get-out-the-vote work, much of it funded by international donors. The defeat was attributable to at least two main factors: 1) a powerful, expensive anti-reform publicity campaign during the final few weeks before the vote, which portrayed the reforms in a negative, almost apocalyptic light; and 2) public ignorance regarding the content of the reforms, which were so complex as to be easily misunderstood.

With regular elections scheduled for November 1999, there were no further opportunities to pass a revised package of constitutional reforms in 1999. The new congress and executive that take office in January

2000 may be able to develop a pared-down set of reforms that could be passed by referendum. Failing this, the only option would be a constituent assembly, which would produce unpredictable results. If constitutional reforms are not passed, key elements of the peace accords, will be moot. Although such an outcome will not lead to renewed war, it would nonetheless constitute a significant failure of the peace process.

This setback reflects the implementation context where neither of the parties to the accords are hegemonic actors capable of setting and implementing policy. Though the PAN government has a majority in Congress, it appears to have little capacity to deliver on its commitments. Its efforts to pass constitutional reform legislation were unsuccessful until strong pressures were brought to bear by international donors. It has little capacity to provide public goods and has difficulty garnering the trust of its citizens, so virtually any major initiative is opposed. A key weakness of the state throughout the 1980s and 1990s has been the parallel power exercised by the military and private sector elite over civilian authorities. The peace accords do little to diminish such power, and there are signs, though proof is elusive, that these parallel powers have blocked implementation of specific elements of the accords.

The entire political party system in Guatemala is weak. Vast numbers of Guatemalans do not participate in the formal political system. Moreover, powerful conservative forces operating outside the party system can mobilize substantial support through the mass media and social networks. One striking feature of the defeat of the constitutional referendum was that *all* of the political parties supported a yes vote, yet a strong majority of those who bothered to vote chose no. No party was willing to invest substantial financial and political capital to support a measure that might be defeated, so there was no counterweight to the publicity campaign against the reforms.

Implementation of the accords depends on this fragile political system, supplemented by multiple special commissions and diffusion of responsibility makes it difficult to assign blame or credit for failures or successes. New public policies that should result from the peace process must pass through a variety of institutions before they can be approved and implemented. At times this has meant that for the government to

comply it must merely create a commission or present a draft law to Congress. The accords provide no criteria for the content of the discussions held or the documents presented, and set few explicit standards for assessing the proposals and policies eventually produced.

The structure of the process accentuated tensions between inclusiveness and the need for bureaucratic efficiency. When the peace accords were in their final stages, the government tried to reduce popular expectations by commenting that they were, in fact, only a "point of departure" and an "agenda" for further discussion. Nevertheless, as the process moved forward, more groups began voicing preferences and demands and the government, in response, began emphasizing the need for results. At different points, the government (and the URNG) opted to cut some actors out of consultations, and proposed legislation and policies that at best fulfilled minimal requirements of the accord.

Constitutional Reform

The case of the constitutional reforms illustrates the tension between the accords' participatory rhetoric and its elitist origins, and demonstrates the difficulty of implementing major changes in a timely way when a large number of institutions and organizations are involved. At issue was whether opposition political parties and civil society actors that had not participated in the negotiations should accept the agreements made by the government and the URNG, or whether constitutional reforms required further discussion to build a broader societal consensus. The government had committed itself to present a package of reforms to Congress within 90 days of the signing of the final accords. This generated an expectation, particularly on the part of international donors, that the constitutional reforms would be passed quickly so that various elements could be implemented. The PAN's own timetable compounded the urgency, since the party hoped to capitalize on implementation of the accords -- and associated international aid flows -- to strengthen its electoral prospects. The easiest route to passing the reforms was to get Congress to vote on the minimal agreements negotiated between the government and the URNG, yet this attempt sparked strong objections within Congress, as well as

from civil society and political party leaders who had not participated in the peace negotiations and thus had not had a say in the content of the reforms. In particular, the second largest party, the Guatemalan Republican Front (FRG), resented the PAN/URNG alliance in pushing through these agreements.

The requirements of the Guatemalan constitution that reforms be approved by a 2/3 vote in Congress, followed by a popular referendum, made it impossible for the government to confine discussion to the core 12 reforms. During the first phase of discussion, the appropriate commission held hearings for political and civic organizations to present their positions on the proposed reforms. In the process, several proposals were made by the FRG and the indigenous coalition of organizations, COPMAGUA.^{xxxiv} In an effort to limit the debate and generate sufficient consensus among the parties to pass reforms, the (PAN) president of the Congress convened an extra-parliamentary Multiparty Body (*Instancia Multipartidaria*) in September 1997, including representatives of the main political parties. Many who participated in these meetings were not members of Congress. This arrangement was criticized for undermining the constitutionally mandated role of Congress, but reflected the fact that most important political decisions are often made by party leaders who are not members of Congress .

The *Multipartidaria* strategy broke down in May 1998, largely because the FRG had attempted to introduce proposals that would allow the head of the FRG, retired General Efraín Ríos Montt to run for the presidency.^{xxxv} This was a divisive issue within the PAN, but on balance the party was reluctant to make this concession in exchange for the FRG's support. The government was under increasing pressure to pass the reforms. A Consultative Group meeting of donors was scheduled for mid-year, then postponed until October, primarily because of the failure to pass the reforms in a timely fashion.

The government shifted the debate back to Congress, and to negotiations between political parties and civil society organizations, especially indigenous groups such as COPMAGUA, in order to ensure the votes of the FDNG and the Christian Democrats. In the process, the package of proposed reforms grew from the minimal 12 required to implement the accords to 39 substantive reforms, 3 reforms that proposed minor

changes in wording, and 8 transitory articles. In the end, the FRG withdrew from the negotiations, and, on October 16, the package was approved by the PAN, FDNG, and Christian Democrats.

This package still needed to be approved by popular referendum, and the legislative decree calling for the referendum proposed to have voters respond to a simple “yes” or “no” on the entire package. The FRG accused the government of trying to ram through a package that reflected little more than a pact between the PAN and the URNG, while various civic groups felt that an up or down vote would not allow a conscientious vote on the issues. The proposed approach also triggered a complaint before the Constitutional Court by the Center for the Defense of the Constitution (CEDECON), a small group of conservative lawyers opposed to changing the constitution. The court ruled in mid-February 1999 that the single ballot question was unconstitutional, forcing a new legislative decree that grouped the 50 reforms under four ballot questions. All together, the negotiations in Congress, in the *Multipartidaria*, and between parties and civil society, combined with delays attributable to Hurricane Mitch and legal challenges, resulted in the popular referendum taking place nearly two and a half years after the signing of the final accords. In the end, the package of reforms was defeated. The broadened debate on the reforms, and the addition of various other proposals to the package, shifted some normally conservative groups, such as the primary private sector association CACIF, to come out in support of the basic reforms required by the accords. With the 1999 elections behind them, the parties may be able to rally sufficient support to get reforms passed.

Accompaniment Commission

The Timetable Agreement signed on December 29, 1996 included the formation of an Accompaniment Commission to facilitate the implementation of the peace accords. The commission consists of two persons from both the government and the URNG, four notable citizens, a representative of the Congress, and the chief

of MINUGUA (with voice, but without vote). Its role is to analyze the difficulties and obstacles encountered in the application of the timetable, review legal proposals before they go to Congress, schedule the different commitments set forth in the timetable agreement, communicate with MINUGUA, support international fund-raising for the financing of the accords, and present periodic reports on compliance with the agreement. It works closely with the government's Secretariat for Peace (SEPAZ), which oversees the implementation by the government.

This commission has played a low profile, but occasionally useful, role in pushing the peace process forward. It has often intervened to resolve problems arising in the various participatory commissions, and has been able to vet proposals from the executive branch. However, the commission has several significant weaknesses. It has not been sufficiently accessible to those wishing to influence the outcome of policy proposals. In part because they meet only once or twice a week, the commission is frequently overwhelmed with requests for meetings. The commission has no designated staff, and government has been able to marshal greater resources than the URNG, which has had trouble interesting international donors in their work. The civil society representatives don't really represent organized civil society groups and they bring little to these meetings other than their personal knowledge in their respective fields.^{xxxvi} The commission is overwhelmed and incapable of fulfilling its role as facilitator of accord implementation. Finally, the makeup of the commission -- excluding political parties other than the PAN and the URNG (which isn't yet represented in Congress) -- reinforces the image that the peace process belongs to the PAN, the URNG, and the international community. There will likely be initiatives under the new government to design a more inclusive mechanism for verifying and supporting implementation of the accords.

The International Role in Implementation

By all accounts, the United Nations played a crucial role in shepherding the Guatemalan parties to an agreement, and virtually all the Guatemalan participants and observers interviewed for this study credited U.N.

Moderator Jean Arnault with having been an effective mediator. The U.N.'s role as verifier has been more controversial, and it is less clear whether the U.N.'s role has been as effective as it might have been. The key challenge in assessing the U.N.'s impact during implementation is the difficulty of separating the limitations imposed by the weakness of domestic actors, the vagueness of the accords, and the nationalism of Guatemalan conservatives, and those imposed by choices made by the mission and the broader U.N. system. This is the strategic challenge facing the mission: how much room for action does the mission actually have? How strongly can it criticize the government without creating a counterproductive backlash either against itself, or against the peace process more broadly? We will not attempt here to reach judgement on this issue, but will merely present the dilemmas, since these may be instructive regarding the constraints likely to face future U.N. missions where weak accords combine with weak domestic implementation capacity.

During the human rights verification phase, from November 1994 until January 1997, MINUGUA's mandate was fairly straightforward and the human rights norms and instruments reiterated in the accords provided a clear framework for verification. When MINUGUA took over a broader verification mandate, however, its tasks multiplied, and it had to work with much less concrete benchmarks. While the commitments in the peace accords are numerous, many of them relate to procedural issues (setting up commissions, presenting reports, establishing procedures, introducing legislation, designing programs, and "supporting initiatives" by unnamed parties to achieve particular goals) with few firm guidelines for assessing the substantive results. Others involve initial steps in institutional reforms, such as establishing new offices or agencies. There are a few substantive commitments, such as increased tax revenues and social spending to be achieved by the end of 1999. On these and many other issues the government has simply failed to meet its commitments, despite pressures from the U.N. and international donors.

MINUGUA's broader verification role has been further complicated by a lack of understanding by most Guatemalans regarding the mission's mandate and functions. The mission retained the same name after it took on verification duties beyond human rights, rather than signaling its new role with a new name. Its low profile

after the signing of the final accords, contributed to the average citizen having little idea what the mission is, beyond associating it with human rights. Even the business elite often failed to recognize that since January 1997 the mission has a mandate to verify all the accords. This misunderstanding has led to accusations by prominent Guatemalans that MINUGUA is an illegitimate foreign interloper that has exceeded its mandate.

MINUGUA's leverage was further compromised by the fact that the main challenge to the incumbent government came from a right wing party, the FRG, with a reputation for opposition to the peace accords. The United Nations and international donors believed that they faced a political catch-22: with elections coming at the end of 1999, they could not afford to criticize the incumbent PAN too strongly, as any criticism could strengthen the PAN's opponents who, if victorious in 1999, might scuttle the remaining elements of the peace accords. The existence of a strong challenge to the PAN from the right constrained the United Nations in criticizing the government and made international donors reluctant to support the present government, despite shortfalls in implementation.

The mission's image was damaged in early 1997, just as MINUGUA was taking on its more comprehensive mandate, by accusations in the Guatemalan press that in 1996 Jean Arnault – at the time moderator of the negotiations – had suppressed information regarding the “disappearance” of a URNG member arrested by the Presidential Military Staff. Irrespective of their merits, these accusations combined with the mission's low profile to reduce the mission's authority and clout within the peace process.^{xxxvii}

Whatever the challenges of the Guatemalan context, many observers believe the U.N. mission's response and strategy has been less than ideal. Many observers have criticized the mission's reluctance to criticize government actions and insist upon closer compliance with the accords, particularly during the first 18 months following the signing of the final peace accords; in 1998 and 1999, the mission began to take stronger positions. Yet the government has appeared unresponsive to these criticisms. MINUGUA belatedly improved its public information strategy, and made greater efforts beginning in 1998 to meet with key political and social elites to explain the mission's mandate and views. Both MINUGUA staff and members of the business

community credit this greater outreach with reducing misunderstandings. But in the face of continued unfavorable press coverage, MINUGUA has been unable to overcome the damage already done to its public image in the early stages of the comprehensive verification mandate.

Some observers have suggested that the selection of Jean Arnault to head the comprehensive verification mission was ill advised: he had too strong a personal stake in defending the peace accords, and was reluctant to acknowledge and criticize failures by the government to fulfill its commitments. It might have been more effective to have selected a different chief of mission, reserving Arnault for periodic visits to Guatemala to provide authoritative interpretations of what was agreed to during the talks, and push the parties for compliance. However, we are not convinced that the choice of leadership for the mission was decisive in the difficulties MINUGUA has encountered.

Despite the difficulties that the United Nations has experienced during implementation, it has achieved important successes, and established approaches that may be applicable in other contexts. First of all, there was excellent coordination within the U.N. system, and good cooperation between MINUGUA and international financial institutions such as the World Bank, IMF, and Inter-American Development Bank. The IFIs were consulted and involved in the negotiating phase, contributing to a greater understanding on their part of the financial requirements of the peace process. Coincidentally, Guatemala's state revenues and spending have been so low that effectively all of the relevant international actors and institutions agree that the Guatemalan state should tax and spend more – an unusual situation given the usual tensions between peacebuilding and fiscal austerity.^{xxxviii} Within the U.N. system, MINUGUA, UNDP, UNHCR, and other agencies have coordinated their work effectively, drawing on lessons from neighboring El Salvador. Also reflecting lessons from El Salvador, MINUGUA initiated efforts to strengthen state and civil institutions. Notwithstanding these important efforts, international donors have not always worked together to apply pressure on the government to comply with the accords.

Implementation of Specific Tasks

Human Rights. The Comprehensive Agreement on Human Rights did little more than to reaffirm the government's responsibility to protect human rights, as already stipulated in various international instruments to which Guatemala was signatory. Specifically, the accords required the government to strengthen judicial institutions and the office of the Human Rights Ombudsman (the first of its kind in Central America, created by the 1985 Constitution), update criminal codes, regulate the bearing of arms, fight against clandestine irregular groups (death squads), guarantee the freedom of movement and association, end forced military recruitment, provide protection to those working in human rights, and provide reparations to those harmed by the armed conflict. Both sides declared that they would respect the civilian population and those wounded or captured in combat.

A key provision of the Comprehensive Agreement was the deployment, before the cease-fire, of a U.N. verification mission. MINUGUA, deployed in November 1994, quickly established a presence throughout much of the country. MINUGUA's mandate reflected two lessons from the human rights verification effort in El Salvador. First, MINUGUA was to supplement its verification work with efforts to strengthen human rights monitoring capability within Guatemala. Second, the accord called on MINUGUA to give priority to certain rights over others, emphasizing rights to life, integrity, and security of the person, individual liberty, due process, freedom of expression, freedom of movement, freedom of association, and political rights, in order to avoid being swamped with cases unrelated to fundamental liberties.

The human rights accord and, more specifically, MINUGUA's presence, provided a deterrent against abuses. Observers also credit the United Nations with having increased the political space available to the left, making it safer for the newly formed FDNG party to participate in the 1996 elections. MINUGUA's human rights reports (twelve as of early 2002) reflected improvements in the human rights situation until mid-1998; since then, they note signs of deterioration in the form of increased numbers of lynchings; the continued existence of clandestine security structures; increased threats against human rights workers, judicial officials

and witnesses, and the news media; and continued impunity. Three military officers were convicted—for the first time ever for a politically motivated killing—in the case of the murder of Monsignor Juan Gerardi, who had led the Catholic Church project that investigated the history of human rights abuses during the conflict. But this high-profile success did not reflect broader systemic change.

The persistence of these institutional problems highlights MINUGUA's limited institutional strengthening efforts. MINUGUA's efforts in these areas are small in comparison to other international actors such as USAID, the World Bank, and the Inter-American Development Bank. The courts, the public ministry, and the police have shown little willingness to implement changes. The institutional strengthening role has, however, provided MINUGUA with important insights into the real workings of the judicial system and the security apparatus.

Resettlement of Refugees and Displaced Persons. In the early 1980s, an estimated 150,000-200,000 persons fled Guatemala and another 1-1.5 million were internally displaced due to the intense violence of the armed conflict. By 1983 some 46,000 Guatemalans were officially recognized as refugees in camps in Mexico. Refugees trickled back at a rate of 1,000-2,000 a year in response to a repatriation program begun in 1987, but the overall numbers remained approximately the same due to the high birth rate in the camps.^{xxxix} International attention to the issue of returning refugees in Guatemala has been extraordinary, leading one observer to note that they "have fared relatively well over the years, compared to the internally displaced and compared, in many cases, to other campesinos."^{xl} A final group of Guatemalan refugees returned in June 1999, and the return process was declared complete by the Guatemalan and Mexican governments.

The Accord for the Resettlement of the Populations Uprooted by the Armed Conflict, was one of the first accords signed (June 1994). The refugee accord was less a set of explicitly verifiable commitments than a statement of overall development policy to be pursued in support of these populations' integration and resettlement. It built upon a series of prior agreements between refugee organizations and the government dating back to 1991. By the time the final peace agreement was signed in December 1996, most of the refugees

had already returned or were negotiating their return to Guatemala. Although the accord on refugees in and of itself contributed little to the return process, the broader peace process provided incentives for the government to be more accommodating to refugees, as a way of showing that political conditions were improving.

In November 1991, President Serrano signed a "Letter of Understanding" with the UNHCR outlining basic guarantees for returning refugees, and in October 1992, the government signed an unprecedented agreement directly with refugee representatives, outlining a mechanism for land acquisition. Between 1993 and 1997, some 37,000 refugees returned to Guatemala, and more than 35 communities were resettled.^{xli} The refugee return process in the 1990s, has been shaped by the 1992 agreement, which is even stronger than the 1994 peace accord in specifying the government's responsibility to provide land to the displaced.

As called for in the 1994 accord, a Technical Commission was established with two representatives each from the government and displaced populations, with the international community present as non-voting participants. This commission began meeting in July 1994 to prepare a strategy for the implementation of the agreement, and by early 1997 the parties agreed to set up a trust fund under the aegis of UNDP. By mid-1998, international donors had contributed eight million dollars to the fund, which would be used for projects in health, agriculture, infrastructure, documentation and land acquisition. The two-and-a-half-year delay in reaching an agreement on the trust fund stemmed from distrust between the parties, exacerbated by the government's questioning the legitimacy of certain representatives of the displaced and twice making unilateral proposals, sidestepping the displaced populations.

The 1994 accord refers to the refugees' right to recover their land, but subsequent agreements have weakened their status. A September 1997 agreement (and a subsequent February 1998 joint declaration) between the government and the refugees determined that only refugee groups that had signed up by December 29, 1997 for new lands would qualify for the advantageous terms provided through a government-sponsored revolving fund.^{xlii} Aid for displaced populations has also met with few successes. Government and displaced persons' representatives revised a UNESCO plan for meeting the educational needs of the displaced in early

1998, but lack funds for implementation. Also, in August 1997, a law was passed to facilitate the personal documentation of displaced persons, but civil authorities lack resources and training to implement the law.^{xliii} In 1998 displaced groups who had previously served as the social base of the guerrillas in the Ixil triangle of northern Quiché and in department of Petén were successfully relocated, although additional lands still need to be purchased for a similar group of families in the Ixcán.

Guerrilla Demobilization and Disarmament. The timetable for URNG demobilization was very tight: the United Nations was requested to install a military verification component as quickly as possible following the signing of the final accords, and the full demobilization of the URNG was to follow within 60 days. By agreeing to such a rapid demobilization, the URNG gave up the opportunity to use their weapons to encourage government implementation. Security for the URNG during the transition was assured by the 155 unarmed MINUGUA observers, who remained with URNG combatants throughout the demobilization phase, monitoring their activities as well as those of government forces, and providing both sides with information and assurances regarding the status of the other.

No violations of the cease-fire or separation of forces occurred. The entire demobilization of the URNG was completed from 3 March to 3 May 1997. The few security complaints from the URNG during the demobilization phase related to high altitude flights over rebel encampments. Several factors contributed to the remarkable lack of major problems. First, a cease-fire had already been in place for nine months before concentration and demobilization of troops took place. Both sides had incentives for quick rebel demobilization. According to U.N. sources, most of the URNG combatants were part-time militia members who needed to return to home in time to plant before rains began in May. The URNG leadership was concerned that militia members would abandon camps if the demobilization process was delayed. The government armed forces, for their part, preferred a rapid demobilization because it limited the time during which their movements were restricted. According to a U.N. official, the two sides had chosen URNG assembly areas that the government didn't care much about, reducing the risk of government violation.^{xliv} The

government made no public objection to the apparently inflated numbers of combatants, as limiting formal demobilization to the core group of 500 guerrillas would have embarrassed the government, which could have been criticized for having negotiated with such a small force. In this regard, the demobilization process involved an element of political theatre.

The willingness of former guerrillas to disarm represented a leap of faith in the judgement of their commanders, the good faith of the government and the military, and the general influence of the international community. A series of meetings between military officers and guerrilla leaders, which began as secret meetings at the highest levels and gradually evolved into numerous meetings between local field commanders helped build confidence. In these latter meetings, combat leaders hovered over tactical maps to indicate the positions of their respective troops, exchanged radio frequencies, cell-phone and beeper numbers, and agreed to cooperate to avoid unintentional clashes.^{xlv} The spirit of collaboration that emerged in these meetings helped convince the rebels that the military sincerely wanted to end the conflict and would not take advantage of the URNG's vulnerability after demobilizing and so far the confidence appears to have been well-founded. There have been a few killings and attacks against demobilized URNG members that may have involved political motives, but there has been no evidence of a systematic campaign against them.^{xlvi}

Reinsertion of the URNG has been the responsibility of a "Special Incorporation Commission" made up of representatives of the government, the URNG, and observers from the OAS, the European Union, USAID, and UNDP. The OAS representative was subsequently replaced on the commission by a representative of Spain. The URNG's Guillermo Torriello Foundation (FGT) has been responsible for implementing many of the projects for former URNG combatants, but the new foundation has lacked the institutional capacity to carry out the rapidly expanding projects and international donors have needed to focus attention on bringing the Foundation up to speed.^{xlvii} Despite the various institutional, political, and logistical problems encountered, the social reinsertion of former URNG combatants has not been a serious challenge for the peace process, given the small numbers and the ample international funding available.

Government Forces Demobilization. Aside from moving its forces to facilitate the URNG's demobilization, the government had four obligations under the accords to demobilize and disarm its own forces.^{xlviii} First, the government agreed to demobilize its "Voluntary Civil Defense Committees" (CVDCs) (known more commonly by their Spanish acronym "PACs"). PAC membership is difficult to estimate, but it may have been as high as 393,132 prior to 1996; Defense Ministry sources claimed that a total of 279,421 former patrollers were demobilized. President Arzú began the process of demobilization in late 1996, before the accord came into effect. The military attempted to circumvent the accord by converting some patrols into unarmed, local level "peace and development committees" (CPDs). Sources disagree regarding the number so "converted," but even the converted CPDs were, in the end, demobilized.^{xlix}

The second commitment by the government was to reduce the military by one third during the course of 1997. Based on a putative benchmark force of 45,000, this implied a post-accord force of 31,000. Shortly after the signing of the accords, the army reported its actual force level at 35,000, so it needed only to reduce its forces by 4,000 troops to meet this target and did so easily and on schedule. The real reduction was thus markedly less than one third. The officer corps was not reduced systematically, though there has been some attrition.

Third, the government eliminated the Mobile Military Police (Policía Militar Ambulante, PMA), which had a small component (699 agents) that actually performed police functions, and a larger component (1,722 agents) that functioned as a parastatal security company, providing guards for banks and other installations. Despite a mutiny by members of the PMA, all 2,421 were demobilized on schedule, with some incorporated into the "new" National Civilian Police as well as private security firms.¹

Fourth, the government agreed to "begin a progressive process aimed at achieving" the redeployment of the army in a manner consistent with its mission, now to be confined to territorial defense rather than internal security. As of this writing, this commitment has not been implemented, as the army has maintained its deployment in 15 military zones that correspond to the internal regions of the country rather than border and

coastal defense zones.^{li} Some posts that had been abandoned by the military in 1997 were subsequently re-occupied by troops as part of a government-ordered transitional role for the army in public security. The government has been unresponsive to MINUGUA criticism of this violation of the accords.

Public Security Reforms. Institutional weakness of the justice and public security systems contributed to the conditions for civil war. Police forces were weak, poorly staffed and equipped, and subordinated to the military. The police were employed in counterinsurgency roles and gained a reputation for brutality and ineffectiveness. The military was extensively involved in internal security missions, including domestic political spying. The military enjoyed effective immunity from prosecution in civilian courts, and the military never punished personnel involved in human rights abuses, and seldom prosecuted those involved in corruption. Such impunity was perhaps a necessity in counterinsurgency war, which included violence against non-combatants, summary executions of suspected regime opponents, “disappearances,” and torture. Many of these actions were illegal and required a strategy of periodic amnesties for military personnel, as well as weakness of the courts and subservience by the police. One of the effects of institutionalized impunity was widespread criminality within the military, involving kidnapping, murder-for-hire, car theft, timber theft in the Petén region, illegal expropriation of lands, and contraband.^{lii}

The judiciary was notoriously corrupt, ineffective, and inaccessible to the majority of Guatemalans. The Public Ministry, which oversees prosecution, lacked the resources and capable personnel needed to prosecute crimes effectively. The courts were highly centralized, poorly administered, and hampered by cumbersome written procedures. Higher courts controlled the administration of lower courts, wresting autonomy from judges and politicizing the judicial process. Judges were often poorly qualified, unfamiliar with the law, minimally devoted to their duties, poorly paid, and easily influenced by bribes. All proceedings were in Spanish, which limited the ability of indigenous people to make use of the courts.

The Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society acknowledged that the institutional weakness of the justice and public security systems

contributed to the conditions for civil war. It proposed constitutional amendments that would take policing and domestic security out of the hands of the military and establish, instead, a National Civilian Police (PNC) that would be “under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.”^{liii}

The accord stipulates only broad outlines for the nature of the new PNC: it is to be formed under the authority of the Ministry of the Interior; include a new academy to train its personnel; take account of the multi-ethnic nature of Guatemalan society; form whatever specialized divisions are deemed necessary; strengthen criminal investigation; and achieve a force level of 20,000 by late 1999 (a very ambitious goal). Police officers are to receive six months of training, and serve a minimum of two years.

The agreement called for a series of steps “to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernization of the system as a whole.”^{liv} More specifically, the accord proposed constitutional amendments that would guarantee citizens “free access to the system of justice in the person’s own language; respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms.” Other proposed amendments would establish a more professional corps of judges, appointed by merit and required to uphold higher standards of training and competence. The Penal Code would be revised, and a new, independent public defender’s office would be established with sufficient funding to provide defense attorneys for all accused persons needing representation.

Implementation of the accord on strengthening civilian power depends almost entirely on the enactment of constitutional reforms and there can be no progress until the relevant constitutional reforms are passed. One area of progress is in the creation of a new civilian police force. By the end of 1999, the PNC will have largely completed its initial deployment and will be nearly ready to assume full responsibility for public security, a

mere three years after the signing of the final accords. This is an important achievement, and in the words of one police official, “the one area of the accords in which the most implementation has taken place.”^{lv}

Yet the government has been unwilling to conform to the few specific commitments that it did make regarding police. The Civilian Power accord is too vague to provide an operational framework for substantive reforms and for evaluation by the United Nations: no standards are set for educational or other qualities of recruits; no distinction is made in the amount of training for officers compared to basic recruits; no limits are set on the proportion of the new force that are members of existing police forces; no standards nor mechanisms are proposed for vetting former security forces members with records of human rights abuses, corruption, or criminality; no details are included regarding organization of the new force, nor of the content of training; no reference was made to internal or external disciplinary mechanisms

Before the Civilian Power accord was even signed, the government had reached an agreement with the Spanish Civil Guard (GCE) to train and advise the new force. GCE advisors proceeded to write a draft of the enabling legislation for the PNC, without taking into account the accord being negotiated between the government and the URNG. The law passed in February 1997 disregarded many points in the Agreement on the Strengthening of Civilian Power: it set out no professional standards nor human rights requirements for the new force, and ignored the requirement that the new police incorporate members of the diverse cultures in Guatemala. It also omitted any standards regarding the human rights content of curriculum at the academy. Following strong criticism by the United Nations, international human rights groups, and Guatemalan civic groups, some of these deficiencies were corrected by regulation. Most of the shortcomings remain, however, including grossly inadequate provisions for internal discipline and control.

The government has largely ignored criticism by United Nation, although some progress was made in the functioning of the academy. There has been little effort by the GCE to make its programs conditional on government compliance with the accords or responsiveness to U.N. criticism. In a few instances, GCE officials appear to have assisted the government in sidestepping requirements of the accords.^{lvi} The U.S. ICITAP

program, in turn, was accused by officials within MINUGUA of attempting to assert unilateral control over the development of the investigative department of the PNC, to the point of attempting to force the removal of two MINUGUA instructors assigned to the department.^{lvii} With such disunity among international donors and verifiers, the Guatemalan government is able to proceed without regard for the accords or the lessons of other police development projects, including that in El Salvador. The government, for its part, has seemed obsessed with managing the transition from the old forces to the new without allowing a vacuum to develop. While this is, in fact, an important consideration and one that reflects lessons learned in El Salvador, the transition could have been managed without resorting to measures that appear likely to produce a police force little better than the one it is replacing.

Socio-Economic Issues. Extreme socio-economic inequalities were among the causes of the civil war. Despite having lower-middle-income status according to World Bank criteria,^{lviii} Guatemala has exceptionally adverse social indicators. Seventy-five percent of Guatemalans live below the poverty line, 58 percent (and 81 percent of indigenous) are extremely poor.^{lix} With the exception of Brazil, Guatemala has the highest Gini coefficient of inequality (59.6) among middle-income countries. The lowest 20 percent of the population receives 2.1 percent of income, and the two lowest quintiles combined receive only 7.9 percent of income, while the top 20 percent receive 63 percent and the top 10 percent receive 46.4 percent.^{lx} Land distribution is extremely concentrated, and production has emphasized export products, contributing to a high degree of food insecurity.^{lxi} Throughout the post-WWII period, infant mortality rates have been very high, as have rates of malnutrition and illiteracy.^{lxii} More than half of women and 38 percent of the men are illiterate.^{lxiii} According to the UNDP, the Human Development Index scores for most indigenous communities in Guatemala are equal only to those of Haiti and some places in Africa and Asia.^{lxiv}

Major land holders have been politically powerful in Guatemala. A major land reform in 1953 and 1954 was reversed following the U.S. -orchestrated coup of 1954, and only token efforts at land reform have occurred since then. With the growth of cattle production in the 1970s, confrontations between peasants and

ranchers (some of whom were senior military officers) became increasingly common, particularly as ranchers encroached on frontier areas colonized earlier by peasants.^{lxv} Bitter land disputes persist, as does the practice of powerful individuals seizing lands over which they have no legal claim.

Historically, Guatemala has been hostile to organized labor, thanks to restrictive labor laws and the practice of murdering labor leaders. The Guatemalan economic elite has consistently opposed taxation, and enjoys one of the lowest tax rates in the Western Hemisphere; the government often is unable to collect even the lenient taxes. As a consequence, the state is chronically under-funded, and has little capacity to carry out programs that could alleviate poverty or improve social conditions for the majority of the population.^{lxvi}

The URNG's ambitions for the Agreement on Social and Economic Aspects and the Agrarian Situation (hereinafter the SE accord) far outstripped their bargaining leverage. The accord falls short of dealing with the extreme inequalities in land distribution, and rejects any sort of expropriation-based land reform. What the accord does propose are state-assisted, market-oriented mechanisms with limited mandates, limited funding, uncertain jurisdiction, and questionable future political support.

In the SE accord, the government agreed to: raise the budget allocated to education and health as a percentage of GDP by 50 percent by the end of 1999; strengthen the financial solvency of the social security (public health) system; devote 1.5 percent of tax income to public housing initiatives; reallocate health spending so that 50 percent of total health spending goes to preventive care; create a lands trust fund to regain control over and subsequently redistribute state lands; increase peasants' access to credits, technical assistance, and marketing; grant 100,000 hectares of state lands to poor and middle-income peasants; carry out \$50 million per year of infrastructure improvements in rural areas; simplify, decentralize, and update the land registration and titling system, while carrying out a new survey of agricultural lands; restore lands usurped from individuals and community, or failing that, establish rates and mechanisms for compensation; pass a new municipal property tax law with a new rate scale that taxes underutilized lands more heavily and provides a market-based assessment of property values; create an overall progressive tax system; and, finally, raise the overall tax

burden as a percent of GDP by 50 percent by 2000.^{lxvii} The accord also called for the creation of multiple mechanisms to increase popular participation in policy formation on SE issues, as well a series of new institutions designed to increase the points of access for citizens with needs and grievances. The timetable for implementation of these measures was generally long, giving the government until the end of 1999 to proceed on most points, with a few intermediate benchmarks.^{lxviii}

Annual targets for tax revenues are listed in the accord for 1997 through 1999. In 1997 the government managed to slightly exceed the benchmark by introducing two temporary tax measures, but for 1998 and 1999, tax revenues have fallen short. A crucial turning point on implementation of the tax commitment was the government's aborted attempt in 1997 to establish a new tax on land, the ISI, which would replace existing, flawed land tax statutes.^{lxix} The new law would have increased state revenues, increased municipalities' share of that revenue, and taxed unused lands more heavily. The government succeeded in negotiating the tax with the private sector elite and Congress passed the law. Shortly thereafter, legal challenges and sporadic protests in rural areas prompted the government to repeal the law. The protests by themselves were not sufficient in magnitude to justify canceling the law, so most likely some sort of elite opposition had developed. Some opposition from peasants appears to be based on fears that the tax would affect them negatively. The government clearly failed to educate the public regarding the provisions of the law. A broad-based discussion resulted in the signing of a Fiscal Pact in May 2000 that included some sixty agreements related to tax issues and budget transparency. However, a year later, MINUGUA found little progress had been made, with only two agreements implemented, and another seven well under way. One of these measures, the increase from 10 to 12% in the VAT, was widely scorned by both labor and the private sector, which organized a nationwide strike. In early 2002, MINUGUA predicted that the accords' rescheduled target tax-to-GDP ratio of 12 percent would once again fall short, to 10.6 percent in 2002. Overall governmental credibility suffered throughout 2001 and 2002 due to a plethora of corruption scandals involving high-level officials.

Without progress on the tax front, all other measures the government takes to implement the SE accord are unsustainable. By 1998 government expenditures to implement elements of the peace accords were equivalent to 75 percent of tax revenue. Were it not for extensive international funding of these programs, the state would be left with only 25 percent of its revenues for all other state activities.^{lxx}

Other issues in the SE accord are potentially explosive and the government has moved with predictable caution. The SE accord seems to approach land distribution as if it were largely a technical problem of providing adequate documentation, establishing legal rights, and facilitating market transactions through increased financing. Yet such a sanitized view ignores the role of power, corruption, and violence in establishing both the *de facto* and legal status of many land holdings in Guatemala. Observers estimate that some 40 percent of land holdings are not registered,^{lxxi} and many of the property holdings that are registered are probably registered to individuals and corporations whose claims are based, somewhere in the past, on forceful usurpation, corrupt legal maneuvering, or laws designed to expropriate land from certain groups of people, especially the Mayan.

In light of this, the government's commitment to carry out a comprehensive process of land surveying, re-registration, titling, and resolution of conflicting claims, is fraught with practical difficulties and political hazards. So is its potentially open-ended commitment to restore lands usurped from individuals, communities, municipalities, and the state. The government has formed its "Institutional Commission" (PROTIERRA), which includes a technical-juridical unit working to lay the basis for a national cadastral survey. But problems abound, and the government has few incentives to solve these quickly, since the sooner PROTIERRA is ready for a full-scale survey, the sooner the government will face serious political backlash from landed interests. It would be relatively easy for opponents of any modernization or legalization of the land tenure system to whip up fear and hysteria among the hundreds of thousands of small holders who hold tenuous, irregular title to their land.^{lxxii} Five pilot projects are nonetheless under way for land surveying, funded by international grants and credits.

One success on land issues is the Rural Development Bank (BANRURAL), designed to finance small-scale agriculture. Its board of directors includes representatives of small producers' associations, and it has attracted numerous depositors and proven agile in delivering credit in small amounts.

Indigenous Rights and Identity. The rights of indigenous peoples, their relationship to the state, and their identity within multicultural but Hispanic-dominated Guatemalan society, are one of the central challenges of the peace process. Scholars and observers have debated the role of indigenous grievances in generating the civil war: regardless of whether these issues drove the violence, they remain one of the central causes of social conflict, and one of the ways in which Guatemala does not conform to emerging international norms. The Agreement on Identity and Rights of Indigenous Peoples lays out a series of general desiderata and specific goals to address the racism, discrimination, segregation, poverty, and cultural vulnerability faced by the indigenous community. The parties agreed that “the indigenous people have been particularly subject to de facto levels of discrimination, exploitation and injustice, on account of their origin, culture and language and that, like many other sectors of the national community, they have to endure unequal and unjust treatment and conditions on account of their economic and social status Until this problem affecting Guatemalan society is resolved, its economic, political, social and cultural potential will never be able to develop fully and neither will it be able to take the place in the community of nations due to it by virtue of its ancient history and the spiritual grandeur of its peoples.” As a starting principle, the government undertook to “promote a reform of the Constitution in order to define and characterize the Guatemalan nation as being of national unity, multi-ethnic, multicultural and multilingual.”^{lxxiii} This principle was to be realized by a series of proposed reforms that would, officially recognize indigenous languages; promote the use of indigenous languages in schools, provision of social services, and the courts; outlaw discrimination against indigenous people; recognize and permit the application of indigenous “customary law;” recognize indigenous religious beliefs and practices; increase indigenous influence in local governance; and address past grievances regarding usurped lands and other resources.

These initiatives were to be implemented under guidelines established by special commissions comprising representatives of the government and indigenous organizations. Both the government and the United Nations have commented in very positive terms about the value of the dialogue these commissions have allowed between the government and Mayan groups. Some of the commissions have been fairly successful in producing draft legislation, while others have stalled over insurmountable differences on basic issues. Many of the points included in the accord are controversial, prohibitively costly, or in other ways impractical. The indigenous groups involved in the commissions have tried to make the most of the opportunity to have input into the process, pressing quite challenging demands for expanded rights and benefits, often ignoring the very limited capacity of the Guatemalan state, as well as the likely intensity of political opposition to some of the proposals.

The promise to address land grievances is also unlikely to be fully implemented. As written, the accord could be taken to hold out the promise of massive restoration of usurped lands. The Mayan umbrella organization COPMAGUA, represented on the “Parity Commission on Land Rights,” proposed that the government begin the new cadastral survey in the areas where massive land usurpations have been most common – the southern coast, the “Northern Transverse Strip” of the Huehuetenango, Quiché, and Alta Verapaz provinces, and the Petén. COPMAGUA expected the survey to produce significant restoration of lands, and was prepared to pressure the government to make good on its commitments.^{lxxiv} Instead the government has begun the survey at a very small scale in areas where land disputes are smaller in scale, and has emphasized sorting out overlapping claims rather than making major corrections.

The existence of the indigenous accord, with its provisions for extensive consultation and participation through the various commissions, has contributed to increased indigenous political mobilization and activism. This in itself is an important achievement given the historical exclusion and political alienation of indigenous peoples in Guatemala. But the unlikelihood that the agreement will ever be implemented in a way that

addresses the depth of conflict and difference between the indigenous and *ladino* communities may make this expanded participation little more than another lesson in the futility of interacting with the national state.

Accountability for Past Human Rights Crimes. The Commission for the Historical Clarification of Human Rights Violations and Acts of Violence that have Caused Suffering to the Guatemalan Population (CEH) was to clarify such acts with “objectivity, equity and impartiality” and provide recommendations to the state. The CEH was not to “individualize responsibilities” nor have any judicial effect. While former U.N. moderator Jean Arnault was to head the CEH, he obviously could not perform that function while also heading MINUGUA. Arnault was replaced as head of the CEH by Christian Tomuschat, a German law professor and former U.N. independent expert on human rights for Guatemala. The other two members of the commission were Guatemalans, Otilia Lux Cotí, a Mayan educator, and Alfredo Balsells Tojo, a prominent lawyer.

The CEH was unable to commence operations with of the signing of the final peace accord because of funding and logistical problems. It finally began work in August 1997, and asked for two six-month extensions, for a total of 18 months. The time was needed to collect testimony and other evidence relating to acts of violence during the entire armed conflict (from 1961 through 1996). The Commission received 8000 testimonies, but also received little cooperation from Guatemalan military authorities, in contravention of the accord.

The conclusions to the final report were presented on February 25, 1999, and hit the Guatemalan political landscape like a bombshell.^{lxxv} The commission's basic findings—that the military was responsible for 93 percent of the total human rights violations and other acts of violence they documented—were not unexpected. But the charges of genocide and racism committed by the armed forces in their ruthless campaign against the guerrillas in the early 1980s came as a surprise, issued as they were from a U.N.-sponsored effort. The commission also issued a series of recommendations relating to reparations for war victims and reforms to the judicial system and security apparatus, and proposed that Congress create a foundation, with government and civil society participation, to monitor the implementation of these recommendations. However, the

government diplomatically stated yet categorically refused to implement any of the key reforms proposed by the Commission, saying that important reforms were already underway, including reparations for war victims.

Conclusions

In some ways, the Guatemalan peace process has already succeeded. The war is over, the URNG has become a political party, and there is essentially no chance of renewed civil warfare. Though there are occasional reports of new politico-military groups, there is no evidence of sufficient organizational base or resources for such bands to have a significant impact. But stopping the fighting and demobilizing the few remaining URNG guerrillas was not the primary challenge: rather, the more complex objectives of political and social change laid out in the accords were the more difficult achievement. Against the standard that the accords themselves set, the peace process is stagnated, and significant elements of its provisions may never be implemented.

Two central features of the Guatemalan peace process have contributed to this mixed outcome to date. First, the accords have more the form of comprehensive peace accords than the substance. They touch on a sweeping range of issues, propose lofty democratizing goals, but don't reflect a broad-based consensus even among elites. Moreover the accords lack the details needed to give both domestic and international actors a basis for verification. Second, to fill in the missing details, the accords called for a broad and many-faceted process of consultation, and depended heavily on burdensome constitutional reform procedures. Neither the PAN nor the FRG governments, not to mention the URNG, have been strong or united enough to deliver political support to elaborate and implement the accords. Consensus has been difficult to develop and sustain, and the government has been unable to overcome conservative opposition, both from inside and outside the formal political system. Throughout the negotiations and implementation, the parties to the accord have shown ambivalence regarding popular participation in the process: participation has often been very selective, yet when participatory mechanisms proved cumbersome, the parties have tried (often unsuccessfully) to avoid

being constrained by them. In the end, the Guatemalan accords are little more than an undemocratic elite pact, without the efficiency and decisiveness that elite-based agreements sometimes bring.

For international implementers and donors, the Guatemalan process presents a number of dilemmas. Having encouraged, mediated, and advised the parties, the key international actors such as the UN and the “Friends” of the peace process have felt an obligation to carry through in supporting the process, despite its limited achievements to date. Donors continued to support the PAN and FRG governments even if their support for the peace process at times rang hollow, since the alternative would have been to abandon the process entirely. Following the voters’ rejection of the constitutional reform package, it became even more difficult for international donors to withhold aid, although it did help focus their efforts around fiscal reform. The government’s failure to increase tax revenue, however, has already dampened donor enthusiasm: only a little over half of the \$2.3 billion in international assistance promised Guatemala in 1997 has been disbursed, slowing dramatically in 2000 and 2001.³ There is a certain irony to this outcome, given that obtaining foreign assistance and investment was among the government’s main incentives for signing the accords in the first place.

Among the main lessons from the difficulties of implementing the Guatemalan process is that international peacemakers should pay close attention to the relative bargaining power of the two sides. If one side (especially the government) is very weak, it may not make much sense to endorse negotiation of multidimensional peace accords. Unless there is sufficient leverage by the opposition to extract significant, concrete concessions, the result is likely to be vague accords that produce little substantive change and are difficult to effectively verify. International mediators should also recognize that there are definite costs, during the implementation phase, to the inclusion of elaborate schemes for further consultation and specification of measures to be taken after the signing of accords. These mechanisms—while obviously necessary to broaden

³ “Peace and Development for All” Document prepared by the Guatemalan Government for the Consultative Group meeting, Guatemala, Dec. 19, 2001.

ownership and develop societal consensus—will slow implementation significantly, and risk distributing responsibility so broadly that it is difficult for international verifiers to apply pressure to get things done.

This issue points to an important distinction between implementation of peace agreements and what might be called normal democratic political process. Peace agreements are not democratic, but may lay foundations for democratic processes. To lay those foundations, and to prevent the stronger of the warring parties from simply dominating the post-war environment, peace implementation needs to move quickly, rearrange political institutions so that newly incorporating elements of the polity have sufficient guarantees, and exploit the very short attention span of international donors and political actors. Peace implementation is disruptive of the existing order: it creates a context in which old institutions (such as repressive police forces) can be dismantled and new ones created. Normal democratic political processes, in contrast, are generally slow moving, evolutionary in changing institutional arrangements, and dependent on having reasonably equitable and accessible institutions already in place. If the lines are blurred between peace plan implementation and normal democratic process, the result is a hybrid that is unlikely to produce positive results. Implementation will have too little momentum to transform entrenched institutions, and international support and pressure for change will quickly evaporate. Moreover, all the popular participation in a hybrid model will take place within a context that is still so inequitable that popular political efficacy is impossible. Guatemala appears to have become just such a hybrid, and international peacemakers should probably avoid others.

i This from a population of approximately 7 million in 1980, and 11 million in 1997 (World Bank,[need full cite] 1998:194). Since most of the deaths occurred in the few years before and after 1980, we can use the 1980 population estimate for calculating the percentage of the population killed during the conflict, roughly 2 percent.

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- ii See MINUGUA, Informe del secretario general de las Naciones Unidas sobre la verificación de los acuerdos de paz en Guatemala (15 de abril-31 de diciembre de 1997), (Guatemala: MINUGUA, February 1998); MINUGUA, Informe del Secretario General de las Naciones Unidas sobre la verificación de los acuerdos de paz en Guatemala (1 de enero - 31 de julio, 1998). (Guatemala: MINUGUA, October 1998). See also UN Doc A/51/936, “Misión de verificación de las Naciones Unidas en Guatemala, Informe del Secretario General,” (New York, U.N. General Assembly, June 30, 1997).
- iii See Edelberto Torres-Rivas and Gabriel Aguilera Peralta, Desde el autoritarismo a la paz, (Guatemala: FLACSO, 1998), pp. 62-65.
- iv Ibid., pp. 62-68.
- v See, for example, Edgar Ruano Navarro, Esbozo Historico del Movimiento guerrillero Guatemalteco 1962-1972. Typescript, Guatemala 1998; Torres-Rivas and Aguilera, Desde el autoritarismo a la paz, and Mario Payeras, Los Días de la Selva (Guatemala: Casa de las Americas, 1980); idem., Los pueblos indigenas y la revolución guatemalteca: ensayos étnicos (Guatemala: Luna y Sol, 1997).
- vi See Michael McClintock, The American Connection, Volume 2: State Terror and Popular Resistance in El Salvador, (London: Zed Books, 1985).
- vii See Piero Gleijeses, Shattered Hope, (Princeton: Princeton University Press, 1993).
- viii Héctor Alejandro Gramajo Morales, Tesis de la estabilidad nacional (Guatemala: Editorial del Ejercito, 1989).
- 9 For detailed discussions, see Torres-Rivas and Aguilera, Desde el autoritarismo a la paz, and Jennifer Schirmer, The Guatemalan Military Project: A Violence Called Democracy, (Philadelphia: University of Pennsylvania Press, 1998).
- x See David Dye, Unpublished typescript on Guatemalan military, Managua, Nicaragua 1998.
- xi See Juan Alberto Fuentes, ed., Guatemala: los contrastes del desarrollo humano, (Guatemala: Sistema de las Naciones Unidas en Guatemala, 1998), pp. 76-83.

xii See Caroline Hartzell's chapter in this book for details on Esquipulas.

xiii The Guatemalan government was apparently reluctant to use the term "mediation" to refer to the U.N.'s role, in part in an effort to differentiate the Guatemalan process from that in El Salvador. We will use here the uncommon terms "moderation" and "moderator" following their use in Guatemalan discourse, to refer respectively to the U.N.'s mediation role and to the U.N.'s mediator, Jean Arnault.

xiv The accords are available in English from the U.N. Public Inquiries Office, and online at <http://www.usip.org/library/pa/index/>.

xv This interpretation is confirmed by an internal URNG document dated July 12, 1994, "Memorandum de la CG (*Comandancia General*) de la URNG," copy in authors' possession.

xvi Interview, URNG commander Rodrigo Asturias, June 1998.

xvii See Tania Palencia Prado and David Holiday, Towards a New Role for Civil Society in the Democratization of Guatemala, (Montreal: International Centre for Human Rights and Democratic Development, February 1996).

xviii See J. Fernando Valdéz and Mayra Palencia Prado, Los Dominios del Poder: La Encrucijada Tributaria, (Guatemala: FLACSO, 1998,) p. 339.

xix Author interview, former Defense Minister Julio Balconi, June 1998.

xx Author interview, Col. Otto Noack, Guatemala City, January 1998.

xxi Serrano had headed the Council of State during Ríos Montt's military government of 1982-83.

xxii See Tania Palencia Prado, Peace in the Making, (London: Catholic Institute of International Relations), 1996, p. 15.

xxiii "Memorandum de la CG (*Comandancia General*) de la URNG," July 12, 1994.

xxiv See Rachel McCleary, The Constitutional Crisis in Guatemala: The Responses of the International Community and Guatemalan Society, (Washington, DC: United States Institute of Peace, January 1994).

xxv See Héctor Rosada-Granados, El lado oculto de las negociaciones de paz (Guatemala: Friedrich Ebert Stiftung/Proyecto Nacional Guatemala, Hacia la Paz, 1998), pp. 75-89.

xxvi The significance of this concession by the government can not be overstated. Just several weeks prior to the signing of this agreement, one top military officer told a western diplomat that Guatemala would "never" accept the presence of an international verification mission. Author interview, June 1994.

xxvii According to former government negotiator Héctor Rosada, this limitation was unavoidable, since the CEH could not be part of the judicial organ of the state. Any attempt to give it prosecutorial powers would render it unconstitutional; see Rosada-Granados, El lado oculto, p. 93.

xxviii Interview with U.N. officials, New York, January 1995.

xxix This sounds more dramatic on paper than it is in practice, given the extremely low government expenditures at the time the accord was signed.

xxx For its part, the URNG announced mid-year that they would restrict their activities in collecting war taxes.

xxxi Author interviews with Tania Palencia and Héctor Rosada-Granados, May 1999.

32 Constitutional reforms require the support of two-thirds of Congress, followed by a majority vote in a popular referendum.

xxxiii If one discounts the capital city vote, two of the four ballot questions (those related to social and cultural rights, and the reform of the judiciary) would have passed.

xxxiv According to the Constitution, political parties or organizations can offer constitutional reforms if they get 5,000 signatures from registered voters.

xxxv Article XX of the 1985 Constitution prohibits persons who have been *de facto* heads of previous governments from running for office, a provision explicitly aimed at individuals like Rios Montt who had governed the country through military coups.

36 These include a university vice-rector (and indigenous expert on education), a banker, a cooperative leader, and an economist who has worked for international organizations.

xxxvii According to one account, no reliable evidence has emerged linking Arnault personally to MINUGUA's failure to investigate. At the time of Mincho's disappearance, Arnault as moderator of the negotiations was under orders to keep his activities separate from those of MINUGUA, although he was a logical target of these accusations given his earlier knowledge and subsequent position as chief verifier of the accords; see Jack Spence et.al., Promise and Reality: Implementation of the Guatemalan Peace Accords (Cambridge, MA: Hemisphere Initiatives, August 1998), pp.59-62.

xxxviii DeSoto and del Castillo. "Obstacles to Peacebuilding."

xxxix Inforpress, "Guatemala: Refugee Returns near end," Central America Report XXV, no. 9 (March 5, 1998), pp. 4-5.

xl Spence et al., Promise and Reality, p. 21.

xli Much of the analysis presented here is attributable to Paula Worby, a longtime observer of the Guatemalan refugee return. The section authored by her in Spence et al., Promise and Reality, provides further detail on this issue.

xlii Inforpress "Guatemala: Refugee Returns near end," p. 4.

xliii Ibid.

xliv Interview, U.N. official, June 1998. Anonymity requested.

xlvi Interviews with former Defense Minister Julio Balconi (May 1998), retired Major Mauricio López Bonilla (May 1999), and URNG leader Rodrigo Asturias (May 1998).

xlvi MINUGUA, Informe del Secretario General (1 de enero - 31 de julio, 1998). October 1998.

xlvi See Comisión Especial de Incorporación (CEI), Balance del programa de incorporación de la URNG a la legalidad, Guatemala: CEI, 1997; MINUGUA, Informe del Secretario General (15 de abril-31 de diciembre de 1997); MINUGUA, Informe del Secretario General (1 de enero - 31 de julio, 1998); UN Doc S/1997/432, "Report of the Secretary-General on the Group of Military Observers Attached to MINUGUA," June 4, 1997.

xlvi The government's obligations were laid out in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society. The government's only obligations under the Agreement on the Definitive Ceasefire were to relocate their forces, allow U.N. inspection of facilities, and limit movements to those that would not impinge on the URNG's assembly points or their security zones.

xlx See Spence et al., Promise and Reality, pp. 28-9.

l See MINUGUA, Informe del Secretario General (15 de abril-31 de diciembre de 1997), p. 7.

li See MINUGUA, Informe del Secretario General (1 de enero - 31 de julio, 1998), p. 19.

lii See Torres-Rivas and Aguilera, Desde el autoritarismo a la paz.

liii Agreement on Strengthening Civil Power 1996, paragraph 23.

liv Agreement on Strengthening, paragraph 10.

lv Interview with PNC official, May 1999.

lvi Interviews, U.N. officials, Guatemala, June 1998.

lvii Interview with U.N. and U.S. officials, June 1998.

lviii Guatemala shares this status with several other Latin American countries, including Bolivia, Ecuador, the Dominican Republic, El Salvador, Paraguay, Colombia, Peru, Costa Rica, Panama, and Venezuela.

lix Spence et al., Promise and Reality, p. 47.

lx World Bank (1997), [need full cite]p. 222.

lxi Charles D. Brockett, Land, Power, and Poverty: Agrarian Transformation and Political Conflict in Central America, Second Edition (Boulder: Westview Press, 1998); Robert G. Williams, Export Agriculture and the Crisis in Central America (Chapel Hill: University of North Carolina Press, 1986).

lxii Ibid.

lxiii World Bank (1997), [need cite] p. 226.

lxiv Fuentes, ed., Guatemala, pp. 11-23.

lxv Williams, Export Agriculture.

lxvi Gustavo Porras, Address at conference entitled “Un año de la firma de la paz en Guatemala,” (Guatemala: FLACSO, 1997); Valdéz and Palencia Prado, Los Dominios del Poder.

lxvii Agreement on Social and Economic Aspects and Agrarian Situation. Summary drawn mainly from Spence et al., Promise and Reality, p. 52.

lxviii See Hernández Alarcón, Rosalinda, The Land Issue in the Peace Accords: A Summary of the Government’s Response (Guatemala City: Inforpress Centroamericana 1998), p. 16.

lxix MINUGUA, Suplemento sobre la verificación del acuerdo sobre aspectos socioeconómicos y situación agraria, (Guatemala: MINUGUA, October 1998).

lxx MINUGUA, Suplemento sobre la verificación, p. 7.

lxxi Spence et al., Promise and Reality, p.49.

lxxii Ibid., 55.

lxxiii Agreement on Identity and Rights of Indigenous People, part IV, Section A.

lxxiv Spence et al., Promise and Reality, p. 42.

lxxv See Mireya Navarro, “Guatemalan Army Waged 'Genocide,' New Report Finds,” in The New York Times, February 26, 1999. The actual report was available within weeks on the Internet (<http://hrdata.aaas.org/ceh/>), but it was not published until some six months later.