

The Politics of UN Human Rights Missions: The Case of El Salvador and Guatemala

(unfinished manuscript, circa 1996-1997)

As the peace-keeping and peace-building role of the United Nations has expanded globally in the 1990s, human rights verification has become a common tool for facilitating transitions from war to peace. The United Nations pioneered *in situ* human rights verification in El Salvador in 1991 with the establishment of a mission prior to a cease-fire and near the conclusion of UN-mediated negotiations between warring parties. Its post-war responsibilities coincided with UN monitoring of the demobilization of guerrillas and reduction of the armed forces, UN monitoring of the 1994 election, and overall UN monitoring of the peace accords.

In Guatemala, El Salvador's immediate neighbor, the UN became involved in 1994 in assisting negotiations to end an internal civil conflict and later that year established a human rights verification mission, which will be in place more than two years prior to the signing of a final peace accord. The UN mission in Guatemala has, inevitably, drawn upon the experience and personnel of the earlier operation in El Salvador, yet a systematic comparative interpretation has yet to be offered of the impact of UN-sponsored human rights verification efforts in both countries.

Two different viewpoints are evident on the role of the UN in improving human rights conditions in both El Salvador and Guatemala. First, the international human rights community has evaluated UN human rights verification in light of its own legal traditions and discourse. In this community, the UN is judged to be effective only if its pronouncements are in accord with internationally recognized standards of human rights, and if its actions constitute vocal and unequivocal advocacy for the victims of human rights violations. From this point of view, the UN has too often subjugated human rights to political concerns and, in the process, undermined or even wasted potential opportunities for change.

A second viewpoint has been proffered by political analysts more generally, who have tended to view the human rights work of the UN in broader political terms. This group, which includes national and international political actors (political parties, governing entities, diplomats, international agencies), tends to view the human rights verification work of the United Nations as most important for its ability to facilitate democratic transitions and peace processes. From this perspective, one of the most important functions of human rights monitoring is to build confidence among demobilizing forces that they will not run security risks. Often the level of political violence is the standard for evaluating progress; when such violence decreases, thus enabling the political activity of recently demobilized guerrilla forces, for example, political observers offer favorable evaluations of the UN's work.

Most analyses do not employ one perspective to the exclusion of the other, yet, as we shall see, rarely are the two positions reconciled in such a way as to produce a coherent interpretation

of the UN's effectiveness. The premises of these two positions, if taken in isolation, lead to unidimensional and incomplete interpretations of UN interventions. In simplistic terms, most observers seem to view the UN's efforts positively or negatively depending upon which criteria they emphasize.

The crux of the debate revolves around whether attention focuses on the features of the political regime, that is, who participates and according to what rules, versus the features of the state as a permanent set of institutions, such as whether or not legal norms apply consistently across geographic areas, for different social classes, and to state agencies themselves. These are analytically distinct concepts, but in practice democratization of the political regime and of the state can be mutually reinforcing. As O'Donnell (1993, 1996) has noted, regime democratization and state liberalization do not necessarily coincide, and many durable democracies do not consistently enjoy the rule of law.

The international human rights community -- dominated as it is by lawyers and legal norms -- too often dismisses the importance of political change if it occurs unaccompanied by progress in human rights terms. However, human rights "progress" remains a subjectively elusive notion, still rather bluntly defined. Throughout the 1980s, the human rights movement tended at first to emphasize quantitative measurements of rights violations in Central America, moving only toward a focus on more qualitative assessments once the numbers revealed a clear decline. Thus, a reading of international human rights reporting would not have provided the uninformed observer with any criteria for predicting, much less understanding, the political transitions that occurred in El Salvador and Guatemala in 1990s.¹

By habitually measuring political change against legal norms (which are, by definition, utopian standards), the human rights community's evaluation of democratic transitions tends inevitably toward an accentuation of the negative, largely ignoring the nuances and subtleties of partial political advances. In the human rights community, assessments of violations such as assassinations or disappearances are an easily measurable phenomenon that is not open to much interpretation. But this community has not come up with standards for measuring "progress" in the administration of justice; is the successful prosecution of a high-profile human rights case more important than the successful resolution of a dozen cases of abuse by state authorities against common citizens. In measuring political transitions, the human rights community also

¹ A good example of this kind of thinking can be found in an Americas Watch report on El Salvador published in March 1990, A Year of Reckoning: El Salvador, A Decade After the Assassination of Archbishop Romero. The preface to that report ends by noting the similarity of fate of the slain Jesuits during the 1989 offensive in San Salvador to the assassination of Archbishop Romero a decade earlier, which left "the world to wonder at how little things have actually changed in El Salvador."

In fact, because of the political changes that El Salvador underwent during the 1980s, the Jesuits' deaths and the aftermath was a clear example of how *much* things had changed: their deaths, unlike the death of Romero and thousands of others a decade earlier, would contribute substantially to increased domestic and international pressures for a negotiated political solution.

rarely views the opening of political space as important a variable as it would legal reforms or the diminution of human rights violations. Only in the rarest of circumstances would the short-term deployment of an international UN force likely result in "progress" as traditionally measured by the human rights community.

On the other hand, purely "political" perspectives can also lead to false conclusions about the UN's impact on human rights conditions. If a given peace process is viewed as successful in terms of effectively demobilizing military forces and bringing all sides to a common participation in democratic political life, the United Nations' role will likely be highly lauded. Yet this "success" should not distract attention away from structural human rights issues, such as the performance of the judicial system, that may or may not accompany the establishment of a formally democratic political regime. Initial enthusiasm about political transitions --especially ones which are essentially transitions from war to peace-- all too often gives way to more pessimistic conclusions about the prospects for establishing the rule of law.

This article/chapter will attempt a comparative analysis of the UN human rights verification missions in El Salvador and Guatemala based on a synthesis of the human rights and political perspectives. There are two inherent difficulties in the comparison of these two missions. First, the notion of human rights is a far-reaching concept, going to the very root of the legal basis for democratic governance. Improvements in human rights conditions--whether in terms of violations or in terms of due process or the availability of judicial recourse--are processes that take years, if not generations. Yet, while a widespread consensus exists as to what constitutes a human rights violation, there are no agreed-upon standards for how to measure progress in the ability of individuals to obtain judicial recourse for these violations, or in what constitutes improvement in the reform of state institutions related to the administration of justice.

Second, in the two cases under consideration here, the United Nations established missions at very different moments in those countries' respective peace processes. In El Salvador, the human rights component of the verification mission had hardly begun in the second half of 1991 before it was expanded to include UN monitoring of the cease-fire, demobilization, police reform, land distribution and elections. In contrast, the mission in Guatemala operated for more than two years prior to the signing of a final peace accord and the subsequent expansion of its verification responsibilities to matters other than human rights. This key difference may, nevertheless, help illuminate various issues related to the question of how human rights verification plays out politically in different contexts.

Human Rights and Theories of Transitions

The literature in political science offers little assistance toward understanding the political implications of international human rights monitoring efforts such as those under examination here. David Forsythe, for example, finds that political scientists "do not think

human rights is an important part of international relations."² An exception to this rule has been the work of Kathryn Sikkink, who has sought to demonstrate how internationally linked communities, comprising domestic and international non-governmental organizations, UN agencies, and specific entities within national governments, can influence national policies by using information and advocacy to influence the human rights conduct of states. These "transnational advocacy networks" affect states' domestic policies not only by influencing the policies of major bilateral and multilateral actors, but also by simply promoting the increasingly generalized acceptance of human rights norms in international civil society.³ In addition, a striking weakness of scholars of comparative politics has been their steady resistance to incorporate international forces into their analysis, as Karen Remmer has noted: "Instead of grappling with the important role played by international forces in the democratization process, comparativists have continued to build frameworks that explain regime outcomes purely in terms of domestic political forces and processes."⁴

As David Beetham has noted, there is a "persistent skepticism" by those engaged in the study of political theory, comparative politics and international relations as to the status of human rights:

...the universalism required by the human rights project is deemed philosophically insecure, morally problematic and politically impractical by the mainstream tendencies within the discipline.... Its marginal status has been further reinforced by an academic division of labour, which has assigned the study of human rights to the discipline of law rather than politics.⁵

Beetham notes that the central focus for the study of human rights in the disciplines of law and political science bring two different perspectives to bear. For lawyers, the focus is *justiciability*, defined as "the formulation of principles or norms in terms that make them amenable to adjudication in a court of law, and the processes whereby such adjudication is rendered possible

² David P. Forsythe, The Internationalization of Human Rights, Lexington MA: Lexington Books, 1991, p. 174.

³ Kathryn A. Sikkink, "Nongovernmental Organizations, Democracy, and Human Rights in Latin America," in *Beyond Sovereignty*, Ed. Tom Farer, Baltimore: The Johns Hopkins University Press, 1996:150-168.

⁴ Karen L. Remmer, "New Theoretical Perspectives on Democratization," Comparative Politics, October 1995, p. 117.

⁵ David Beetham, "Introduction: Human Rights in the Study of Politics," Political Studies, (1995), XLIII, 1-9., 3. See K. Pritchard, "Political Science and the teaching of Human Rights," Human Rights Quarterly, 11 (1989), pp. 459-75, for the results of an international survey carried out in 1989 which showed the little attention political scientists have given to the subject.

and carried forward."⁶ On the other hand, political scientists are interested in "the struggle to influence and control the exercise of public power."⁷ This focus bears on human rights in several ways, including the use of human rights discourse as a means to contest political authority or the organization of human rights groups to challenge or influence state policies and practices. Seen from this vantage point, the two concerns are clearly complementary--the struggle for human rights is obviously an implicitly political phenomenon.

The convergence of law and politics also emerges in any discussion of the United Nations peace missions and state sovereignty. The international presence of U.N. missions the territory of member states, with the powers of verification and public evaluation of peace commitments, directly challenges the notion of state sovereignty. The resilience of sovereignty, in fact, is a strong impediment to the further proliferation of human rights missions.⁸ UN peace missions --even human rights missions-- are political in the sense that they are sent to countries in transition, and not merely to any country with a human rights problem.

In the last decade, scholars concerned with the process of democratic transitions and consolidation have increasingly begun to regard human rights conditions as an important measure of democratization. In Latin America, the vast majority of studies have focused on Southern Cone transitions, where the principal transition dichotomy was the progression from authoritarian to democratic regimes, but where such changes implied a *redemocratization*. While these theorists have much to offer in the study of Central American transitions, it should be noted that the latter cases vary considerably. In Central America, democratic transitions began via competitive electoral processes in the 1980s. Simultaneously, the region was embroiled in internal armed conflicts (which kept important actors on the left or right out of electoral events), such that the dominant transition paradigm may be that of the movement from war to peace. Furthermore, unlike the Southern Cone scenarios, regime transitions in these countries have not involved a *return* to democratic rule, and thus did not involve the restoration of democratic institutions (including a functioning judicial system) which had only been temporarily suppressed.

This bias toward Southern Cone case studies has distorted the interest in human rights issues for some transition theorists, and led to falsely generalized assumptions. One of the few theorists to write specifically about human rights in democratic transitions is the Chilean political scientist Manuel Garreton. He writes that the human rights question in transitions is more a question of holding past violations accountable, rather than one of the new regime itself.

The concern is not so much with the present and future conditions that would assure the

⁶ Ibid., p. 6.

⁷ Ibid.

⁸ Cite Blanca Antonini, North-South Conference.

achievement of human rights, *which in some way are considered to have been secured with the disappearance of the military regime and the installation of a democratic one*, as it is with the imperative to deal with an unresolved issue.⁹

For Garreton, the issue of dealing with past human rights violations is one --indeed, the most important-- of the "authoritarian enclaves" that must be addressed in order to complete the democratic transition. This point overlaps with another dilemma, in which two intertwined logics -- one ethical/ symbolic, the other political/state -- come into conflict after the installation of a democratic regime. The ethical-symbolic logic "proposes a radical solution that in the last analysis suggests the reconstitution of the situation that existed *prior to the massive violation of human rights by authoritarian regimes...*".¹⁰ The political/state logic, on the other hand, subordinates the human rights issue to the establishment and maintenance of a democratic regime. Prior to a transition, these two logics appear to coincide as they both seek a democratic regime which can enforce human rights standards. During the transition, however, the political logic predominates, while once the formal transition has been completed, the ethical-symbolic logic comes into open contradiction with the other. At that point, Garreton writes of a "hidden reciprocal blackmail" between the two logics: on the one hand, radical adherence to the human rights logic threatens authoritarian regression, but failing to adhere to the human rights logic undermines the very meaning of democracy, which the political logic emphasizes.

Obviously, Garreton could not have been envisioning the countries of Central America when he wrote the above. No one has yet to proclaim that present and future human rights conditions in these countries have been "secured" with the disappearance of military governments, nor would one ask for a return to the *status quo ante* of authoritarian regimes. Yet, in the case of Chile, with a relatively vibrant and historically autonomous judicial system, this statement makes perfect sense. Moreover, there is little evidence of a real "blackmail" inherent in the post-transition tension between the two logics described. In Central America, there is no real threat -- at least in 1996 -- of authoritarian regression.

Nevertheless, the use of these two logics -- we can call them the political vs. the human rights logic -- can be adapted to describe the perspectives and interests of national and international actors that are at play in various analyses of the Central American transitions. Furthermore, framing the human rights debate in transition contexts in terms of a strategy against authoritarian enclaves (or "reserved domains", as Samuel Valenzuela puts it) is a notion well worth recuperating for our cases. Contrary to the South American examples, however, arguably the main enclave to be targeted in the Central American context is the public security and legal system itself, not impunity for past abuses. Present and future human rights conditions, which many scholars of the Southern Cone cases seem to take for granted, are the crux of the matter in

⁹ Manuel Antonio Garreton M., "Human Rights in Processes of Democratisation, " Journal of Latin American Studies, No. 26, 1994, p. 222.

¹⁰ Ibid., p. 223.

Central America. Moreover, the human rights logic is counterposed not to a logic that is principally concerned with the maintenance of the democratic regime, but rather to a security/law-and-order logic which purports the same goals (citizen security, justice) albeit by very different, and sometimes decidedly anti-democratic, means.

That is manifestly the case in both El Salvador and Guatemala, where daily injustices against the citizenry derive from the continued existence of authoritarian practices embedded in state institutions. The question of past abuses has arguably been higher on the agenda of the international community in these countries than on the agendas of either the everyday citizen or the political elite. This is not to argue that public perceptions should delimit our analysis, but in this case the citizenry's primary preoccupations with safety and order, at the expense of the rule of law and human rights, suggest that formal political democratization by no means has an automatically positive influence on subsequent institutionalization of human rights norms and the rule of law.

Another scholar whose writings are useful in understanding the nature of these competing logics is Guillermo O'Donnell. Co-author of one of the early studies on democratic transitions (FN), O'Donnell notes that, in discussing democratization, one should be careful not to conflate discussions of the political regime with that of the state. In defining regime, O'Donnell uses his earlier description:

...the ensemble of patterns, explicit or not, that determines the forms and channels of access to principal government positions, the characteristics of the actors who are admitted and excluded from such access, and the resources [and] strategies that they use to gain access.¹¹

Transition theories consistently refer to this notion, when analyzing the move toward democracy. By contrast, one should consider the law as a constitutive dimension of the state: "the type of legality...that textures the particular order that is enforced over a territory."¹²

O'Donnell defines these two concepts primarily in order to argue that not only can a regime be democratic or authoritarian, but so can the state; furthermore, a democratic regime can co-exist with an authoritarian state, especially when legal access or state actions towards its citizens are discriminating. For example, in a democratic regime, poor people are assured of the right to vote, and that their vote will be counted properly, but when one "cannot expect proper treatment from the police or the courts, [this] puts into serious question the liberal component of

¹¹ O'Donnell and Schmitter, 1986, Vol. IV., p. 73.

¹² Guillermo O'Donnell, "On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at some Postcommunist Countries," World Development, Vol. 21, No. 8, p. 1360.

that democracy and severely curtails citizenship."¹³ Terry Karl, who uses the term "hybrid regimes" for Central American political systems, does not make the same theoretical distinction between state and regime, but nonetheless arrive at a similar conclusions about the functional and territorial political mix of regimes with authoritarian and democratic characteristics.¹⁴

Another theoretical limitation to transition theories has been their almost exclusive focus on elites. Regime transitions by definition focus on elites, whereas the reversal of authoritarian practices of the state (as defined by O'Donnell) will more likely involve at least some organized pressure from below. This is precisely the realm in which nongovernmental organizations and other organizations of civil society are most active, and it is these groups who most find fault with the optimistic rhetoric of the transitionist thinkers. To the extent that elite pact-making, so key to transitions, is also non-inclusive of actors in civil society, it can be said that such transactions rely upon vertical (read authoritarian) decision-making which in the long-run is inimical to the consolidation of democracy.¹⁵ In fact, the strength and independence of civil society actors is an important variable for understanding transitions: the greater the pressure from civil society in support of the human rights logic, the greater the contradictions with the political logic propounded by elites during a transition.

Given these formulations, it may well be useful to think of the "political" versus the "human rights" interpretations of UN human rights efforts in reference both to the competing logics proposed by Garreton as well as to the state-regime analysis presented by O'Donnell. Pronouncements about the positive or negative impact of the United Nations missions will, in general terms, also fall along these fault lines. The use of a more precise understanding of the assumptions behind different characterizations is thus important to more clearly discern the contributions made by the UN.

The Case of El Salvador

Background

The installation of a human rights mission by the United Nations (ONUSAL) in July 1991 was the first time the UN had engaged in in-country human rights verification efforts, and this even prior to a cease-fire agreement while fighting was ongoing. Given the start-up time required to gear up their verification work, however, it was several months before all of their five regional offices were actually open, fully staffed and operational. By the time the mission began to settle in by the end of 1991, the cease-fire and further expansion of the mission was upon

¹³ Ibid., p. 1361.

¹⁴ Terry Lynn Karl, "The Hybrid Regimes of Central America," *Journal of Democracy*, Vol. 6, No. 3, July 1995, pp. 72-86.

¹⁵ Cite 1990 Karl here...

them. The UN human rights component continued until the end of 1996, although its verification capacities became greatly reduced with the closing of regional offices in late 1994 and early 1995.

The origins of the UN presence prior to a cease-fire has to be understood from the perspective of the two parties in the negotiations. On the one hand, the FMLN rebel leadership, after signing the human rights accord in July 1990, came under intense internal pressure to deliver something beyond the paper promises which that accord was seen to offer. Shortly thereafter, they asked the UN to begin immediate verification, even though the accord itself stipulated that verification would begin following a cease-fire. [source this.] The government, too, became convinced eventually that such a mission could be beneficial to their interests. The war was continuing, and the government felt like it never received proper due for its improved respect for international humanitarian law. The mission was thus seen as an important, objective counterweight to what they viewed as the continual broadsides launched by Salvadoran human rights organizations. For its part, the FMLN also probably hoped that UN verification of government abuses might strengthen its hand at the negotiating table. [David, Ian Johnstone has some remarks to this effect, but he says that the HR mission was to also verify actions by the FMLN and that it was therefore seen by the government as a potential improvement of the status quo in which the government alone was criticized by the UN rapporteur. Is this right? I thought ONUSAL really only looked at the government. If Johnstone is right, we should probably cite him.]

Perhaps a more important element for both actors, however, was the need to prepare the terrain for the reinsertion of the FMLN. It became clear that for the government to allow the UN verification team to operate prior to a cease-fire would both be an important indication of political will, and would help convince FMLN combatants to demobilize. Ironically, the fact that the UN was slow to begin working and making pronouncements on particular human rights issues and cases probably eased its initial acceptance by the government, which was still quite suspect of the UN's role despite having invited it in to verify.

The sequencing of the UN mission's arrival was also important. The UN did begin verification prior to the cease-fire, albeit slowly and with extreme caution, but the timing of its installation came well into the negotiations process, after several important agreements had been already reached (such as constitutional reforms that touched upon the role of the army and police). In short, the UN was assured of the irreversibility of the process and of the seriousness of the parties in the negotiations long before it put its first step forward on Salvadoran soil.

[the following graf doesn't quite hold together. What's the central point? The UN didn't affect the perception of the FMLN's capabilities, did it? Or is there just a missing sentence here, something to the effect that the FMLN had strong incentives to keep the war on the boil, and the presence of the UN slowed them down. I don't get the relevance of the remark about the fact that some people weren't convinced of the FMLN's capacity to the later stuff about the impact of the war on the general population and the positive impact that the UN had in reducing the intensity of fighting.]

The initial impact of the UN's presence can also only be fully interpreted in light of the war situation itself. Following the FMLN rebel's incursion into the capital city of San Salvador in November 1989, there remained no doubt that the FMLN was still a viable military force. Although this was the first time that many in exclusive neighborhoods of San Salvador felt the war directly, throughout the countryside and in other urban areas the 12-year- long civil war was a dominant fact of daily life. The stalemate in military terms did help bring both parties to the negotiating table, but in the meantime civilians continued to live through the war. Thus, the transition from war conditions to peace was not only important politically, when it happened it could be felt palpably throughout the country. The UN's presence presaged that change, and to some extent may have received undue credit for it.

Despite the tenuous and halting nature of ONUSAL's first few months, UN officials later took from the experience several lessons. First, that it was possible to verify human rights in the midst of a war and prior to a cease-fire without running great risks to their personnel. Although not an optimal circumstance, it could be done if the political and humanitarian reasons for doing so were sufficiently compelling. Second, the massive presence of UN in the field probably helped assuage tensions and give a greater sense to the general population that peace was at hand. But most importantly, the UN took from the Salvadoran experience the lesson that pre-cess-fire verification can solidify the negotiations process, raise the stakes for either side to back away and increase confidence in the process as a whole.

Mandate: Setting the Agenda

ONUSAL's human rights mandate -- to verify the situation of human rights in the country and make recommendations to the parties to insure full compliance -- was bolstered by the extraordinary power accorded it in the human rights agreement of visiting any part of the national territory, including government installations, at any time without prior notification. It is this element of the mandate to which the "dissuasive" aspect of their mission was attributed. Presumably, if government or rebel forces have to face the possibility of UN officials barging in at any moment, they will be less inclined to, say, torture prisoners, or even just hold prisoners illegally.

At the beginning of the mission, not everyone in ONUSAL was clear as to what its role should be. ONUSAL walked into a situation in which very few institutional protections for human rights were in place. A Human Rights Ombudsman's Office did not yet exist (it was created by the accords, and began functioning in 1993) and the courts and police were not seen as guardians of citizen's rights. Non-governmental human rights groups, such as that run by the Archdiocese, had long operated, but their territorial coverage and resources were limited. Into this vacuum entered ONUSAL, which immediately became a magnet for those seeking solution to a wide range of problems, including many non-human rights-related issues. Thus, it fell upon ONUSAL to try to resolve citizens' grievances -- or so it seemed to the people themselves -- rather than bolster the state's capacity to do so.

This de facto problem-resolving role was complemented by a troubling lack of recognition of the need to strengthen national institutions that would endure longer than the mission itself. This realization came soon enough, but the mission never acted with sufficient urgency and effort to engage state institutions-- especially the courts--in ways that would improve their performance in the long-run. The Human Rights Division of ONUSAL came to realize that its only real power over the government lay in its recommendations, which in its first reports were broad and maximalist [what does this mean??]. By the Division's seventh report, a full two years into the mission, it noted that

international verification of the enjoyment of human rights in El Salvador should not be limited to mere observation but should promote and influence changes in the structural, legal and institutional and social conditions that had led to widespread serious violations during the armed conflict...¹⁶

Thus the mission began making recommendations for institutional reforms, including the passage of new secondary laws and even constitutional reforms, based on its verification of the problems detected. These efforts met with limited success, as will be discussed below.

The overall agenda of the peace process and its verification-- the sequencing and importance given to different issues throughout the transition -- also affected the fulfillment of ONUSAL's human rights mandate. As noted, the Human Rights Division's tenure as an autonomous entity was quickly cut short by the final peace accord and subsequent cease-fire. Thus, for its first three years of existence -- arguably the most important -- ONUSAL's human rights mandate overlapped with the political transition from war to peace, beginning with the demobilization of military forces on both sides and ending with the left's participation in national elections in 1994.

Throughout the demobilization process of 1992, both the public and peace agenda relegated human rights issues to a secondary plane. This fact was reinforced by the exemplary nature of the cease-fire, in which not a single serious violation occurred. The following year, 1993, was somewhat more complicated. The overall agenda prioritized the purging of the military, and the preparation for the 1994 elections. The punctuation of these issues by the polemic resulting from the March publication of the Truth Commission report and the controversy surrounding the FMLN arms cache discovered in Nicaragua (and subsequently throughout El Salvador) in May 1993 did not directly affect the work of the Human Rights Division, [but did lower the relative political profile of its work and the publicity accompanying its reports??]. The killings of high-level FMLN leaders in late 1993 resulted in the creation of a Joint Group involving the director of ONUSAL's human rights division, but this report was not released until mid-1994, after the elections. Thus, broadly speaking, human rights issues received a lower profile by the mission through most of the political transition.

¹⁶ A/47/968 and S/26033 (July 2, 1993), para 324.

a. sequencing meant that human rights deemphasized/ subordinated to political transition negotiations/demobilization/elections

(3) were there political trade-offs made for human rights?

1. critics say late on criticizing the PNC/death squads..../first had to do with state-sponsored violence

process was almost derailed by failure to demobilize, or the explosion of arms, or the slowness of land titling for ex-combatants; the two most momentous human rights events, both of which occurred in 1993, the truth commission report and the killing of several high-level FMLN leaders, were fairly rapidly dispelled, in part by creating yet another commission to look into the matter, which conveniently postponed debate until after the 1994 elections.

b. were human rights jeopardized by not being more vocal? Texier, more legalistic; Garcia Sayan, more political (regime change); expectations of the UN were political violence....not the case...

claims is that they lacked sufficient autonomy to make their case

I would explain that they came in with an expectation of verifying political violence.... this inherited from the war, which focused on political persecution rather than structural faults in the system. when this did not materialize

c. expectations of/relationships with civil society groups....

(4) UN contribution to regime change..... in terms of human rights... dissuasive, grupo conjunto

to some extent, then it's inevitable that one's view of the human rights situation, or the UN's role in ameliorating violations, is reflected by the overall political success of a mission and a process.

The problem comes when one tries to extrapolate the UN from the process--who deserves the credit? Domestic actors, or international influences...

mediating labor conflicts, etc... destabilization came not from failure to compliance with the accords (land and PNC were not the biggest problems facing ES), but rather marginalized actors left out of the accords.

secondly, the persistent problems of ES point to the fact that the accords are no longer the political agenda, except perhaps to the international community (ex. Doug article)

mediation efforts not always appreciated: justice is like this as well, it's not all black and white, through the crook in jail; plea-bargaining and out-of-court settlements occur all the time in western legal systems.

(5) UN contribution to state reform...

did it mobilize, strengthen local actors?, PDH

PNC...

Military intelligence....

stymied by domestic framework and sequencing; ironically, political transition forced a lot of compromises which limited the extent to which the state was to be reformed in ways that were intended by the peace accords. police changes made difficult by the concessions needed by the FMLN; electoral dynamic--so important to the process of transition--inhibited the full development of the peace accords until after ARENA won.

Ironically, here human rights groups have a rather old-fashioned notion of the UN's potential: "planned efforts by [the UN] to inculcate among broader sectors of the population an awareness of human rights norms and the importance of the rule of law *may prove to have the most profound long-term impact of any institutional initiatives to date*. LC, 117 (emphasis added) Yet a few sentences later notes that the "legacy of ONUSAL/MINUSAL will be most apparent in three key institutions: the Human Right's Ombudsman Office, the new National Civilian Police, and the courts."

ONUSAL found it easier, although still not uncomplicated, to work the new institutions created by the peace accords (the Human Rights Ombudsman and the National Civilian Police [PNC]) than with the old ones, namely, the judicial system. Not until mid-1994 did the leadership of the courts change, but by then ONUSAL had diminished personnel and capacity to work with them. ONUSAL was also constrained by domestic interests and timelines in working with the Ombudsman and the PNC.

(6) Conclusions: Giving credit where credit is due

The Case of Guatemala

"The difference between ONUSAL and MINUGUA is Guatemala." Leonardo Franco, MINUGUA Director, 1994-1996.¹⁷

"Over here [El Salvador], the UN was a surfer. The parties gave the whole momentum to the issue. In Guatemala...we're driving the boat, and the parties are waterskiing. We're really pulling teeth in Guatemala." Senior UN official, San Salvador, 1995¹⁸

Background

unlike ES, MINUGUA has operated as a purely human rights mission; has this changed what it's done? What has been its relationship to the peace accords.

nature of the democratic opening: military-led, still wields considerable power, although it has eroded steadily in recent years.

only in 1996, five years after direct negotiations began with the URNG, has an elected, civilian government been strong enough to begin a serious process of modernization, which includes tackling issues of military size and impunity.

important to understand that peace is not the principal paradigm domestically; in many ways, governability--as represented by the widespread reaction to and rollback of the attempted executive *autogolpe* in 1993--has set the agenda of contemporary Guatemala more than the peace process. That is, the peace process can only be interpreted as useful in generating a "national governing agenda" which can be sold to the international community, and which will enable the Guatemalan economy to meet the challenges of a globalized political economy.

verification agreement--not installation became a bargaining chip, became part of the political bargaining process, part of the transition....

There's a consensus that one lesson from El Salvador is that of its dissuasive quality, just by its mere presence. Extrapolating that to the Guatemalan case, the UN made an economic decision (as it had in Cambodia, Mozambique and Haiti) to use UN Volunteers, which in most cases were professionals in their own regard, but in some cases were young and inexperienced. The theory was that, by putting a UN vest on them and sending them out to verify a case, that the "dissuasive" function would kick in, no matter what their academic or experiential credentials were. But there's obviously a downside to this, both in terms of morale by UN workers, and

¹⁷ This quote has been attributed to Franco by various sources, although it cannot be specifically cited.

¹⁸ Interview with senior UN official in San Salvador, February 14, 1995.

there may also be a diminishing rate of returns as Guatemalans see that political space no longer needs protection, and move toward demanding real solutions to their problems.

The need for "protection", the precariousness of the political space, and the accepted realization of that need by both official and non-official actors alike, accounts for in part the ready acceptance of the UN as an external verifying force. For without the power to actually adjudicate, how are they really different from glorified, UN-sanctioned international solidarity activists engaging in accompaniment.

the counterfactual for Guatemala might be to ask: what would have happened had the UN not set up shop, or if they had set up shop and then pulled out when the negotiations bogged down? Clearly, to the casual observer, either of these responses would have spelled virtual doom for the negotiating process; without the dispelling of tensions at the local level, and the girding of political space at the national level, political or social deterioration would have forced the URNG to retire from the table, either because it was the only political option available or because pressures from below (from their supporters and sympathizers) demanded such a high-minded response.

Surprises?

1. UN expected the mission to give a push to the negotiations. Timeline much longer, but that might have been important. given that there were not going to be dramatic reforms made at the table, an environment was created in which this could be accomplished gradually. nevertheless, not until Arzu (who came in with a vision (leadership is clearly important here) and stronger executive power) did things really happen. why did this UN lesson not work?

2. reports tougher on the government than expected.... but, this may in part be due to the weakness of the government; hr ombudsman but everyone knows he's weak, so they're not so much to blame; hr ombudsman wanted criticisms; by the time Arzu came in, the UN was lucky because he took actions that the UN was not in a position to criticize.

3. corollary, under Ramiro, the UN felt like it had to go out there; this government wants all credit, is actually doing quite a lot, and wants the UN out of there. This government, with its roots firmly in the private sector, sees the continued life of the UN mission as just one more sign to the international (financial) community that all is still not well in Guatemala.

thus the UN has had a relatively low-profile; to some extent its approval or engagement is important (as in the questions raised about why MINUGUA was not involved), but in other moments its disapproval is rejected, when it appears to touch on sovereignty issues. At official levels, MINUGUA appears to be tolerated but its pronouncements not fully absorbed by state actors.

4. perhaps low-profile, inside work is more effective than public pronouncements! gaining the confidence, working hard and close with national actors, may require a less visible posturing, but it may work with greater effectiveness in the end. the critics say that the UN has

become part of the system; as reformers know, that's exactly the point--the point is to change it from within.

5. attacks by Arzu against corruption raise questions about the nature of political power. What does Arzu have that Ramiro didn't? Support from MINUGUA is a constant--leadership, vision, political base are not.... Thus it's hard to give MINUGUA much credit for these developments. However, should these purges not result in actual prosecutions, and that is not criticized by the Mission, MINUGUA will be faulted for having collaborated. Arzu has multiple gains by his move against corruption: appeases the international community, the left, attacks the opposition, and helps the national purse strings.

(1) the political/military/ economic conditions of the country,
the nature of the peace process (focus on modernization...)
lessons learned by actors from ES...

(2) what did the UN do similarly, what did it do differently?

the mandate given to the UN by the respective peace accords,

1. verification/ institution-building more integrated; what has this meant politically?

2. were there political trade-offs made for human rights?

a. harder to, because of time horizon; coincidental with the negotiations, but not with implementation

other issues in the negotiations were salient, taking heat off human rights verification?

b. expectations of civil society....

c. political vision of the mission? expanded their vision of URNG abuses, e.g.; were lucky to help their impartiality by the Xaman case, in which polarized perceptions are likely to both be off.

resistance by private sector/agriculturalists to MINUGUA: result of MINUGUA's role, or their perceived lack of a role; how much of that dynamic is dictated by the conjuncture of the s-e accord, and how much dictated by MINUGUA's actions themselves.

If MINUGUA weren't around, "perhaps we would have waited another five years" to participate.--Mayor who came out of the popular movement, 1996

(3) importance for regime change
negotiations process....depolarize debate (Xaman)
elections

credibility helped by taking on "war taxes" issue, e.g, which ONUSAL never did

(4) importance for state reform

hr ombudsman already existing...

authoritarian enclaves...judicial reform prior

military reforms apart from the table...

PACs/military commissioners: the government takes these items off the table of verification

MINUGUA took interesting step in this regard...

set agenda for peace accords..../reforms in the military/police

attitudes important: the denegation of "human rights" in the popular conception to the defense of criminals, a tendency seen since before the mission came, but which also has been exacerbated since its installation, negatively impacts on its possible effectiveness.

future credibility of the peace process, and of Arzu, depends not on resolving the issue of the past, but on hemming in violence that may be said to come from the URNG. Obviously, such a process delegitimizes the process and the URNG as interlocutors of the process..

does increased crime delegitimize the political process, or just the state; it might have an effect, but not a lethal one.

in ES as in Guatemala, few political killings lead to optimism about the political transition, if not about the consolidation of democracy.

(5) lessons learned by the UN

in the accords...

in the verification...preparation...

verification helps in confidence-building, by being dissuasive; depolarizes human rights rhetoric, even while it doesn't resolve cases, which affects the political environment

Conclusions: Conceptualizing UN human rights interventions

Is it successful? depends on what they want. trade-offs inherent in the process, and no clear rules.

regime change or democratic consolidation.... the latter faces more resistance...

--was the UN presence dissuasive? or was it the political process, of which the UN was apart, which limited the options for state or opposition violations.... crime didn't stop, it wasn't dissuasive in that sense. in fact, it appears to have risen over time. Perhaps dissuasive only refers to political violence; in that case, the UN presence is one of a series of actors.

Long before the UN arrived in Guatemala, I learned that saying I worked in derechos humanos "dissuaded" the police and military officers who inspected my papers and car registration on the inter-american highway from fabricating a violation in order to elicit a bribe.

1. need to develop methodologies for fostering change in institutions (implies long-term commitment), and methodologies for evaluating progress, hitherto non-existent in the human rights community.
2. need to broaden concepts of impunity to be able to appreciate steps taken against corruption, which in the short-long term are more damaging to the rule of law, undermining institutions, etc.
3. must be wary of confusing progress in regime change issues with democratic consolidation. highlighting remaining "authoritarian enclaves" or "reserved domains" of unaccountable, non-democratic authority or policy making can be important in this regard. This is largely a word of caution to political followers, who also employ poor criteria for determining cause and effect. but any analysis of enclaves should include not just lingering military prerogatives, but also civil-bureaucratic prerogatives which inhibit (via corruption or incompetence) the full functioning of the state apparatus; in addition, the role of the private sector and their virtual control of economic policy (especially as it implies greater possibilities or not for improving tax collection) is an incredibly important enclave...
- (4) the experiential learning by political actors.

MANDATES: if the displacement of authoritarian enclaves are not in their mandate, they'll have little to say about it: some relevant enclaves for democratic consolidation include the judicial enclave, military justice (not in ES), PACs/military commissioners, private sector control of the economy.

In doing so, we will rely upon the notion of politics as "the setting of the agenda", as the American political scientist Schattschnieder once noted. Determining what the agenda is, who sets it, and why, is one way to begin to understand the highly political nature of UN human rights missions in Central America. Elements of the agenda which are worth examining more closely in El Salvador and Guatemala include

how the political parameters of a given situation--as defined by national and international actors-

In the case of the UN in Central America, it has not fully owned up (at least consciously and publicly) to the essentially "political" nature of its activism, i.e., that its actions, by omission or commission, have a fundamentally political impact on the context in which they are operating. A worthwhile corollary to this point is the frequent submission of the political to the legal in interpreting the context itself, thus bringing about a quite partial discernment of the impact of its actions.

This inquiry accepts as a starting premise that an interpretation of the UN's role in either country that does not adequately account for the two perspectives will inescapably present only a partial or limited picture of reality.

Peter Katzenstein in "The Role of Theory In Comparative Politics: A Symposium," World Politics 48.1 (1996), p. 15.

With the collapse of the bipolar structure of power there are many good reasons why we are moving toward a world of regions. This is not a world sensibly thought about only in the categories of the 1930s and 1940s. For in this world of regions there exist *two noteworthy global processes--the legacy of two hundred years of Anglo-Saxon imperialism--that are no longer tied firmly to territorially anchored states. The first diffuses technologies through markets; hence, states no longer fully control global profits, even though they may contest that fact. The second diffuses human rights and international law; also politically contested by states, this process, too, has had profound political consequences in recent years. Thus, states will rarely give up their sovereign rights, but their sovereignty is nevertheless affected by processes that they no longer fully control. In turn these processes will reknit the relationships between regions and states in novel ways. This creates a new arena for politics, one that did not exist fifty years ago.* Although hegemons sought to dominate their regions and international markets were encroaching on state prerogatives, global processes touching the rationalist realm of profit and the cultural realm of identity did not have the political prominence then that they enjoy now. Today's world regions and the states that inhabit them

have to respond to these global processes.

...The new regionalism creates local processes of political mobilization and demobilization around internationally and regionally induced political struggles over power, markets, and identities. The intersections of global and local processes and the connections between regional contexts and national states may give us a sense of some of the newly emerging processes and structures as we witness the collapse of some of the old.

Theda Skocpol

When I look back, I am struck by the extent and richness of the historical and comparative historical work on the causes of modern social revolutions. Most of that work has moved on to study Third World nations in the mid-twentieth century; and some of it is now looking at situations like Eastern Europe after 1989. Some of the work consists of in-depth, single-case studies that are theoretically informed. But quite a bit involves juxtaposing and comparing two or more countries, much [End Page 38] as I did in SSR. In my opinion, there have been two studies about the causes of social revolutionary transformations in Third World nations in the mid-twentieth century that are blockbusters. Both are full comparative macroanalyses of both positive and negative cases (cases where revolutions happened and cases where they did not); these books are Timothy Wickham-Crowley's *Guerrillas and Revolution in Latin America* and Jeff Goodwin's *State and Revolution in the Third World*.²⁷ There is not sufficient space here to elaborate on the designs and findings of these studies, but they are well worth looking at; they show the fruitfulness of the macroanalytic approach to comparative politics that SSR helped to launch.

The comparative historical macroanalytic work of the last fifteen or so years about the causes of social revolutions from the 1800s forward has provided us with a lot of solid knowledge. The research comes from a series of studies that built upon each other's insights and methods. We now know that democratic regimes are not particularly susceptible to revolutionary challenge. We know that certain authoritarian regimes are not likely to be susceptible either to strong revolutionary challenge or to actual displacements of rulers. We have a good idea of the particular kinds of authoritarian regimes and circumstances in which revolutions have actually succeeded--ranging from certain kinds of agrarian bureaucratic monarchies to patrimonial dictatorships to directly (as opposed to indirectly) ruled colonies. We also know quite a lot about which kinds of international pressures and disruptions contribute to the weakening of regimes or to the strengthening of revolutionary constellations. We know less about exactly what sets of forces shape revolutionary outcomes; but we do know something about the circumstances that promote centralization, authoritarianism, and often military coups in almost all revolutionized regimes.

Entrevista con Alfredo Cristiani. 5 septiembre/1995.

P. ¿Y por qué, por ejemplo, el gobierno quería, lo quería antes, lo antes posible?.

R. Más que quererlo nuestra posición fue ante la petición del FMLN decir “bueno nosotros, si ustedes lo piden nosotros estamos de acuerdo que vengan, no nos oponemos a que vengan”.

P. Y no pensaban que iba a perjudicar...

R. No porque el gobierno nuestro no era violador de derechos humanos. No tenía ningún problema con la verificación.

The point is that human rights missions can't be blamed themselves for not affecting change; in Guatemala and El Salvador, there was cultural and institutional resistance by domestic actors. Too often, the critics of the political nature of these missions fail to adequately factor in the domestic elements of the equation. They also start from assumptions that are always verifiable.

It's almost become a mantra among human rights organizations to say that human rights are subordinated to politics and diplomacy in UN missions; the underlying problem here is not the "dilemma" of politics and human rights, but rather the fact that human rights progress is not easily measurable.... Subjective evaluations, international treaties are binding.