


An International Review of Peace Initiatives

Accord



Negotiating Rights:

The Guatemalan Peace Process

Features:

**Full text of selected
Accords**

*Plus background articles and
analysis on:*

**Impunity
Indigenous Rights
Political Participation
Land Reform**

Edited by Jeremy Armon, Rachel Sieder and Richard Wilson

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an international review of peace initiatives

Negotiating Rights: **The Guatemalan Peace Process**



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Cover Photo: Unity of Labour and Popular Action (UASP) demonstration against electricity price rises; Guatemala City, January 1988. Credit: Richard Wilson

Acronyms

AIDPI

Accord on the Identity and Rights of Indigenous Peoples

ASC

Civil Society Assembly

CACIF

Co-ordinating Committee of Farming, Commercial, Industrial and Financial Associations

CALDH

Centre for Human Rights Legal Action

CEG

Guatemalan Bishop's Conference

CEH	Commission of Historical Clarification
CERJ	Council of Ethnic Communities
CIA	Central Intelligence Agency
CNOC	National Co-ordination of Campesino Organisations
CNR	National Reconciliation Commission
COMG	Council of Mayan Organisations of Guatemala
CONADEHGU	National Co-ordination of Human Rights in Guatemala
CONAGRO	National Farmers' and Ranchers' Council

CONAVIGUA	National Co-ordination of Guatemalan Widows
CONDEG	Council of the Displaced of Guatemala
CONIC	National Indigenous and Campesino Co-ordination
COPAZ	Peace Commission
COPMAGUA	Co-ordination of Organisations of Mayan People of Guatemala
CPR	Community of People in Resistance
CUC	Committee for Campesino Unity
CVDC	Voluntary Civil Defence Committees
EGP	Guerrilla Army of the Poor

FAMDEGUA	Association of Families of the Disappeared
FAR	Rebel Armed Forces
FDNG	New Guatemalan Democratic Front
FIS	Social Investment Fund
FLACSO	Latin American Faculty of Social Science
FMLN	Farabundo Marti National Liberation Front
FMM	Myrna Mack Foundation
FONAPAZ	National Fund for Peace
FRG	Guatemalan Popular Front
FSLN	Sandinista National Liberation Front
FU	Unitary Front
GAM	Mutual Support Group

IFI	International Financial Institution
IICC	Inter-Institutional Coordinating Council
IMF	International Monetary Fund
INC	National Consensus Body
LRN	Law of National Reconciliation
LWF	Lutheran World Federation
MAS	Solidarity Action Movement
MINUGUA	United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the

Comprehensive Agree-
ment on Human Rights
in Guatemala

MLN

Movement of National
Liberation

OAS

The Organisation of
American States

ODHA

Catholic Archbishop's
Human Rights Office

ORPA

Revolutionary Organisa-
tion of the People in
Arms

PAC

Civil Defence Patrol

PAN

National Advancement
Party

PDCG

Guatemalan Christian
Democratic Party

PGT

Guatemalan Workers
Party

PRODERE	Development Programme for Displaced Persons, Refugees and Returnees in Central America
REMHI	Recovery of Historical Memory
SEPAZ	Peace Secretariat
UASP	Unity of Labour and Popular Action
UCN	National Centrist Union
UD	Democratic Union
UFC	United Fruit Company
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation

UNHCR	United Nations High Commission for Refugees
UNSI TRAGUA	Unity of Guatemalan Labour
UNV	United National Volunteers
URNG	Guatemalan National Revolutionary Unity

Preface

The Accord Programme

Accord - An International Review of Peace Initiatives is published by Conciliation Resources (CR), a London-based service and support organisation for national or community-based peace and conflict prevention initiatives. CR seeks to provide flexible and appropriate resources - financial, human or technical - to partner organisations in Africa, the South Pacific and around the world. While the main aim of *Accord* is to offer accurate descriptions and cogent

analysis of specific peace initiatives, it also seeks to make this information available to all those actively engaged in responding to violent conflicts. It is intended as a practical and accessible tool for 'peace building' from which comparative lessons may be drawn.

'Peace building' came into vogue with the publication in 1992 of Boutros Boutros Ghali's *An Agenda for Peace*. Since then, it has become a catch-all phrase, covering a wide range of policy orientations and practices. To CR and its partners, however, the original peace building agenda is paramount. Simply stated, this agenda looks beyond the short-term imperative of achieving a negotiated settlement and aims to address the specific societal conditions which

have led or which might lead to violence. In the search for sustainable conflict resolution, peace building promotes awareness of the links between emergency relief, socio-economic development, democratisation, peace and justice.

Guatemala 1983-1997 – The Fragile Transition

In Guatemala, a comprehensive peace agreement was signed in December 1996 which formally ended 36 years of civil war. Underpinning this war were deep-seated historical grievances around highly skewed land distribution, tight controls on political organisation and a lack of effective checks on state violence. These conditions relate to the long-standing concentration of power in the hands of unaccountable military and

private sector elites. The story of how they emerged, and of how they were strengthened and transformed through the war and peace process, is outlined in this issue in the historical background piece by Patrick Costello.

The negotiated settlement in Guatemala is barely a year old and it is far too early for a definitive assessment of its successes and failures. Nevertheless, at the signing of the final accords, the underlying peace process had been in train for around a decade. In this preface, a number of preliminary observations will be made concerning the achievements and shortcomings of this process.

"Our principle aim is to provide sustained support to the practical

activities of those working at the community or national levels to prevent or transform violent conflict into opportunities for social, political and economic development based on more just relationships”

Conciliation Resources, 1997

Political Liberalisation

It is clear that the formal end to the war has reflected and reinforced a remarkable transformation of Guatemalan political society. Evidence of this can be found in the sharp reduction in political violence and in the growing confidence of civic groups in promoting broadly-conceived human rights issues. It can also be seen in the unarmed political groupings with centre-left agendas now

engaging in the struggles of mainstream coalition-building with a freedom not experienced for over 40 years. New organisations representing Guatemala's majority indigenous population are also coming to terms with an unprecedented formal recognition of their rights, while proposals for political decentralisation and municipal reform are being developed. This dramatic increase in opportunities for Guatemalans to reflect on their circumstances and voice their political aspirations without fearing or employing physical violence is probably the greatest single achievement of the past ten years.



Lin Krapp/CAFOD

Campesinos on the day of the final peace accord signing; Guatemala City, 29 December 1996.

With hindsight, it is possible to identify three broad phases in this complex transformation, each providing its own lessons for the developing practice of peace building. The important elements in each of these phases are outlined towards the end of the historical background piece and in the chronology and key actors sections to the back of this issue.

The first phase covers 1983-87 when civil wars continued to destabilise the entire Central American sub-region. In this period, international powers were generally partisan or indifferent to the travails of Central America. In Guatemala itself, the government was closely controlled by military hardliners who had

brutally fragmented both the armed and civil opposition.

Working within these desperate circumstances, sub-regional initiatives, spearheaded by the Mexican and Costa Rican governments, sharply reduced cross-border destabilisation. Culminating in the 1987 Procedure for Establishing a Firm and Lasting Peace for Central America (the 'Esquipulas II' accord), they also provided a preliminary framework through which Guatemalans and their neighbours could explore and promote constitutional methods for pursuing their interests. The lesson here is that, even in the face of superpower opposition, it is possible for co-ordinated action by concerned state actors to

achieve a minimal agenda for conflict transformation.

The second phase covers the period 1988-1993. In these years, the end of the Cold War, the electoral defeat of the Sandinistas in Nicaragua and the signing of a general peace agreement in El Salvador heralded a period of major strategic uncertainty for the powerful national and international interests opposed to social and political change in Guatemala.

While challenges to private sector, state and military authority continued to be met with repressive tactics, this uncertainty created a slim breach for the civic opposition. Co-ordinated by the Catholic Church from within the Esquipulas-

inspired National Reconciliation Commission (CNR), and receiving crucial support from the governments of Mexico and Norway, unarmed popular organisations quickly exploited this opening. By 1993, they had consolidated their own position, vocal and increasingly independent of the guerrillas. They had also helped shape the agenda for a negotiated settlement and established their representative, Msgr Rodolfo Quezada Toruño, as official 'conciliator' in the nascent talks between the government and the Guatemalan National Revolutionary Unity (URNG). In short, they had illustrated how, given sufficient political space and external support, civic associations operating in hostile conditions can promote the path of negotiation and pluralism with great courage and effectiveness.

The final stage of the pluralist transformation began in 1993-94 when the strategies of the international community and the primary antagonists in the Guatemalan war shifted decisively towards a political settlement.

This shift became patently apparent when key figures in the US government, international financial institutions, the Guatemalan army and the private sector joined with popular organisations in condemning and reversing the executive 'autocoup' of May 1993, in which President Jorge Serrano Elías had dismissed the judiciary and Congress. It was strengthened further in July when army negotiators were reshuffled within a new Government Peace Commission (COPAZ), and further still after

November 1994, when a United Nations Mission (MINUGUA) arrived to monitor human rights abuses and verify the implementation of peace accords. Simultaneous to these developments, the high command of the URNG was also embracing negotiations afresh, persuaded by their own military weakness and the political independence of popular organisations that peace provided the best guarantee of a viable political future. Mediating between these groups was UN 'moderator' Jean Arnault, himself working to rehabilitate the reputation of his organisation, battered by its failures in Somalia, Rwanda, Bosnia and elsewhere.

The transformation was effectively sealed when the Mayor of Guatemala City, Alvaro Arzú Irigoyen, was

victorious in the close-run presidential elections of January 1996. Arzú immediately appointed prominent business leaders to key government posts, finally securing private sector commitment to the peace process. By the end of 1996, this powerful constellation of interests had secured a definitive ceasefire and a comprehensive general peace agreement. Soon after, the rebels disarmed.

One lesson of this final stage is that once there is sufficient motivation and a measure of political will on the part of national antagonists to move towards peace, there is clearly a facilitatory role for the international community in bringing civil wars to an end, and nurturing the conditions for increased political tolerance and diversity.

Outstanding Challenges

While the liberalisation of Guatemalan national politics has been remarkable, there is no guarantee that political openings will be sustained and extended. Already, Arzú's National Advancement Party (PAN) has ceded little to other interests in peace accord implementation commissions, provoking almost all civil groups and political parties to walk out of consultative meetings in July 1997. With a fragmented opposition, the government seems to be consolidating exclusionary modes of operation, subordinating the pluralistic spirit of earlier peace talks to its neo-liberal economic agenda and its 1999 election strategy. Pursuing these goals, PAN has done little to address other tensions emerging from the war. It is not surprising, therefore, that

violence, though more often socio-criminal than political, remains endemic in Guatemalan society.

In addition to these worrying trends, many of the frameworks and processes established through the negotiations have their own crucial internal weaknesses which constrain the sustainability of peace. The thematic articles contained in this issue seek to document and assess some of these weaknesses and opportunities, while the relevant accords are reproduced in the centre pages.

- In *Violent Truths*, Richard Wilson evaluates the 1994 accord which established the Commission of Historical Clarification, Guatemala's 'truth commission'. He also examines other

initiatives within civil society and the national and international justice systems, exploring how they might complement the deeply flawed Commission in challenging the silence and impunity which has undermined human rights and the rule of law in Guatemala.

- In *Advocates and Guarantors*, Tania Palencia Prado presents the peace process as an elite pact to ensure governability rather than a genuine effort to reach a truly national political consensus. While acknowledging that part of the historic gap between state and society has been bridged, she highlights the lack of effective mechanisms for civic participation in the negotiation and implementation of the accords. The failure to

strengthen civil society and state accountability, she argues, may undermine the unprecedented possibilities opened up by the peace settlement.

- In *Reframing Citizenship*, Rachel Sieder describes the role of indigenous civic groups in shaping the 1995 Agreement on Indigenous Rights and Identity, arguing that the accord represents an important advance in the struggle for indigenous rights, participation and culturally sensitive governance. Important indigenous demands were not met in the negotiating process, however, while structures for implementation contain crucial weaknesses. In conclusion, she sounds a cautionary note, warning that the failure to implement the accord successfully could stimulate the

development of a more radical and separatist indigenous agenda.

- In *Promised the Earth*, Gustavo Palma Murga outlines key features of the 'land problem' in Guatemala, and introduces some conflicting popular and business perspectives which fed into the negotiations for the Agreement on Socio-Economic Aspects and the Agrarian Situation. It highlights the failure of the Accord to satisfy the aspirations of the civic opposition and its support base among the Mayan rural majority and provides preliminary analysis of the causes and consequences of this failure.

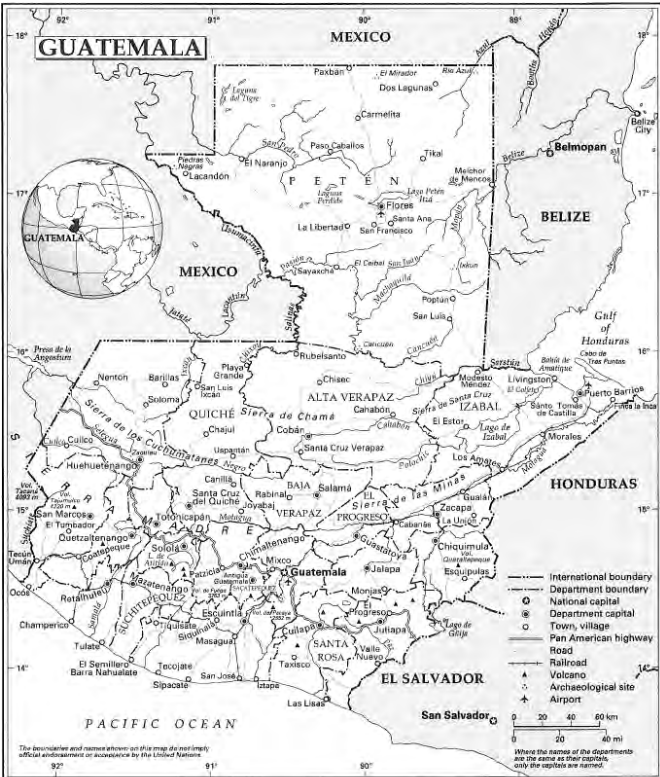
Clearly, through their peace process, Guatemalans have gained important rights and freedoms denied them for

centuries. Above all, the relatively participatory nature of the process and the liberal spirit of the accords themselves have brought up for negotiation a whole range of previously repressed aspirations. Unsurprisingly, however, this issue identifies a range of deep concerns which still must be addressed if peace building in Guatemala is to be sustained and extended in the medium-term.

Among these concerns, perhaps none is so crucial as extending the rule of law and establishing just and peaceful means for adjudicating remaining conflicts, issues interlinked in all the thematic areas explored in this issue. If truths about past crimes are revealed openly; if stipulations in the 'indigenous accord' lead to legitimate local adjudication

frameworks; if such mechanisms link up with wider processes encouraging social participation in governance; and if the 'socio-economic accord' creates avenues for the resolution of violent land conflicts; then the momentum for sustainable peace might yet become unstoppable. Whatever the case, it is clear that the national, regional and international actors who have achieved so much in the past 14 years will need to renew their commitment to the country if the ultimate step is to be taken from negotiating to realising rights.

Jeremy Armon, Rachel Sieder
and Richard Wilson,
London,
November 1997.



Historical Background

By Patrick Costello

This article is intended as a primer for readers unfamiliar with Guatemala. It provides a brief introduction to the history of the country prior to 1987, when the broad peace process is widely perceived to have started. The history of the process itself and of Guatemala since 1987 is not covered in this article, but is

outlined at the back of the issue, in the chronology and key actors sections.

The Guatemalan civil war began after the failure of a nationalist uprising by military officers in 1960. It formally ended on 29 December 1996 with the signing in Guatemala City of The Agreement on a Firm and Lasting Peace. While there are no reliable figures on how many people died in this war, current estimates suggest around 180,000. In addition, 40,000 people 'disappeared' during the conflict, over 400 villages were completely destroyed, at least 100,000 became refugees in neighbouring Mexico, and a further million were forcibly displaced within the country. Guatemala's population is currently estimated at around 10 million.

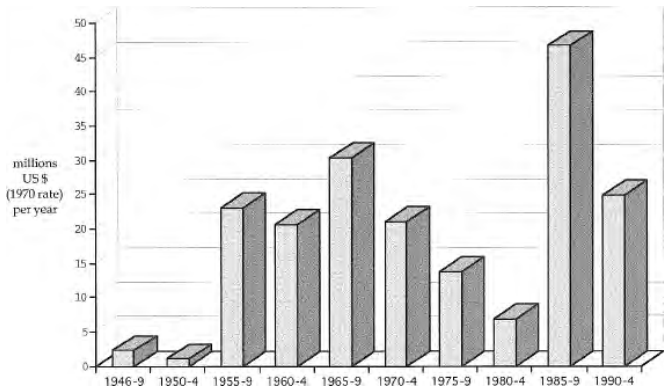
The Roots of the Conflict

A Casualty of the Cold War

During the Cold War, world powers frequently employed ideological rhetoric to justify the forceful pursuit of perceived geopolitical and economic interests. Cold War interventions in the Third World were generally extremely partisan and often led to the intensification and militarisation of existing conflicts. The Guatemalan war ran roughly parallel to the Cold War and in some ways was paradigmatic of these trends.

In 1952, the elected Guatemalan government of President Jacobo Arbenz Guzmán passed an agrarian reform law which sought to re-distribute to landless *campesinos* all unused land from

holdings over 223 acres. At this time, the US-based United Fruit Company (UFC) was Guatemala's biggest landowner, but no more than 15% of its 550,000 acres were under cultivation. As a result, the government expropriated 400,000 acres, offering compensation based on the UFC's own figures which had under-valued the land for tax purposes.



**US Economic and Military Aid to Guatemala
1946-1989 // Source: Statistical Abstract on
Latin America, volumes 30 and 33, UCLA**

To counter the expropriation, the UFC called on its allies in the US government, in particular Secretary of State John Foster Dulles and his brother Allen, Director of the Central Intelligence Agency (CIA). In June 1954, a CIA-sponsored mercenary army moved into Guatemala from neighbouring Honduras to help overthrow the government. Because the ruling coalition of President Arbenz included members of the Communist Guatemalan Workers Party (PGT), it was possible to justify the intervention as part of a broader strategy to contain the ubiquitous 'communist menace'.

Once Arbenz had been forced from office, his land reforms were immediately reversed. Thereafter, a loose alliance of conservative military and private sector interests began to consolidate its grip on power, controlling or removing successive elected governments. Reformist dissent was gradually eliminated both within the army and in civil society, most of which was proscribed or destroyed through targeted repression. With extensive military and economic assistance from the United States, Guatemala became the national security state *par excellence*, designed to limit any popular protest which might threaten the status quo.

Gradually, political space became so restricted that many deemed armed

resistance the only viable means of expressing opposition to the authorities. In 1962, the Rebel Armed Forces (FAR) was established, a coalition of rebel movements comprising army dissidents, radical students and left-wing political activists, all of whom were middle-class *ladinos*. The FAR espoused the *foco* theory of Che Guevara and others which held that the justice of the revolutionary cause would be immediately evident to *campesinos*, workers and the poor, thus sparking spontaneous insurrection. While relying for their support on rural communities, typically in non-indigenous areas such as the Eastern highlands, they communicated with their nascent support base through the ideologies of Marxism and liberation theology. As such, they tended to approach ethnic

and cultural oppression within the framework of class struggle.

Although breaking from the Guatemalan Communist Party in 1968, the FAR drew moral and logistic support from the revolutionary regime in Cuba, reinforcing the view that Guatemala's war was a zero-sum conflict between the forces of capitalism and communism. After a few early successes, the FAR was largely wiped out by a counter-insurgency campaign in which US special forces played a prominent role.

Dispossession, Exclusion and the Maya

The Cold War and the 1954 coup remoulded and invigorated a number of structures within Guatemalan society

which had long provoked and propagated the widespread use of violence. Tensions, then as now, stemmed from a highly unequal distribution of resources whereby less than 3% of the population own 70% of arable land and a staggering 80% live in poverty. This situation has itself retained a strong ethnic dimension.

In the centuries following the Spanish conquest of the 1520s, the Mayan majority in Guatemala successfully avoided the fate of assimilation or destruction which met many indigenous peoples in Latin America and elsewhere. This is partly because the *conquistadors* showed relatively little interest in their mountainous homelands, and partly due to the development of a pervasive

Mayan culture of preservation, syncretism and resistance. Nevertheless, the Maya lost large areas of their communal lands to the invaders and were regularly subjected to forced labour on the colonial plantations.

Colonial economic structures survived in Guatemala beyond Central American independence in 1821, well into the mid 1800s. In the latter years of the nineteenth century, however, a qualitative change occurred in economic policy, linked to the expansion of coffee growing. One of the principles enunciated by the ideologues and politicians of the time was that private ownership of the land guaranteed greater productivity. With this pretext, powerful agribusiness interests allied to the state forced many

communities to divide up their communal land, while direct expropriations were accelerated. A convenient consequence of these reforms was the increased availability of *campesinos* for work on the coffee plantations.

Strengthened by successive governments in the early years of this century, coffee production and the US-owned 'banana enclaves' remained central to Guatemala's economic 'modernisation' and its increasing integration into international markets. While liberal rhetoric glossed over economic exploitation and social marginalisation, landless Maya continued to be subjected to regimes of forced labour and indentured servitude which were only legally abolished in 1944.

The ill-fated land reforms of President Arbenz were inaugurated with the intention of speeding economic growth, the redistribution of resources and industrialisation. Taken with other structural reforms, it was also hoped they might lessen the dependence of the Guatemalan economy on foreign capital. These reforms were the first and only serious attempt to rectify the imbalances in Guatemalan land usage and their reversal meant that, at the time of the last land census (1979), around 90 per cent of Guatemala's farms were too small to support the average family.

While economically exploited, the Maya have also been subject to a political culture of racism and exclusion, underpinned by a state which promotes the

culture, values, customs and interests of the minority *ladino* population. As a consequence, constitutional guarantees of political participation, the rule of law and social equality have never been realised for the Maya.

Total War

A New Wave of Resistance

Responding to the many historical injustices suffered by indigenous people, and inspired by Church-backed development projects and the influence of liberation theology, Mayan communities became increasingly politicised in the 1960s.

Simultaneously, in the wake of sustained military setbacks in the latter half of that

decade, it became clear to the Guatemalan guerrillas that they could only hope to grow strong if they incorporated an ethnic analysis of Guatemalan society into their discourse, rooting their struggle in the deep historical grievances of the Maya.



Gathering firewood in Caba, Quiché

The Guerrilla Army of the Poor (EGP) and the Revolutionary Organisation of the People in Arms (ORPA) officially emerged in 1972 and 1979 respectively, led by dissidents from the Rebel Armed Forces (FAR). Although ultimately controlled by *ladinos*, both groups based themselves in indigenous highland areas and recruited the Maya in large numbers. Before long, the EGP was established as the largest insurgent force, developing its strongholds along the North-western border in Quiché and Huehuetenango, where virgin lands, colonised by landless Mayan *campesinos*, were being encroached upon by military landowners. ORPA, for its part, maintained more of an organisational distance from rural communities, yet

established the first significant guerrilla presence along the South Coast and in the west of the country, around San Marcos and Lake Atitlán. Meanwhile, the depleted FAR had also regrouped and had begun to develop new bases in the eastern highlands and remote northern jungles of the Petén.

During the limited democratic opening provided by the government of General Kjell Laugerud García (1974-1978), a new generation of student leaders, trade unions and *campesino* organisations also sprang up. Officially independent of the armed struggle, largely Mayan groups such as the Committee for Campesino Unity (CUC) shared many of the rebels' objectives, but employed non-violent, legal methods to pursue them. As their

demands for freedom of organisation, land rights and democracy gathered momentum, however, a new wave of repression broke out involving massacres in the countryside, systematic death threats and the selective assassination of civic leaders and political activists.

Increasing numbers of younger Mayans and the civic opposition duly joined the ranks of the armed rebels, reflecting their growing sense of insecurity. Inspired by the successes of the Sandinista National Liberation Front (FSLN) in Nicaragua, the guerrilla movement reached its peak in 1978-9, with 6-8,000 fighters and up to half a million active supporters operating in most departments of the country. At this point, even US government advisers acknowledged

that the guerrillas were forging a genuinely national movement, receiving only limited support from outside sources.

'Scorched Earth' Repression

The army's response was unprecedented in its brutality. Supported by the US, covertly from 1977, but more openly from 1982, the governments of General Romeo Lucas García (1978-1982) and General Efraín Ríos Montt (1982-83), unleashed a vicious war which aimed literally to depopulate Mayan areas where the guerrillas were operating. During this offensive, entire sectors of the population became military targets, leaving around 100,000 civilians killed or 'disappeared' between 1981-83 alone. In addition to the massacres, most of the war's refugees and internally displaced

emerged in these years, while a systematic campaign of highland deforestation was also waged to remove physical cover for the guerrillas. In 1982, the guerrilla groups and the PGT came together to form the Guatemalan National Revolutionary Unity (URNG), a unified command with a platform for a revolutionary government. By this time, however, the poorly-armed guerrillas were unable to defend their supporters in the rural highlands against the full brunt of military violence. The possibilities for successful insurrection had all but vanished.

By 1984, the large scale massacres were generally over, the army had set up new bases throughout the Mayan heartlands and had accrued unprecedented economic power through the seizure of vast

tracts of productive land and a number of key state institutions. It had also consolidated various means to strengthen its control over the rural population. So-called 'development poles' had been established, comprising newly constructed population centres, known as 'model villages', and reception centres for refugees and displaced people returning from the mountains. Development and infrastructure projects were centralised and administered by Inter-Institutional Co-ordinating Councils (IICCs) under the direct control of the army.

At the same time, rural villages were undergoing a process of intense militarisation through the establishment of Civil Defence Patrols (PACs). Although billed as voluntary organisations, all males

over sixteen were required to serve in the PACs and failure to do so meant being branded a guerrilla sympathiser. Typically, patrol duty consisted of guarding the village, checking the identification of everyone entering, and reporting anything suspicious to the PAC commander who in turn reported to the nearest military base. Patrols were also involved in periodic sweeps of the local countryside to search for guerrilla units and, together with the military commissioners, civilians responsible for army recruitment in each village, they became the eyes and ears of the army. The PACs aggravated divisions and suspicions within indigenous communities. At their height, in the mid-eighties, it is estimated that they had around 900,000 members.

In many areas, the army further consolidated its power by prohibiting the cultivation of large tracts of land. In others, farmers were forbidden to return to their home villages but were permitted to work their fields by day, sometimes accompanied by civil patrollers. Extensive campaigns to resettle abandoned lands were also undertaken with some 2,000 land titles awarded to *campesinos* in the most conflict-ridden areas by late 1985. While these campaigns helped improve the army's image, they also removed physical evidence of large-scale violence and enabled the army to prevent 'troublemakers' from owning and working the land.

In short, the counterinsurgency campaigns of the early eighties exacerbated

all the original causes of the conflict. On one hand, displacement and resettlement deepened an already desperate land problem. On the other, democratic space was at its most limited with the army and military commissioners the only state representatives in the highlands, and city authorities obliged to demand prior application for gatherings of more than two people. The rule of law was also grievously undermined through the period with an increasing centralisation of power and a total absence of democratic accountability. Almost inevitably, the indigenous rural majority bore the brunt of these mounting injustices.



A funeral procession in Chichicastenango, Quiché province. The coffins contain the remains of 27 victims of an army massacre originally buried in a clandestine cemetery.

Inklings of Change

A Return to Civilian Rule

By 1983, the scale of the terror had made the Guatemalan government an international pariah, threatening its international aid. With the URNG severely weakened, a significant sector of the army, encouraged by US advisers, saw a strategic advantage in returning the country to civilian rule.

Because of his opposition to these developments, General Ríos Montt was ousted and a process of institutional 'normalisation' was initiated, guided by General Oscar Mejía Victores. Under this new administration, political parties prepared to work with the army were legalised and, in 1984-85, legislative and presidential elections were held through which the National Centrist Union (UCN) and the Guatemalan Christian Democratic Party

(PDCG) promoted a new rhetoric of rights and reconciliation. This rhetoric wrong-footed hard-liners in the powerful Movement of National Liberation (MLN) and other rightist parties, transporting the PDCG's Vinicio Cerezo Arévalo to the presidency. A new constitution was then promulgated, a Constitutional Court and a Supreme Electoral Council were established and a new post of Human Rights Ombudsman was created.

Hopes for social progress were raised significantly by the return to civilian rule. During the election campaign, new social movements had been formed and older ones reappeared representing indigenous people, women, the displaced, trade unionists and relatives of the 'disappeared'. On coming to power, the

Christian Democrats, who had themselves once been proscribed, promised to tackle a range of key issues including land reform, demilitarisation and the negotiated return of refugees. Meanwhile, the military confrontation between the state authorities and the URNG became increasingly politicised. The rebels re-oriented their propaganda operations to the international arena, while the state countered with a rhetoric of guided 'developmentalism'.

The strategic reformulations of the late-eighties broadly benefited the URNG as government rhetoric could not mask the fact that military hard-liners were indeed obstructing substantial progressive change. The first indication of this obstructiveness was that all the new

institutions of the counter-insurgency years were legalised in the 1985 Constitution. The IICCs were formally replaced by Councils of Development under civilian governors, but the army's National Reconstruction Committee maintained ultimate control of their activities. The PACs were also renamed rather than disbanded and by 1988, 'Voluntary Civil Defence Committees' (CVDCs) still marshalled around 700,000 civilians. President Cerezo himself confirmed his approval of the new institutions by inaugurating the Chisec development pole in Alta Verapaz in 1986.

Despite the various state institutions set up for the purpose, the Cerezo government also failed to investigate army human rights abuses seriously. This was

partly due to a general amnesty set in place before Cerezo's inauguration, covering all crimes committed by the security forces after 1982. However, the president had also assiduously avoided making promises on military impunity, stating that if investigations took place, 'we would have to put the whole army in jail'.

Military structures remained intact and untouchable therefore, despite the return of civilian rule. Furthermore, during Cerezo's five year term, human rights violations actually increased, taking a number of forms from death threats against church leaders proposing land reform, to the murder and 'disappearance' of human rights activists, students, trade unionists, independent

media workers and political leaders. The killings were highly selective in that high-profile leaders were generally left alone, while key local activists were assassinated to create public fear and preclude effective grass-roots organisation.

Regional Pressures For Peace

While political liberalisation was moving ahead fitfully, similarly fragile moves were also under way to kick-start a regional process to resolve the conflicts in El Salvador, Nicaragua and Guatemala. These moves were spearheaded by the Latin American 'Contadora Group', comprising Mexico, Venezuela, Colombia and Panama, all of whom feared the destabilising regional implications of the escalating violence. Launched in January 1983, the Contadora initiative drew

increased international attention to Central America's conflicts and pressured for a softening of the militarist stance of the US in the region.

On 3rd September 1983, mediated by the Contadora group, the foreign ministers of the Central American countries adopted a Document of Objectives in Panama City. This document declared a shared intention to promote democratisation and an end to armed conflict in the region, to act in compliance with international law, to revitalise and restore economic development and co-operation in Central America, and to negotiate better access to international markets.

A year later, on 29th September 1984, the Contadora Act on Peace and Co-

operation in Central America was also presented. This document included a range of detailed commitments to peace, democratisation, regional security and economic co-operation. It also provided for regional committees to evaluate and verify compliance with these commitments. The agreement was tentatively approved by the Central American presidents, but did not gain the crucial backing of the US due to its *de facto* recognition of the revolutionary government in Nicaragua. A revised version of the accord failed to assuage these objections and was finally laid to rest on its formal rejection by Costa Rica, El Salvador and Honduras in June 1986.

While the Contadora group ultimately failed to forge a credible peace formula

with the backing of all regional governments, it did lay the foundations for such a plan to emerge in subsequent years. Inspired by the Costa Rican president Oscar Arias, the so-called 'Esquipulas process' emerged from the ashes of Contadora in 1986-87. With substantive backing from President Cerezo and the Guatemalan government, this new process led to a fundamental remoulding of Central American politics. Within five years, it had inspired a return to liberal democracy in Nicaragua, the signing of a general peace agreement in El Salvador, and the first tentative steps toward a negotiated settlement in Guatemala.

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Violent Truths:

The Politics of Memory in Guatemala

By Richard Wilson

"Guatemala suffers from a mutilated official memory...as if remembering is dangerous, because to remember is to relive the past like a nightmare."

*Eduardo Galeano, Guatemala City,
July 1996*

In recent years, 'truth commissions' have become standard post-war structures for publicly addressing unresolved issues arising from past human rights violations. They typically consist of an investigative team with a mandate to take testimonies, corroborate evidence, document human rights abuses and make recommendations regarding structural reforms and reparations. On one hand, truth commissions are technical, quasi-legal institutions which dispassionately document the grim facts of war. On the other, they either challenge or confirm mutilated versions of history, becoming part of an intense struggle in which all political groups engage, knowing that

whoever defines the past might also control the future.

Two post-war political agendas on which truth commissions necessarily impact are establishing justice and consolidating democracy. These aims are often represented as 'vengeance' versus 'reconciliation' and as such can seem incompatible. There is another argument however which states that justice and democracy are complementary and mutually reinforcing; that breaking a regime of denial and challenging impunity can only strengthen the rule of law which democratic institutions both foster and require.

Lobbying for a Truth Commission

Due to the strategies of terror routinely employed by Guatemala's successive military dictatorships, by the mid 1980s the Catholic Church was one of the few remaining civil society institutions with a popular base. Though at times threatened by the authorities, it nevertheless set up its own human rights office towards the end of the decade, which duly called for a commission to investigate state repression.

The other popular organisation to challenge the culture of silence at this time was the Mutual Support Group (GAM), formed by relatives of the 'disappeared' in June 1984. That same year, GAM led a 100,000 strong march on the National Police headquarters and the Metropolitan Cathedral. It also organised occupations

of Congress and the Justice Ministry, calling for a commission of investigation into an estimated 38,000 disappearances.



Julie Bubbers/CAFOD

Marguerita, standing in front of the monument in Rabinal, Alta Verapaz which commemorates massacre victims, including her mother

In 1985, while orchestrating fierce repression of the organisation, the regime of General Mejía Víctores countered GAM's pressure by creating a tripartite commission to look into disappearances. The Commission comprised a well-known conservative Catholic bishop, a member of the military and an official of the Justice Ministry. After a period of inactivity - which involved no actual interviews with victim's families - it dissolved itself, making no formal report and stating it could not locate any of the hundreds of disappeared of whom it had been notified. In a similar vein, the Supreme Court appointed an 'Executorial Judge' in 1986 to look into all writs of habeas corpus. When GAM filed 1,367 such writs, however, the new civilian president, Vinicio Cerezo Arévalo,

refused all further meetings with the organisation and cancelled plans for a new presidential commission on the disappeared.

In the late 1980s, the human rights movement became aware of the Argentine truth commission and began to lobby in earnest for an equivalent institution in Guatemala. Their position was quickly endorsed by the rebel Guatemalan National Revolutionary Unity (URNG), and found its way onto the agenda for peace talks. This provoked strong opposition from army negotiators who helped obstruct dialogue for a number of years.

In March 1994, the issue was temporarily shelved to facilitate the signing of the

Comprehensive Accord on Human Rights, but plans were fixed for another agreement to deal specifically with the establishment of a truth commission. GAM proposals for this additional accord were subsequently accepted by the Civil Society Assembly (ASC) and the URNG Political-Diplomatic Commission. The ASC even nominated GAM leader Nineth Montenegro to attend the negotiations in Oslo but in the event, civil society representation was to have little impact on the final agreement.

The aim of the Commission for Historical Clarification is:

"To clarify with all objectivity, equity and impartiality the human rights violations and acts of violence that

have caused the Guatemalan population to suffer, connected with the armed conflict.”

Page one, Accord on the Commission for Historical Clarification.

Signed in June 1994, the agreement which established the ‘Commission for the Historical Clarification of the Violations of Human Rights and Acts of Violence which have Caused Suffering to the Guatemalan Population’ turned out to be the shortest and weakest of all the Guatemalan accords. This weakness stemmed not only from the lack of influence of civil actors, but also from the political debility of the URNG at that time and the poor communications between URNG commanders and their Political-Diplomatic Commission.

Shortcomings of the Commission for Historical Clarification Accord (CEH)

The mere existence of the Commission is a tribute to the struggles and sufferings of the Guatemalan civic opposition.

However, there are at least five clauses in the CEH accord which could seriously undermine its potential for challenging impunity and promoting the rule of law.

The first of these is the stipulation that only abuses 'linked to the armed conflict' should be investigated. The interpretation of this clause will undoubtedly cause a great deal of wrangling, but it clearly provides scope for the torture and/or killing of certain unaligned civilians (including journalists, researchers and US citizens) to be ruled outside the jurisdiction of the Commission.

Secondly, the Commission can operate for only six months with a possibility of extending its lifespan to a year. In this time, it must investigate violations over a 36-year period from the beginning of the armed conflict to its formal end in December 1996. In negotiations, the ASC-URNG position was to begin the investigation period from 1980 in the hope that a shorter time scale would furnish more results. In the event, it was the government view which won out, however, and the Commission has been granted an impossibly short time to investigate an inordinately long period of repression.

Thirdly, the results of Commission investigations are to be published in a report which will 'make objective

judgements about events during the period under consideration.' As is to be expected, the question of interpreting 'objectivity' has polarising political implications. Independent observers are clear that the vast majority of abuses in Guatemala were carried out by the security forces. Nevertheless, there is strong support within the government and the military for 'symmetrical narratives' on the violence which would attempt to accord equal blame to army and rebels.

Fourthly, popular sector groups were most angered by the lack of legal teeth for the Commission, which makes it the weakest of any truth commission in recent history. In contrast to the South African Truth and Reconciliation

Commission, the Commission for Historical Clarification has no powers of search, seizure or subpoena.

While all these points are significant, perhaps the most crucial clause states that the work, recommendations and report of the Commission 'will not individualise responsibility, nor have any legal implications.' This means that no one can be named in the final report and that information obtained by Commission investigators cannot be employed in later prosecutions.

The prevailing view is that the Commission will produce little more than an abstract study that surveys the causes of the Guatemalan conflict, expressing a general moral sanction against

institutions through which gross human rights abuses were committed. Such a report might help achieve 'reconciliation', but only in a minimalist sense, providing what Commission official Roberto Rodríguez has termed an 'escape valve' for the frustrations of surviving victims. More broadly, the absence of violators' names could mean that the eventual report will fail to satisfy popular conceptions of justice and could further shore up the wall of impunity that the Guatemalan army has thrown around itself for over three decades.

Reactions to the Accord

The response to the CEH accord from the many groups dealing with human rights issues in Guatemala varied widely.

On one hand, dominant thinking within MIN-UGUA, as expressed by Jaime Esponda, the Director of Human Rights Verification, supported the Commission process, arguing that in a very poor country with little media investigation, a mostly illiterate peasantry and a collapsed legal system, mass repression has left very few cases which are effectively 'justiciable'. Therefore, he suggested, a commission which individualises responsibility would not be feasible in Guatemala. In hostile opposition to this view, the Myrna Mack Foundation (FMM) took a maximalist position, demanding the truth commission produce evidence for a systematic programme of retributive justice against all human rights abusers.

Naming Names

There are a number of good reasons why the Commission should name individual perpetrators of war crimes. On one hand, the Commission could serve a vital democratic function by breaching the ironclad shroud of official denial, and formally confirming what members of the human rights community have known for decades about specific abuses. On the other, if the naming of perpetrators was based upon credible forensic work and corroboration, this would set a good example of investigatory practice, which could only strengthen the criminal justice system.

A truth commission must also be assessed, however, in terms of how it connects with the consciousness of those who experienced the war within affected communities. At this level, the reworking and recovery of social memories relating to deaths, disappearances and other human rights abuses typically takes the form of symbolic memorials. One such memorial is the cross on the hill at Sahakok in Alta Verapaz, which is surrounded by tablets with 916 names of people killed by the army in the early 1980s.

The act of community remembering is often not consolidated however until the perpetrators are also named. This fact, as well as the enormous lengths to

which perpetrators will go to obstruct public attempts to remember the past, is demonstrated by the story of a large concrete memorial to the massacres at Rio Negro which was built outside Rabinal, Baja Verapaz in 1993. This memorial replaced a smaller monument which kept being destroyed by the perpetrators of the killings, a group of civil patrollers still living in a neighbouring village. Declaring boldly that more than 100 people were 'killed by civil patrollers of Xococ', it is constructed so as to be practically impervious to attack. Efforts continue to silence local narratives on violence: several civil patrollers from Xococ were found in

1996 to have tampered with an exhumed clandestine grave.

In short, if we examine community-based initiatives throughout the Mayan highlands, it becomes apparent that acts of social memory seek to begin with a thorough account of what exactly happened when, to whom, and at whose hands. Without such records, it appears, other discussions (such as what were the structural motivations for the violence) often cannot begin.

"We consulted with all base commanders who were happy that there will not be any legal dimensions to the Commission."

Antonio Arenales Forno, COPAZ negotiator, personal interview 23 July 1996.

Both these positions are problematic however. On one hand, Esponda's reasoning ignores the fact that the details of certain incidents, including large-scale massacres, have been credibly documented by human rights organisations and the Catholic Church. On the other, the FMM position fails to acknowledge that the criminal justice system is simply too battered by repression and compromised by its own past to systematically deliver retributive justice. Nevertheless, by upholding their principled ideals, groups such as the Mack Foundation have drawn attention to the huge gaps between the compromises of peace,

popular aspirations for revenge, and international human rights law.

Between reactions of compromised resignation and principled hostility, the majority of Guatemalan civic groups greeted the accord with immense disappointment. This was exemplified by the ASC which, under the guidance of GAM, had submitted proposals, like civic representation on the Commission, which were more likely to have combated impunity. Nevertheless, a number of strategies emerged from popular groups to strengthen the Commission and maximise its limited impact. One was the 1996 publication by GAM of the results of its own research into violence in three areas of the country. A second initiative, the 'Recovery of Historical Memory'

(REMHI) project of the Catholic Archbishop's Human Rights Office (ODHA) is far more substantial and provocative.

"It was a very sad, poor accord, but we evaluated the situation and thought, if we attack the accord publicly, we'll slow down and undermine the peace process. Instead we decided to try and push a liberal interpretation of the accord and to try and gain a role in the formation and functioning of the Commission."

Mario Polanco, GAM leader, personal interview 19 July 1996.

Recovering Memory

Beginning in 1995, REMHI set up local offices in parishes across the country.

With the support of popular and human rights organisations, 700 bilingual statement takers were then trained to conduct interviews, which addressed individual war crimes through the following seven questions:

- Who was the victim?
- What happened?
- Who did it?
- Why did it happen?
- What did you do to cope with the situation?
- What effect did the event have on you and your community?
- What needs to be done so that violation doesn't happen again?

The REMHI programme has been financially backed by international aid agencies and has amassed a wealth of information through the Catholic Church's extensive rural networks. Altogether, statement collectors have gathered 5,000 testimonies representing 25,000 victims. Importantly, REMHI has also identified more than 300 mass graves across the country, which the army had previously kept hidden. All this information will be handed over to the CEH, giving the Commission a substantial head start on its formidable task of investigating a 36-year period of repression.

While augmenting the likely impact of the Commission, the REMHI project will also serve to highlight its many shortcomings, and to help fulfil some of its

neglected functions. Uniquely, the REMHI report will name both perpetrators and victims on both sides of the political divide. In addition, the project is working for a longer period than the Commission, and more closely with local communities.

Because of its intensive and local style of operating, REMHI has come face to face with an unfulfilled and frustrated desire for popular vengeance. In this context, where survivors perceive no institutional mechanisms to pursue retribution, REMHI takes on an even greater importance. While the project does not pursue punitive conceptions of justice, partly because it works within a Christian paradigm of forgiveness and reconciliation, it has encouraged a broad range

of processes to deal with the past at local level, including legal investigations, symbolic acts of remembering and exhumations of clandestine cemeteries. The final REMHI report may not fulfil all the expectations vested in it. However, the project has already made an invaluable contribution to breaking public silences and resisting legal impunity.

REMHI and MINUGUA in Pinares

In August 1982, the Guatemalan army, in conjunction with army-aligned civilians, massacred 21 villagers in the small community of Pinares near Cahabón in Alta Verapaz. The author visited this divided and bitter community

in 1988, when victims and perpetrators lived side by side in an atmosphere of fear and hatred, attending the same church on Sundays, but not referring openly to the events of six years' previous.

"People don't want to go to the (national) tribunals because it all happened a long time ago, but the rancour still stays. Many of the families still hate one another"

*REMHI statement taker,
Salamá, Baja Verapaz*

Statement-taking by REMHI in Pinares opened up the space for victims'

families to talk more freely about the past without reprisals. Once public secrets had emerged into the open, the victims and their families rapidly began to take the issue further. The massacre was, for the first time, formally denounced at a local branch of the Congressional Human Rights Office, as well as at the office of the Public Prosecutor. Villagers called for a judge to begin an investigation and contacted MINUGUA, which helicoptered in a forensic team to begin exhumations on a clandestine grave. The forensic team worked for eight days in May 1996 and then took the remains to the capital for investigation, before returning them for a proper burial in the community. The

international presence of MINUGUA allowed the investigation to go ahead, even though the perpetrators angrily threatened victims' families.

This story has been repeated across the country. Seventeen mass graves were exhumed by forensic anthropologists in 1996, with 20 more sites due for exhumation in 1997.

The Role of MINUGUA

El Salvador and Guatemala are the only countries, so far, to address issues of post-war historical clarification through an officially independent and UN-sponsored truth commission. This

institutional structure has both advantages and limitations.

On the positive side, MINUGUA has a proven record of combating impunity in Guatemala, underwriting the unprecedented freedom and effectiveness of national human rights organisations and rupturing the official regime of denial more effectively than any other institution in the country's history. MINUGUA's success is exemplified by its response to events at Xamán, Alta Verapaz in 1995, in which 11 returnee refugees were killed and 27 injured by a column of ill-trained soldiers. A MINUGUA team arrived in the community within hours of this atrocity, and began taking testimonies and collecting forensic evidence. A subsequent press release effectively

refuted the army's story of armed provocation by the returnees but also found no evidence of prior planning by the military high command. By objectively weighing the stories of both the far right and left, MINUGUA instantly moved the discussion beyond the confines of counter-insurgency rhetoric, which for so long had obstructed any serious challenge to military impunity.

Despite these successes, MINUGUA's sponsorship of the CEH may also prove one of the Commission's main weaknesses. This is because MINUGUA's truth revealing role is potentially compromised by the UN's parallel function as mediator and verifier of the peace agreements. The potential contradiction between the pragmatic imperatives of peacemaking

and a principled commitment to truth has already been exposed by the UN's apparent complicity in the so-called 'Mincho' case.

In October 1996, only weeks before the final peace accord was due to be signed, guerrillas of the URNG-affiliated Revolutionary Organisation of the People in Arms (ORPA) abducted an elderly woman from the Guatemalan elite. As a consequence, the government pulled out of talks and the final peace accord was nearly scuppered. Two members of the ORPA group, known as 'Isaias' and 'Mincho' were then captured in a government security operation and Isaias was subsequently exchanged for the kidnapped woman. Mincho (real name Juan José Cabrera Rodas), never reappeared,

and was later presumed killed, reportedly by the Estado Mayor Presidencial, an elite section of the Guatemalan security forces.



Paul Smith/Panos Pictures

Forensic scientists exhuming victims of an army massacre buried in a clandestine cemetery in Chichupaq, Baja Verapaz

The scandal which has blown up around this case includes the allegation that high-ranking MINUGUA officials, including its director Jean Arnault, knew about the murder and were complicit in a cover-up, purportedly to avoid jeopardising the final peace agreement. Reporters have also alleged that Arnault was present at the meeting in which the parties agreed to keep quiet about Mincho's demise and that MINUGUA investigators were pulled off the case by orders from within the mission's hierarchy.

Understandably, this incident dealt a serious blow to MINUGUA's credibility in human rights verification and did not

inspire confidence in its capacity to reveal truth in an unprejudiced manner.

A New Amnesty

For the whole of 1995 and 96, the URNG had repeatedly rejected a new amnesty for wartime human rights abusers. After the experience of the Commission for Historical Clarification Accord, however, many civil groups mistrusted the rebels' intentions. To try and ensure the gathering momentum of peace did not completely overwhelm parallel demands for truth and justice, a number of Guatemalan human rights groups including GAM, ODHA and the Rigoberta Menchú Foundation, came together in mid-1996 to form the 'Alliance Against Impunity'. The purpose of this alliance was to propose enabling legislation for the

reinsertion and demobilisation of the guerrillas, without sanctioning a general military amnesty.

The area of 'justice in transition' is often one where civil groups are least effective in shaping peace negotiations, partly because amnesties usually come at the very end of talks, when international donors shift their support to governments and the influence of 'civil society' wanes. Confirming the worst fears of the civic opposition, the URNG performed a spectacular U-turn in late 1996, agreeing a new amnesty with government negotiators that violated key anti-impunity clauses in the Comprehensive Accord on Human Rights. Legislation with the Orwellian title of 'The Law of National

Reconciliation' (LRN) duly followed, coming into effect in January 1997.

While the LRN is not a blanket amnesty, unlike its 12 counterparts from 1982-88, the first individual applications submitted under its amnesty provisions came overwhelmingly from military personnel implicated in high-level political killings. This unleashed outrage among civic opposition groups, a response further intensified by the ease with which violators could choose compliant judges, and the complete absence of appeals procedures.

On a slightly more positive note, the LRN stipulates that to be eligible for amnesty, it must be proved at a hearing that a violation was linked directly to the armed

conflict. This clause has allowed the families of victims some scope to contest amnesty applications, arguing that incidents such as the assassination of the anthropologist Myrna Mack were simply criminal acts, over which the amnesty law has no jurisdiction. However, even in these cases, the onus is on the families to prove the violation had no political link and to do so, moreover, within an extremely short time span.

The existence of the amnesty law has made the role of the Commission for Historical Clarification even more crucial. For human rights organisations working in conjunction with the UN, the challenge has become to facilitate Commission investigations and to integrate them more

fully into their own challenges to impunity.

Criminal Justice Reform

The Guatemalan legal system has typically dealt with human rights violations with a distinct lack of coherence and consistency. This is exemplified by the fact that at the end of 1996, the Supreme Court had still not defined the mechanisms and jurisdiction of the various amnesty laws of the 1980s. As the Law of National Reconciliation was being drawn up, some conservative lawyers claimed that its antecedents were still in effect, while three 1980s massacres were also being investigated in the courts. As it happened, the Justice Ministry's investigations had proceeded so slowly that no formal accusations had

yet been made against individuals. Prior to the publication of the LRN, however, no lawyer in the country was wholly clear whether the defence would be entitled to claim amnesty if and when charges were pressed.

In 1996, Guatemalan tribunals were also processing a number of prosecutions for human rights violations committed after the last amnesty decree of 1988. One of these cases, relating to the 1995 Xamán massacre, furnished landmark legal victories for human rights in Guatemala. The first of these victories came when the Xamán case was transferred from a military to a civilian court, a triumph compounded in May 1996 when the Constitutional Court overturned the decision of a weak civilian judge to free the eight

defendants. While it created positive legal precedents, however, the Xamán case has also become emblematic of juridical stagnation. Like previous high-profile human rights cases, it has been dragged through all possible appeals procedures and has suffered interminably from legal inefficiency, lack of political will and an under-resourced Public Prosecutor's Office. By late 1996, it had lost all momentum and ground to a halt.

Guatemalan Prosecutions Under International Law

In addition to local and national initiatives, a transnational avenue for addressing Guatemalan human rights

violations is also being explored by legal NGOs such as the Centre for Human Rights Legal Action (CALDH). The centre is currently challenging amnesties concerning 1980s massacres at Dos Erres and Rio Negro through the Inter-American Commission of Human Rights in Washington. Their submissions call for reparations for survivors of these massacres and a formal censure of the Guatemalan government's amnesty laws, as occurred in the cases of Argentina and Uruguay. Such censure will provide an international legal challenge to amnesty in Guatemala, which in turn could lead to the cases being brought before official in-country tribunals.

The unresolved cases relating to the Xamán massacre and the assassinations of URNG commander Efraín Bámaca, centre-right politician Jorge Carpio Nicolle and anthropologist Myrna Mack and the torture of US nun Diana Ortiz demonstrate that the Guatemalan legal system is barely capable of prosecuting even a handful of low and middle-ranking military offenders. It is unlikely that this condition could be rectified in the near future and therefore, a maximalist 'Nuremberg option' for addressing war crimes is not even remotely possible in Guatemala. This is not to say that the legal route to justice should be abandoned altogether; it is clear that small triumphs remain possible. What is essential is that the limitations of the legal system be recognised so that the

Commission and other initiatives can complement its work and fill in some of the gaps.

The Way Ahead

The case of Guatemala seems to confirm the dismal observation that justice for the victims of human rights atrocities is a recurring casualty of negotiated settlements to war. Some form of amnesty has been promulgated in every Latin American country that has undergone a democratic transition in the last 20 years, and the Law of National Reconciliation continues this trend in Guatemala.

Like its counterparts elsewhere, the amnesty law will coexist with a national truth commission, the CEH. With the help of international and national human

rights groups, the Commission may well fulfil some of the investigatory functions of which the legal system is currently incapable, providing essential information on the fate of the disappeared, and locating the remains of those killed. Crucially, it also remains, with the courts, the main arena for the ongoing struggle against official silence and legal impunity, a struggle which is central to strengthening the rule of law, which in turn is a precondition for democratic consolidation.

As outlined in the CEH accord, Guatemala's truth commission has limited investigatory powers, cannot name names, nor can its findings be employed in a court of law. While all this deeply weakens its challenge to official

impunity, there are still substantial battles to be fought on all these fronts both within and on behalf of the Commission:

Firstly, on the question of individualising responsibility, the director of the Commission, Christian Tomuschat, has already indicated considerable flexibility, saying that “the institutional responsibility should be clearly stated...but if we simply say that it was the army or the URNG, that would be too little.” Naming the battalion responsible for a massacre, it is suggested, and the commanding officer at the time, without explicitly attributing individual responsibility, might be one way to deal with this issue.

Secondly, it could prove difficult to enforce the principle of the non-legal status of Commission findings.

Moreover, once information is in the public domain, it could provide leads for, and an impetus to, criminal prosecutions.

Finally, the legal status of both the Commission and its findings will depend ultimately on diverse and contradictory decisions taken within the legislative and justice systems in Guatemala, as well as in international courts. While the Commission lacks legal teeth in the original accord, there is no reason why this could not be altered in subsequent legislation under pressure from national or international actors.

The role of civic human rights groups has clearly had to adapt in the new post-war scenario, from monitoring violence during the peace talks towards advocating reconciliation and justice. Given endemic corruption in the Guatemalan state, there is also a new role for such groups in administering war reparations. The human rights confederation, the National Co-ordination of Human Rights in Guatemala (CONADE-HGUA), has already identified mechanisms to define victims and channel redevelopment funds to the neediest communities. To faithfully represent victims' rights and ensure that state institutions pursue justice and truth to the fullest extent possible, however, one traditional role that civil groups cannot afford to relinquish is that of government watchdog.

Establishing the Commission for Historical Clarification

Due to a lack of finance, the CEH began its work seven months behind schedule in August 1997. During this extended delay, three Commissioners were chosen to head the organisation. Two of these, labour lawyer Balsells Tojo and indigenous educational expert Otilia Lux de Cotí, were Guatemalans, but neither had a particularly high human rights profile. The third Commissioner and overall director was Professor Christian Tomuschat, a German who had been a UN independent human rights expert to Guatemala in the late 1980s.

Prior to its opening, a 12-month operating budget of close to \$8 million was put together. The budget allowed for the running of four offices with 60 staff. The Guatemalan government had originally pledged \$50,000 towards these costs, but increased their contribution to \$800,000 due to pressure from the international community. Foreign governments such as the United States, Canada and several European countries are to make up the shortfall.

It has been agreed that the Commission will be separated into two divisions - one to investigate violations during the war and the other to write a history. The staff - half foreigners, half nationals - includes 40 investigators who will take

new testimony and review existing information gathered by REMHI and GAM.

The mere existence of a truth commission in Guatemala owes a great deal to pressure from civil society organisations such as GAM and the Catholic Church's human rights office. In the coming years, and especially after MINUGUA leaves the country, such groups can continue to make a significant contribution to peace-building by investigating violent acts, making amnesty difficult to obtain for offenders, urging criminal prosecutions where possible, and generally pursuing the creation of a 'state of right'.

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Advocates & Guarantors:

Establishing Participative Democracy in Post-War Guatemala

By Tania Palencia Prado

During the final stages of the Guatemalan peace process in 1994-96, few Guatemalans were well informed about the negotiations, while the parties themselves had little inclination to communicate developments to the rest of society.

The creation of the Civil Society Assembly (ASC) and the moderation of the United Nations helped to create an environment in which the concerns of the organised civic opposition could be aired. However, the proposals of the social sectors that dominated the ASC often went beyond what was requested or accepted by either negotiating party. In the event, the procedures adopted to finalise the peace accords were markedly non-consensual.

While the peace process fell short of establishing a truly national consensus, it taught both the government and the Guatemalan National Revolutionary Unity (URNG) to negotiate solutions to long-term national problems without reverting to or threatening violence.

Through the peace agreements, the two parties made an unprecedented political pact, featuring detailed commitments to create and sustain 'governability' in Guatemala.

The central concerns of the peace accords include the need to transform existing relations between the state and society so that political institutions are capable, for the first time, of mediating the interests of all social groups in a poor, unequal, multi-ethnic, and multi-lingual Guatemala. To achieve this transformation, core provisions express time and again the need for participative consultation in the formulation, execution, evaluation and monitoring of state policies, and for accountability in legislative action and executive decision-

making. In other words, a culture of involvement in which public decision-making responds to the will of the citizenry is clearly promoted in the accords, as is the belief that strengthening the state will necessarily entail strengthening broader political and civil society.

In the not-so-distant past, there was little room for inter-sectoral dialogue in Guatemala, even between powerful groups such as the military and business. Considering this fact, much has already been achieved towards the ambitious aims of the accords. Today, Guatemalan society is far more organised than previously, and more people are interested in political involvement. The military have less control over state affairs, and some business groups are

now actively contributing to public policy making. In addition, considerable support is voiced for democratic national reconstruction, there is wide interest in diversifying the economy and the international community strongly supports these developments.



Rosalina Tuyuc and Manuela Alvarado of the New Guatemalan Democratic Front (FDNG) take their seats in Congress; Guatemala City, January 1996

While there is good reason to expect that 'governability' will be consolidated and extended, it remains unclear whether emerging changes will reflect much more than isolated political ambitions among Guatemala's privileged elites. Considering the country's violent past and complex socio-cultural present, the establishment of 'participative democracy' was always to be an Herculean task. For those committed to seeing the process through, delays, set-backs and the need for unremitting effort and vigilance are likely to persist.

Part I: Piecemeal Peacebuilding

An important indicator of the weakness of the accords is that, while there are watchdog bodies mandated to monitor the implementation of the accords, there is no single agency dedicated to integrating their provisions, establishing priorities and converting these into a coherent national agenda. In other words, the sustainability of the implementation phase of the peace process is threatened by a profound lack of coherent leadership. To understand this situation, it is necessary to examine the contradictions and lack of connectedness between reconstruction in the rural communities, the workings of the various commissions instituted through the peace process, and developments within national politics and the state.

Reconstruction and Rural Clientelism

Through the reconstruction phase of the peace process to date, the greatest dynamism has been at the level of the rural communities. Villagers affected by the armed conflict have seen a proliferation of investment in social development projects covering such areas as latrine and sewer construction, and the provision of drinking water and school equipment. New bodies, especially the Social Investment Fund (FIS) and the National Fund for Peace (FONAPAZ), have come to hold the lion's share of the state social investment budget and, together with increasing input from NGOs, have supported a range of previously unfunded public works. Key beneficiaries of this investment have been villagers in areas with little prior contact with the state. This

has helped to increase popular confidence in the authorities and generate a positive attitude to peace.

Although many communities have undoubtedly benefited materially from the peace process, funds have frequently been meted out with no prior needs analysis and without supporting sufficient co-ordination between the people and their elected municipal officials. The ways in which funds have been dispersed have not enhanced local implementation capacities, nor has there been adequate opportunities for grass-roots involvement in defining investment priorities. In other words, the emphasis on top-down poverty alleviation measures has constrained the potential for local people to attain a genuine voice

and a stake in the political and economic development of Guatemala.

Crucially for the integrity and sustainability of reconstruction, ten per cent of the national budget allocated to the municipalities is funding training of local authorities and the promotion of dialogue within and between these authorities and the diverse communities they serve. Generally speaking, however, state reconstruction initiatives have tended to nurture 'clientelist' relations, often in support of the government of the day. In the longer term, this has to change, as a solution to Guatemala's problems of exclusion and inequality demands the nurturing of socially responsible citizens able to exercise their rights of opinion, petition, organisation and mobilisation.

The Structures of Peace

Within 90 days of the signing of the Agreement on a Firm and Lasting Peace, no less than 15 'participative' bodies had been set up in Guatemala to help steer the implementation phase of the peace process. These bodies involve around 200 individuals, representing the state, society and international agencies.

The mere existence of these commissions does not imply that there is effective consultation. In fact, the only substantive consultative mechanisms are arguably those by which civic groups elect their commission representatives. Moreover, what is most striking about the work of the implementation commissions is that their civic representatives routinely lack the resources, time and

professional support to participate on an equal footing with government delegates. This undermines the claim of the commissions to be truly participative, as does the lack of money to publicise their work and the minimal links established between them and the outside world, be it communities, NGOs, the media or even public authorities. There is undoubtedly the potential for civic groups in Guatemala to make a genuine impact on the emerging political dispensation through the structures of the implementation process, but this potential will remain unfulfilled as long as these structures remain so exclusive, unbalanced and detached.

Even if the implementation commissions become more participative, there are no

guarantees that they would be able to produce constructive transformative results. Nowhere in the accords does it say that the work of the commissions must become public policy, nor are there mechanisms for overseeing the conversion of proposals into legislation. The accord implementation structure is still at a fledgling stage, but there is nothing to prevent the commissions from becoming mere political shock absorbers designed to defuse, rather than amplify, societal action.

The possibility that procedural oversights and structural imbalances might be addressed has also narrowed through 1997. While the government, the URNG and the ASC have all published independent reports on the process to date,

both the UN Mission to Guatemala (MINUGUA) and the Accompaniment Commission, the supervisory bodies charged with monitoring the effectiveness of the accords, have yet to produce their statements or recommendations. If these bodies continue to be diffident, and to not adjudicate opposing claims according to the spirit of the accords, it is likely that the commissions will remain as they are - weak on participation and lacking in political clout.

Partisan Deadlock

Aloof from the stagnation of peacebuilding in the rural communities and the implementation commissions, the ruling National Advancement Party (PAN) has clearly revealed its political priorities: first, to negotiate and secure

international financial support; and second, to conserve alliances with the reformist wing of the Guatemalan business community.

The first priority reflects the government's primary need to finance its political and economic programme by satisfying the conditions of 'structural adjustment' on which assistance from international financial institutions (IFIs) depends. To this end, a number of measures have been implemented to satisfy IFI pre-occupations with macroeconomic 'stability' and state 'modernisation'. These have included extensive privatisation, fiscal reform, decentralisation of public institutions and a drastic increase in public utility charges.

PAN's second priority reflects a need to maintain the unique government/business alliance which underpins its unprecedented electoral ascendancy over more conservative, authoritarian political forces. Together with its commitment to international donor agendas, this imperative has severely limited PAN's scope for negotiating 'modernisation' with other political parties and with civil society.

The government's tendency to conduct real business only with funders and electoral allies has brought it into direct conflict with a range of political and civic groups. Partly to manage this conflict, the PAN has organised 'Update Meetings' to discuss a set agenda of parliamentary bills on reforming the executive, social welfare and the civil service. Originally

involving organisations ranging from political parties, to private sector groups, to research bodies, the URNG and the ASC, this forum has yet to produce any political agreements. Apart from the private sector, which is keen to augment its already powerful influence on government, most of those involved have begun to question the usefulness of the meetings, and participation has steadily narrowed.

Responses to Implementation

The government position on the first phase of implementation is characteristically upbeat. It claims that the accords express a nationally-held

consensus and that this consensus is being implemented with 'the accuracy of a Swiss watch'. The URNG, on the other hand, has emphasised the absence of stable consultation and community involvement mechanisms, alleging that the government has hidden agendas which stray from the content and spirit of the peace agreements. Several leaders and representatives of civic organisations have argued that, in a largely illiterate society, the state commitment to disseminate the peace agreements in 'the widest possible fashion' can not be realised, as claimed, through publication alone.

Representing a significant part of organised 'civil society', the ASC is

especially dissatisfied with progress on the various commitments on land reform, protesting at mounting delays and at a general lack of state communication in regard to these commitments. They have also highlighted how the government has failed to fulfil its pledge to consult the National Council for Agrarian Development with regard to state rural development programmes.

The ASC, the Alliance against Impunity and other human rights groups have also pointed out how the new Law on the National Police Force does not respect the content of the Agreement on Strengthening Civil Society and the Role of the Armed Forces in a

Democratic Society. They protest that the law does not guarantee the civilian nature of the police force, and that it fails to define the structure of the force, nor to subordinate it to the criminal investigations of the Public Prosecutors Office. The Law also makes no mention, as it should, of obligatory professional training, nor of the purging of human rights offenders within its ranks. Neither does it regulate the functions and syllabus of the Police Academy.

Finally, civil groups have also been disappointed by the arbitrary way in which the government Peace Secretariat (SEPAZ), set up to promote co-ordination between broader state policies and specific commitments made in the

accords, was designated to monitor the implementation process relating to the rights and participation of women. This designation was effected over the heads of womens' organisations, who themselves had proposed a Womens' Forum for this explicit purpose. Protests did lead to the creation of a women's collective within the Secretariat but even then, the various representatives were unilaterally selected by the government.

Taxing Dilemmas

While the interests of the international financial institutions, the PAN and its business allies broadly converge in economic neo-liberalism, one area in which contradictions have emerged has been on tax reform. The International Monetary Fund (IMF) has insisted the government comply with its peace accord commitment to increase its tax revenues from 8% to 12% of GDP by the year 2000. In the face of great resistance from Guatemalan business, the government has moved to eliminate a range of tax exemptions while gradually reducing income tax from 30% to 25%. This last concession, aimed at assuaging business objections to the other measures, was sold to the IMF as a

means to reduce tax evasion. The government proposals were adopted by Congress in May 1997. They received a mixed reception from both sectors they were designed to mollify.

It is now widely perceived that the government is acting autocratically, focusing on its own short- and medium-term goals at the expense of the long-term national interest. In direct contravention of the accords, the PAN regime is not seeking genuine consensus in the formulation and implementation of its priorities. The tighter focus of its public spending, its commodification of basic social services, and its generalised promotion of market economics greatly undermine

its agreed function as the ultimate guarantor of social rights.

The capacity for the PAN administration to pursue its own priorities independent of its peace commitments has been accentuated by the weakness of the political opposition. The URNG in particular has been largely absent from national political debate in the last six months. Pre-occupied with demobilisation and with the struggles inherent in the realignment of the Guatemalan Left, it has allowed events to slip past, no longer proactive as it was during peace negotiations.

State or Society?

While continuing to hamper the implementation of public policies aimed at

promoting consensus, the fragile links between political forces in Guatemala also demonstrate that, as yet, there has been little bridging of the historical rupture between state and society.

Symptomatic of this continuing divide is widespread public distrust of state structures. There is a long history among officials of excessive bureaucratisation, bias, corruption and impunity, which has persisted regardless of mounting poverty and poor public services. As a consequence, ordinary Guatemalans tend to view public officials, even if elected, not as servants of the people, but as abusive, inefficient and corrupt. In response to decades of fraudulent elections, the vote is also often seen as an isolated act on polling day. Many concur with popular

organisations who continue to doubt the longer-term political significance of elections.

It would be wrong to suggest there has been no broadening of public debate on national political issues and that the implementation process as it is can not facilitate a new exercise in citizenship. Indeed, where there is limited democratic experience, negotiation continues between the executive and other structures, whether political, private sector or governmental. So far, however, discussions around the transformation of state institutions and nation-building have been excessively compartmentalised. Debate is limited to particular implementation commissions discussing such issues as education reform, a new

municipal code and the land register separate from broader national concerns. Only at the highest levels of government are there discussions on, for example, centralisation versus devolution and the limitations of the financial capabilities of the state. Many Guatemalans who could usefully contribute to these discussions are left uninformed and excluded.

Furthermore, serious reflection on enabling communities to contribute more constructively to national debate has been restricted largely to the civil society organisations involved in the implementation and dissemination of the accords. However, these groups acknowledge their often unhelpful anti-state prejudices, their lack of organisational focus,

their ignorance of how the three branches of the state operate, their inexperience of negotiation and accountability and, particularly, their lack of political initiative. They are often well aware that they are ill-equipped to effectively lobby the legislative assembly, present alternatives, create alliances, and formulate strategies. They also highlight how they are denied the professional assistance afforded their state counterparts, which leaves them handicapped in their efforts to rectify their acknowledged shortcomings.

The implementation commissions, local government structures and development councils envisaged in the peace accords afford state and society a new arena within which to take joint decisions.

These structures depend for their effectiveness on the priorities and the pace set by central state authorities, however, and the agreements provide no mechanisms to mediate this dependence. All things considered, perhaps the greatest challenge of implementation lies in building this channel of communication and in integrating the implementation structures with central state institutions which determine national priorities. Until such integration is achieved, transparent discussion on how public and societal power can be strengthened will continue to be hampered, as will the capacity of Guatemalans to construct viable new concepts of citizenship.

What's Going Wrong?

The peace agenda incorporates four grand strategies around which its commitments are structured: reinsertion and demobilisation; integral human development; sustainable productive development; and strengthening the democratic state. Powerful constraints on the realisation of these commitments include:

- the lack of local capacities to disburse loans and donations;
- insufficiently trained and responsible personnel to manage and design policies and to oversee complete project cycles from investment to sustainability;

- dependence on the political wiles and alliances of those in government to transform the tax structure - a main cause of state financial instability;
- an endemic inability (or unwillingness), to publicly propose, share, consult, agree, involve and negotiate in defining the machinery of implementation.

Part II: A New Role for the International Community

The peace negotiations coincided with a fundamental review by international NGOs of their ongoing financial commitments to Central American countries, including Guatemala. Moving away from

the more ideological priorities of the 1970s and '80s, their aid is now increasingly driven by more market-oriented criteria of efficiency and effectiveness. This new agenda identifies three key problems: the lack of training of most Guatemalan NGOs; the lack of organisational autonomy, management and decision-making capacities within community groups; and poor communication, negotiation and co-ordination between the state and civil society. During the first half of the 1990s, international donors have also found that their Guatemalan counterparts are increasingly claiming their right to discuss the terms of funding. It is more common now to find that donors use consultation procedures with local organisations.

United Nations agencies are also involved in this new dynamic, and civil society organisations have counted on bodies such as the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO), not only for support with social reincorporation problems, but also in negotiations with the state. The UNDP, especially, is considering ways to promote confidence, tolerance and consensus-building between the public sector and the rest of society so as to promote effective implementation of the peace accords.

The UN Mission to Guatemala (MINUGUA) has also had a decisive impact in reducing human rights violations, curbing military power and

professionalising the administration of justice. In training the staff of the Public Prosecutor's Office, the judiciary and the National Police Force, it hopes to foster a favourable environment for constructive dialogue between local populations and the army, the executive and the judiciary. In doing so, it seeks to ensure citizens' safety, and to limit - and hopefully eliminate - the culture of impunity.

While the integration of the UN into the new aid agenda is to be broadly welcomed, there remains substantial room for improvement. One criticism is that, in their enthusiasm for the professionalisation of the state, the UN has sometimes sent out ambiguous signals concerning its commitment to improving state-society relations. In January 1997,

for instance, the UN-backed 'Strategic Note' published by the Guatemalan government reviewed priorities in the peace process with scant reference to community involvement, delegation of power, and the ways and means of broad-based consultation. At the same time, the institutional strengthening programme for NGOs run jointly by the UNDP and MINUGUA, has mostly supported short-term institutional activities, at the expense of mid- to long-term capacity building.

MINUGUA's Programme of Institution-Building

The MINUGUA Institutional Strengthening Division provides technical support for the institutions in charge of administering justice and creating a culture of respect for human rights. Its overall objective is to build in Guatemala 'a democratic, multicultural state that is subjected to the rule of law'. This involves a series of institutional reforms designed to bring about changes in the state apparatus and the performance of state officials. MINUGUA's activities, often implemented with the co-operation of other UN agencies and NGOs, have been funded largely by Scandinavian countries, the USA and Canada. They are concentrated in four principal areas:

- Administration of justice: building up the technical, organisational and administrative capacity of institutions associated with the administration of justice such as the Public Prosecutor's Office, the Public Defender's Office, the judiciary, and the Office for the Counsel for Human Rights. Emphasis has been placed on the implementation of the new Code of Criminal Procedure.
- Cultural pluralism and access to justice: extension of judicial services to remote indigenous areas, ensuring local language proficiency through the Administration of Justice and Linguistic Pluralism. Other

projects increasing access to justice include the appointment of translators for the Public Prosecutor's Office and judiciary in the Mam and Q'eqchi' areas, and a popular legal service in Nebaj, Quiché. This latter initiative has seen active coordination between the national Public Prosecutors Office and the judiciary and has involved setting up a Magistrates Court, a local Public Prosecutor's Office, and an office of the National Police Force, with officers nominated by local communities. Research into customary law is also being undertaken by the Rafael Landívar University.

- Public security: technical assistance has been provided to the National Police Academy in the preparation of their basic syllabus and in the selection of police officers for training. International consultants have also been placed with the homicide section of the Criminal Investigation Department.
- Culture of respect for human rights: significant human rights education has been carried out at the grass-roots, 70% of which involves close co-operation with national bodies, mainly state institutions and NGOs.

As a consequence of this ambiguity, leaders of many civic organisations

involved in peace building have the distinct impression that the United Nations 'is on the government's side'. These leaders have highlighted the lack of co-ordination between UN agencies to improve the balance of state-society relations, stressing that civil society organisations are fragmented, wary and ill-equipped to operate in the public domain and that this weakness needs urgent attention. Moreover, because support from the International Financial Institutions is channelled almost entirely into state reform via structural adjustment, it is especially crucial that the UN sponsor grassroots participation in the reconfiguration of Guatemalan political life.

New Directions for the UN

While the negotiations process in Guatemala promoted participation as the linchpin of sustainable peace, there is little sign yet of what the agreements call 'participative democracy'. One move which might help turn the rhetoric of the accords into reality would be to fully implement, in an even-handed fashion, the whole of MINUGUA's existing mandate. In addition to verifying human rights violations and strengthening the capacities of the state justice system, this would involve the mission in serious verification of all aspects of community involvement in the implementation of the accords.

Other UN agencies already play an *ad hoc* role in promoting, fostering and facilitating coordination around peace issues between the state and civic

organisations. This bridge, approved in the accords, needs to be maintained, strengthened, and consolidated in public policy. In addition, the UN Interagency Commission in Guatemalan, created to improve co-ordination in assistance to the different peace agreements, could also contribute its own resources to facilitate education in social monitoring and political intervention, and to broaden the range of organisations overseeing compliance with the accords.

What is required above all, however, is the political and technical expertise to enable state officials and civic leaders to effectively discuss policy formulation, execution and follow-up. If ongoing peace-building does not consolidate and extend state-society connections,

Guatemala will have missed a truly historic opportunity.

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Framework Agreement

Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the “Unidad Revolucionaria Nacional Guatemalteca” (URNG)

The delegations of the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, having met at Mexico City from 6 to 9 January 1994 under the auspices of the Secretary-General of the United Nations and as guests of the Government of Mexico, have reached the following agreement on the framework for the resumption of

the negotiating process aimed at achieving a firm and lasting peace:

I. Agenda for the negotiations

The parties shall negotiate on all the items included in the general agenda set forth in the Mexico Agreement. The parties shall together decide on the scope of their undertakings, all of which shall be subject to verification.

The Government and URNG undertake to be appropriately represented in the negotiations by high-ranking delegates so that political agreements consistent with the constitutional order can be entered into, without restricting their power to conclude agreements on institutional and constitutional reforms.

II. Moderation of the bilateral negotiations

The parties have agreed to request the Secretary-General of the United Nations to appoint a

representative to serve as moderator of the bilateral negotiations between the Government and URNG. The parties agree that the moderator may make proposals to facilitate the signing of a firm and lasting peace agreement.

III. Society at large

The two parties recognize the contribution of the sectors which, pursuant to the Oslo Agreement, have participated in the meetings with URNG held at El Escorial, Ottawa, Quito, Metepec and Atlixco. These meetings have given an impetus to the negotiating process in Guatemala. The participation and contributions of these sectors have helped to make possible the start of direct negotiations between the Government and the command of URNG.

The parties agree that Guatemalan society continues to have an essential role to play in the

achievement of peace and in the process of reconciliation.

Without prejudice to other machinery and forums, whether temporary or permanent, for promoting national reconciliation, the parties agree to promote the establishment of an Assembly open to the participation of non-governmental sectors of Guatemalan society, provided that their legitimacy, representative character and lawfulness have been recognized. The Assembly shall meet during the negotiating period and shall have the following functions:

- (i) To discuss the substantive issues for the bilateral negotiations, i.e. items (ii) to (vii) of the general agenda contained in the Mexico Agreement, with a view to formulating positions on which there is consensus;

-
- (ii) To transmit to the United Nations moderator, the Government of Guatemala and URNG the recommendations or guidelines resulting from its deliberations. These recommendations and guidelines shall not be binding and shall be aimed at fostering understanding between the parties. The Assembly shall discuss the substantive issues on the basis of a timetable that is synchronized with the dates set for the bilateral negotiations and shall not delay the conduct of the bilateral negotiating process;
- (iii) To consider bilateral agreements concluded by the parties on the substantive issues and endorse such agreements so as to give them the force of national commitments, thereby facilitating their implementation. However, if for any reason a bilateral agreement is not endorsed, the agreement shall continue to be valid.

The parties agree to request the Episcopal Conference of Guatemala to appoint the President of the Assembly, considering for this office the conciliator, Monsignor Quezada Toruño. The President of the Assembly shall be assisted by an organizing committee. The Committee shall be composed of representatives of each of the sectors which participated in the Oslo process, together with representatives of the Maya people.

The President of the Assembly shall have the following functions:

- (i) To convene the Assembly;
- (ii) To organize its deliberations with the assistance of the Organizing Committee;
- (iii) To promote the formulation of consensus recommendations regarding the substantive issues;

-
- (iv) To transmit to the United Nations moderator and to the parties the recommendations and guidelines that result from the Assembly's deliberations and to participate in special meetings of the bilateral bureau convened to this end by mutual agreement between the parties;
- (v) To receive from the United Nations moderator the bilateral agreements on substantive issues signed by the parties, put them before the Assembly and promote their endorsement by it.

iv. Role of the countries constituting the group of friends

The parties request the Governments of Colombia, Mexico, Norway, Spain, the United States of America and Venezuela to form a group of friends of the Guatemalan peace process. The friends will be

kept duly informed of the progress and content of the negotiations between the parties, and will have the following functions:

- (i) To support, through their actions, the representative of the Secretary-General of the United Nations in order to facilitate the negotiating process;
- (ii) To give greater certainty and firmness to the commitments entered into by the parties in their capacity as solemn witnesses to the agreements arrived at in the course of the negotiating process, when the parties so request.

v.Procedures

(i) Disclosure: the parties agree that the bilateral negotiations will be conducted in the strictest secrecy in order to ensure that they are carried on in an atmosphere of trust and seriousness. They

agree that the only public information on their conduct will be that made available by the representative of the Secretary-General of the United Nations. For purposes of coordination with the work of the Assembly, the moderator and the President of the Assembly will draw up appropriate rules to permit exchanges of information that do not impair the secrecy necessary for the work of the bilateral bureau.

(ii) Time-frame: the parties express their commitment to arrive at a firm and lasting peace agreement within the shortest possible time during 1994. In this context, they undertake to demonstrate the necessary flexibility for successful negotiation of the general agenda.

(iii) In the context of their efforts to facilitate the negotiating process, the parties have recognized the desirability of resorting to all measures that will be conducive to rapprochements and

agreements between them, and declare themselves ready to respond to the requests made by the moderator in this respect.

VI. Verification mechanisms

Verification is a vital element in ensuring compliance with and respect for the agreements. Consequently, the parties reiterate that all the agreements must be accompanied by appropriate national and international verification mechanisms. The experience and authority of the United Nations confer a high degree of reliability on international verification by the Organization. The two parties agree to request the United Nations to verify all the agreements, in both their substantive and their operational aspects.

Mexico, D.F., 10 January 1994

For the Government of the Republic of Guatemala

Héctor ROSADA GRANADOS

General Marco Antonio GONZALEZ T.

Mario PERMUTH LITSWA

General Victor Manuel ARGUETA V.

Max KESTLER FARNES

Colonel Victor Manuel VENTURA A.

Antonio ARENALES FORNO

Ernesto VITERI ECHEVERRIA

**For the Unidad Revolucionaria Nacional
Guatemalteca General Command**

Commander Gaspar ILOM

Commander Pablo MONSANTO

Commander Rolando MORAN

Political and Diplomatic Commission

Luis Becker GUZMAN

Miguel Angel SANDOVAL

Mario Vinicio CASTAÑEDA, Adviser

For the United Nations

Jean ARNAULT

Commission for Historical Clarification Accord

Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused the Guatemalan population to suffer

Whereas the present-day history of our country is marked by grave acts of violence, disregard for the

fundamental rights of the individual and suffering of the population connected with the armed conflict;

Whereas the people of Guatemala have a right to know the whole truth concerning these events, clarification of which will help avoid a repetition of these sad and painful events and strengthen the process of democratisation in Guatemala;

Reiterating its wish to comply fully with the Comprehensive Agreement on Human Rights of 29 March 1994;

Reiterating its wish to open as soon as possible a new chapter in Guatemala's history which, being the culmination of a lengthy process of negotiation, will put an end to the armed conflict and help lay the bases for peaceful coexistence and respect for human rights among Guatemalans;

Whereas, in this context, promotion of a culture of harmony and mutual respect that will eliminate any form of revenge or vengeance is a prerequisite for a firm and lasting peace;

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereafter referred to as "the Parties") have agreed as follows:

To establish a Commission whose terms of reference shall be as follows:

Purposes

- I. To clarify with all objectivity, equity and impartiality the human rights violations and acts of violence that have caused the Guatemalan population to suffer, connected with the armed conflict.
- II. To prepare a report that will contain the findings of the investigations carried out and

provide objective information regarding events during this period covering all factors, internal as well as external.

III. Formulate specific recommendations to encourage peace and national harmony in Guatemala. The Commission shall recommend, in particular, measures to preserve the memory of the victims, to foster a culture of mutual respect and observance of human rights and to strengthen the democratic process.

Period covered

The Commission's investigations shall cover the period from the start of the armed conflict until the signing of the firm and lasting peace agreement.

Operation

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- I. The Commission shall receive particulars and information from individuals or institutions that consider themselves to be affected and also from the Parties.
 - II. The Commission shall be responsible for clarifying these situations fully and in detail. In particular, it shall analyse the factors and circumstances involved in those cases with complete impartiality. The Commission shall invite those who may be in possession of relevant information to submit their version of the incidents. Failure of those concerned to appear shall not prevent the Commission from reaching a determination on the cases.
 - III. The Commission shall not attribute responsibility to any individual in its work, recommendations and report nor shall these have any judicial aim or effect.

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- IV. The Commission's proceedings shall be confidential so as to guarantee the secrecy of the sources and the safety of witnesses and informants.
- V. Once it is established, the Commission shall publicise the fact that it has been established and the place where it is meeting by all possible means, and shall invite interested parties to present their information and their testimony.

Composition

The Commission shall consist of the following three members:

- (i) The present Moderator of the peace negotiations, whom the Secretary-General of the United Nations shall be asked to appoint.

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- (ii) One member, a Guatemalan of irreproachable conduct, appointed by the Moderator with the agreement of the Parties.
 - (iii) One academic selected by the Moderator, with the agreement of the Parties, from a list proposed by the University presidents.

The Commission shall have whatever support staff it deems necessary, with the requisite qualifications, in order to carry out its tasks.

Installation and duration

The Commission shall be set up, installed and shall start to work as of the day the firm and lasting peace agreement is signed. The Commission shall work for a period of six months starting from the date of its installation; this period may be extended for a further six months if the Commission so decides.

Report

The Commission shall prepare a report which shall be handed over to the parties and to the Secretary-General of the United Nations who shall publish it. Inability to investigate all the cases or situations presented to the Commission shall not detract from the report's validity.

Commitment of the Parties

The Parties undertake to collaborate with the Commission in all matters that may be necessary for the fulfilment of its mandate. In particular, they undertake to establish, prior to setting up the Commission and during its operations, the necessary conditions so that the Commission may fulfil the terms of reference established in the present agreement.

International verification

In conformity with the Framework Agreement of 10 January 1994, implementation of this Agreement shall be subject to international verification by the United Nations.

Measures for prompt execution following the signing of this Agreement

The Parties agree to ask the Secretary-General to appoint the Moderator of the negotiations as a member of the Commission as soon as possible. When he is appointed, he shall be authorised to proceed forthwith to make all necessary arrangements to ensure that the Commission functions smoothly once it is established and installed in conformity with the provisions of this Agreement.

Oslo, 23 June 1994

**For the Government of the Republic of
Guatemala**

Héctor ROSADA GRANADOS

General Carlos Enrique PINEDA CARRANZA

Antonio M. ARENALES FORNO

General Julio Arnoldo BALCONI TURCIOS

Mario PERMUTH

General José Horacio SOTO SALAN

Amilcar BURGOS SOLIS

**For the Unidad Revolucionaria Nacional
Guatemalteca General Command**

Carlos GONZALES

Commander Rolando MORAN

Commander Gaspar ILOM

Commander Pablo MONSANTO

Political and Diplomatic Commission

Luis Felipe BECKER GUZMAN

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Moderator

Indigenous Rights Accord

Agreement on the Identity and Rights of Indigenous Peoples

Considering

That the question of identity and rights of indigenous peoples is a vital issue of historic importance for the present and future of Guatemala;

That the indigenous peoples include the Maya people, the Garifuna people and the Xinca people, and that the Maya people consist of various socio-cultural groups having a common origin;

That, because of its history, conquest, colonization, movements and migrations, the Guatemalan nation is multi-ethnic, multicultural and multilingual in nature;

That the parties recognize and respect the identity and political, economic, social and cultural rights of the Maya, Garifuna and Xinca peoples, within the unity of the Guatemalan nation, and subject to the indivisibility of the territory of the Guatemalan State, as components of that unity;

That the indigenous peoples 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;

That this historical reality has affected and continues to affect these peoples profoundly, denying them the full exercise of their rights and political participation, and hampering the configuration of a national unity which should adequately reflect the rich and diversified physiomy of Guatemala with its wealth of values;

That 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;

That it will be possible to eliminate oppression and discrimination in Guatemala only if due recognition is given to all aspects of the identity and rights of the peoples who have inhabited and continue to inhabit it, all of whom are components of its present reality and protagonists in its development, in all senses;

That all matters of direct interest to the indigenous peoples need to be dealt with by and with them and that the present agreement seeks to create, expand and strengthen the structures, conditions, opportunities and guarantees regarding participation of the indigenous peoples, with full respect for their identity and the exercise of their rights;

That the international community, through the United Nations and the agencies and programmes of the United Nations system, the Organization of

American States and other international agencies and instruments have recognized the aspirations of the indigenous peoples who wish to gain control over their own institutions and forms of life as peoples;

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as the parties) have agreed as followed:

1. Identity of Indigenous Peoples

1. Recognition of the identity of the indigenous peoples is fundamental to the construction of a national unity based on respect for and the exercise of political, cultural, economic and spiritual rights of all Guatemalans.
2. The identity of the peoples is a set of elements which define them and, in turn, ensure their self-recognition. In the case of the Mayan

identity, which has shown an age-old capacity for resistance to assimilation, those fundamental elements are as follows:

- (a) Direct descent from the ancient Mayas;
- (b) Languages deriving from a common Mayan root;
- (c) A view of the world based on the harmonious relationship of all elements of the universe, in which the human being is only one additional element, in which the earth is the mother who gives life and maize is a sacred symbol around which Mayan culture revolves. This view of the world has been handed down from generation to generation through material and written artifacts and by an oral tradition in which women have played a determining role;
- (d) A common culture based on the principles and structures of Mayan thought, a philosophy,

a legacy of scientific and technical knowledge, artistic and aesthetic values of their own, a collective historical memory, a community organization based on solidarity and respect for one's peers, and a concept of authority based on ethical and moral values; and

(e) A sense of their own identity.

3. The multiplicity of socio-cultural groups of the Maya people, which include the Achi, Akateco, Awakateco, Chorti, Chuj, Itza, Ixil, Jakalteco, Kanjobal, Kaqchikel, Kiche, Mam, Mopan, Poqomam, Poqomchi, Q'eqchi, Sakapulteko, Sikapakense, Tectiteco, Tz'utujil and Uspanteco, has not affected the cohesion of their identity.
4. The identity of the Maya people, as well as the identities of the Garifuna and Xinca peoples is recognized within the unity of the Guatemalan nation and the Government undertakes to

promote, in the Guatemalan Congress, a reform of the Guatemalan Constitution to that effect.

II. Struggle Against Discrimination

A. Struggle against de jure and de facto discrimination

1. To overcome the age-old discrimination against indigenous peoples the assistance of all citizens will be needed in the effort to change thinking, attitudes and behaviour. This change must begin with a clear recognition by all Guatemalans of the reality of racial discrimination and of the compelling need to overcome it and achieve true peaceful coexistence.
2. For its part, with a view to eradicating discrimination against the indigenous peoples, the Government shall take the following measures:

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- (a) Promote in the Guatemalan Congress, the classification of ethnic discrimination as a criminal offence;
- (b) Promote a review by the Guatemalan Congress of existing legislation with a view to abolishing any law or provision that could have discriminatory implications for the indigenous peoples;
- (c) Widely disseminate information on the rights of the indigenous peoples through education, the communications media and through other channels; and
- (d) Promote the effective protection of such rights. To that end, promote the creation of legal offices for the defence of indigenous rights and the installation of popular law offices to provide free legal assistance for persons of limited economic means in municipalities in which

indigenous communities are prevalent. Furthermore, the Office of the Counsel for Human Rights and other organizations for the protection of human rights are urged to give special attention to the protection of the rights of the Maya, Garifuna and Xinca peoples.

B. Rights of indigenous women

1. It is recognized that indigenous women are particularly vulnerable and helpless, being confronted with twofold discrimination both as women and indigenous people, and also having to deal with a social situation characterized by intense poverty and exploitation. The Government undertakes to take the following measures:
 - (a) Promote legislation to classify sexual harassment as a criminal offence, considering as an aggravating factor in determining the

penalty for sexual offences the fact that the offence was committed against an indigenous woman;

(b) Establish an Office for the Defence of Indigenous Women's Rights, with the participation of such women, including legal advice services and social services; and

(c) Promote the dissemination and faithful implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

2. The communications media and organizations concerned with the promotion of human rights are urged to cooperate in the attainment of the objectives listed in this section.

C. International instruments

International Covention on the Elimination of All Forms of Racial Discrimination

1. The Government undertakes to promote, in the Guatemalan Congress, a bill incorporating the provisions of the Convention in the Penal Code.
2. Since Guatemala is a party to the Convention it undertakes to use all available means aiming at recognition of the Committee on the Elimination of Racial Discrimination, as provided in article 14 of that Convention.

Indigenous and Tribal Peoples Convention, 1989 (ILO Convention No. 169)

3. The Government has transmitted to the Guatemalan Congress, for its approval, Convention No. 169 of the International Labour Organization and will accordingly promote approval of that Convention by the Congress. The parties

urge the political parties to facilitate approval of the Convention.

Draft declaration on the rights of indigenous peoples

4. The Government shall promote approval of the draft declaration on the rights of indigenous peoples in the appropriate forums of the United Nations, in consultation with the indigenous peoples of Guatemala.

III. Cultural Rights

1. Mayan culture is the original basis of Guatemalan culture and, in conjunction with the other indigenous cultures, is an active and dynamic factor in the development and progress of Guatemalan society.
2. The development of the national culture is therefore inconceivable without recognition and promotion of the culture of the indigenous

peoples. Thus, in contrast with the past, educational and cultural policy must be oriented to focus on recognition, respect and encouragement of indigenous cultural values. With such recognition of cultural differences in mind, an effort must be made to promote contributions and exchanges that can help to enrich Guatemalan society.

3. The Maya, Garifuna and Xinca peoples are the authors of their cultural development. The role of the State is to support that development by eliminating obstacles to the exercise of this right, adopting the necessary legislative and administrative measures to strengthen indigenous cultural development in all fields covered by the State and ensuring the participation of indigenous persons in decisions on the planning and execution of cultural programmes and projects through their organizations and institutions.

A. Language

1. Language is one of the mainstays of culture since, in particular, it is the vehicle for learning and passing on the indigenous view of the world, and indigenous knowledge and cultural values. Thus, all the languages spoken in Guatemala deserve equal respect. In that context provision must be made to recover and protect indigenous languages and to promote the development and use of those languages.
2. To that end, the Government shall take the following measures:
 - (a) Promote a constitutional reform calling for the listing of all languages existing in Guatemala which the State is constitutionally required to recognize, respect and promote;
 - (b) Promote the use of all indigenous languages in the educational system, to enable children to

read and write in their own tongue or in the language most commonly spoken in the community to which they belong and, in particular, protect bilingual and intercultural education and institutions such as the Mayan Schools and other indigenous educational projects;

(c) Promote the use of the languages of the indigenous people when providing State social services at the community level;

(d) Inform indigenous communities, in their own languages in keeping with the traditions of the indigenous peoples and by adequate means, of their rights, obligations and opportunities in various areas of national life. Recourse shall be had, if necessary, to written translations and the use of mass communications media in the languages of those peoples;

(e) Promote programmes for the training of bilingual judges and court interpreters from and into indigenous languages;

(f) Enhance the status of indigenous languages, opening up new opportunities for them in the mass communications and cultural transmission media, strengthening such organizations as the Academy of Mayan Languages and other similar institutions; and

(g) Promote the granting of official status to indigenous languages. To that end an officialization commission will be set up with the participation of representatives of the linguistic communities and the Academy of Mayan Languages of Guatemala, which shall study arrangements for granting official status, taking account of linguistic and territorial criteria. The Government shall promote, in the Guatemalan Congress, a reform of article 143 of the Constitution to

reflect the results of the officialization commission's work.

B. Names, surnames and place names

The Government reaffirms the full right to register indigenous names, surnames and place names. It also reaffirms the right of communities to change the names of places in which they reside, when a majority of members so decide. The Government shall take the measures provided for in part II, section A, of this agreement to combat any de facto discrimination in the exercise of this right.

c. Spirituality

1. Recognition is accorded to the importance and special nature of Mayan spirituality as an essential component in the Mayan vision of the world and in the transmittal of its values, as well as those of the other indigenous peoples.

2. The Government undertakes to secure respect for the exercise of this spirituality in all its manifestations, and particularly for the right to practice it, both in public and in private by means of education, worship and observance. Recognition is also given to the importance of the respect due to indigenous spiritual guides and to sacred ceremonies and holy places.
3. The Government shall promote, in the Guatemalan Congress, the reform of article 66 of the Constitution to stipulate that the State recognizes, respects and protects the various forms of spirituality practised by the Maya, Garifuna and Xinca peoples.

D. Temples, ceremonial centres and holy places

1. Recognition is accorded to the historical value and current importance of temples and

ceremonial centres as part of the cultural, historical and spiritual heritage of the Maya and other indigenous peoples.

Temples and ceremonial centres situated in areas protected by the State as archaeological sites

2. According to the Guatemalan Constitution, temples and ceremonial centres of archaeological value constitute part of the national cultural heritage. As such, they are the property of the State and must be protected. In that context, measures must be taken to ensure that this principle is not violated in the case of temples and ceremonial centres of archaeological value situated or found on private property.
3. The right of the Maya, Garifuna and Xinca peoples to participate in the conservation and administration of such places is recognized. To

guarantee this right the Government undertakes to promote, with the participation of indigenous peoples, legal measures to ensure redefinition of State entities responsible for this function in order to make this right effective.

4. Changes shall be made in the regulations for the protection of ceremonial centres in archaeological areas to ensure that such regulations permit the practice of spirituality and cannot be made an impediment to the exercise of spiritual values. The Government shall promote, in cooperation with indigenous spiritual organizations, regulations governing access to ceremonial centres to guarantee the free practice of indigenous spirituality in conditions of respect laid down by spiritual guides.

Holy places

5. @It is recognized that there are other holy places in which indigenous spirituality and, in

particular, Mayan spirituality, is traditionally practised and which need to be preserved. A commission formed of representatives of the Government and indigenous organizations and of indigenous spiritual guides shall be set up to identify these places and establish rules for their preservation.

E. Use of indigenous dress

1. The constitutional right to wear indigenous dress must be respected and guaranteed in all areas of national life. The Government shall take the measures provided for in part II, section A, of this agreement to combat any de facto discrimination regarding the use of indigenous dress.
2. Furthermore, in a campaign to make the public more aware of the different manifestations of the Mayan, Garifuna and Xinca cultures,

information shall be provided on the spiritual and cultural value of indigenous dress and the need to respect it.

F. Science and technology

1. The existence and value of the scientific and technological knowledge of the Maya and other indigenous peoples are recognized. This legacy must be retrieved, developed and disseminated.
2. The Government undertakes to promote the study and dissemination of this knowledge and to help put it to practical use. Universities, academic centres, the communications media, non-governmental organizations and international cooperation agencies are urged to validate and publicize the scientific and technical contributions of indigenous peoples.
3. Furthermore, the Government shall facilitate access by indigenous peoples to contemporary

knowledge and shall promote scientific and technical exchanges.

G. Education reform

1. The educational system is one of the most important vehicles for the transmittal and development of cultural values and knowledge. It must be responsive to the cultural and linguistic diversity of Guatemala, recognizing and strengthening the cultural identity of indigenous peoples, the values and educational systems of the Maya and other indigenous peoples, and the need to afford access to formal and non-formal education and to include the educational concepts of indigenous peoples in national school curricula.
2. To this end, the Government undertakes to promote the following reforms in the educational system:

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- (a) Decentralize and regionalize the system in order to adapt it to linguistic and cultural needs and specific features;
- (b) Give communities and families, which are a source of education, an active role in determining curricula and the school calendar and the authority to recommend the appointment or removal of teachers in order better to serve the educational and cultural interests of communities;
- (c) Incorporate the educational concepts of the Maya and other indigenous peoples, particularly in the philosophical, scientific, artistic, pedagogical, historical, linguistic and socio-political areas, as part of the overall reform of the educational system;
- (d) Expand and promote intercultural bilingual education and place emphasis on the study and

knowledge of indigenous languages at all educational levels;

(e) Promote improvements in the socio-economic living conditions of communities by developing the values, content and methods of their culture, technological innovations and the ethical principle of protection of the environment;

(f) Include in educational syllabuses programmes that strengthen national unity through respect for cultural diversity;

(g) Recruit and train indigenous bilingual teachers and technical and administrative officials to develop education in their communities and to introduce mechanisms to permit consultation with and the participation of representatives of indigenous communities and organizations in the educational process;

(h) Pursue the effective realization of the constitutional right to education to which the entire population is entitled, especially in indigenous communities which exhibit the lowest levels of educational coverage, by expanding such coverage and taking steps to ensure the achievement of these objectives; and

(i) Increase the budget of the Ministry of Education, so that a substantial part of this increase can be allocated to the implementation of educational reform.

3. As part of the educational reform, full account shall be taken of the different Mayan educational experiences. The Mayan Schools shall continue to be encouraged and the National Programme of Intercultural Bilingual Education for indigenous peoples and the Mayan Culture and Language Component for the entire school population of Guatemala shall be consolidated. The

establishment of a Mayan university or indigenous institutions of higher learning and the operation of the National Council of Mayan Education shall also be promoted.

4. In order to facilitate access by indigenous people to formal and non-formal education, the system of scholarships and student grants shall be strengthened. Teaching materials containing cultural and gender stereotypes shall also be revised.
5. A joint commission comprised of representatives of the Government and of indigenous organizations shall be established to design the above-mentioned reform.

H. Mass media

1. Like the educational system, the communications media play a paramount role in the defence, development and transmittal of cultural

values and knowledge. It is the responsibility not only of the Government but also of all those working in and involved with the news media to promote respect for indigenous cultures, the dissemination of such cultures, and the elimination of all forms of discrimination, and to help all Guatemalans to take full possession of their multicultural heritage.

2. For its part, in order to promote the broadest possible access to the communications media by the Maya communities and institutions and those of the other indigenous peoples, the widest possible dissemination in indigenous languages of the indigenous, and especially Mayan, cultural heritage, as well as of the universal cultural heritage, the Government shall, in particular, take the following measures:
 - (a) Create opportunities in the official media for the dissemination of expressions of indigenous

culture and promote a similar opening in the private media;

(b) Promote, in the Guatemalan Congress, the reforms of the existing Act on radio communications that are required in order to make frequencies available for indigenous projects and to ensure respect for the principle of non-discrimination in the use of the communications media. Furthermore, promote the abolition of any provision in the national legislation which is an obstacle to the right of indigenous peoples to have their own communications media for the development of their identity; and

(c) Regulate and support a system of informational, scientific, artistic and educational programmes on indigenous cultures in their languages, through the national radio, television and the written media.

iv. Civil, Political, Social and Economic Rights

A. *Constitutional framework*

The Government of Guatemala undertakes to promote a reform of the Constitution in order to define and characterize the Guatemalan nation as being of national unity, multi-ethnic, multi-cultural and multilingual.

B. *Local indigenous communities and authorities*

1. Recognition is accorded to the importance the Maya and other indigenous communities have had and continue to have in the political, economic, social, cultural and spiritual spheres. Their cohesion and dynamism have enabled the Maya, Garifuna and Xinca peoples to preserve and develop their culture and way of life, despite the discrimination to which they have been subjected.

2. Bearing in mind the constitutional commitment of the State to recognize, respect and promote these forms of organization which are peculiar to the indigenous communities, recognition is accorded to the role of the community authorities that were constituted in accordance with the customary norms of the communities, in the management of their affairs.
3. Recognizing the role of the communities, within the framework of municipal autonomy, in exercising the right of indigenous peoples to determine their own development priorities, particularly in the fields of education, health, culture and the infrastructure, the Government undertakes to strengthen the capacity of such communities in this area.
4. To this end, and in order to promote the participation of the indigenous communities in the decision-making process in all matters which

affect them the Government shall promote a reform of the Municipal Code.

5. That reform shall be promoted in accordance with the conclusions adopted by the commission on reform and participation, established in section D, paragraph 4, of this part in the following areas, within the framework of municipal autonomy and the legal provisions granting indigenous communities the right to manage their internal affairs in accordance with their customary norms, as mentioned in section E, paragraph 3, of this part:

- (a) Definition of the status and legal capacity of indigenous communities and their authorities constituted in accordance with traditional norms;

- (b) Definition of the modalities concerning respect for customary law and all matters related to the habitat in the discharge of municipal

functions, taking into consideration, where necessary, the situation of linguistic, ethnic and cultural diversity of the municipalities;

(c) Definition of the modalities for promoting the equitable distribution of government expenditure, including the percentage of the State's general budget of regular revenue which is transferred annually to the municipalities, among the communities, indigenous or non-indigenous, that make up the municipality, strengthening the capacity of those communities to manage resources and to be the instruments of their own development; and

(d) Definition of the modalities for communities to join together in the defence of their rights and interests and the conclusion of agreements for the design and implementation of communal and regional development projects.

c. Regionalization

Taking account of the advisability of having a regional administration based on far-reaching decentralization and deconcentration, the pattern of which reflects economic, social, cultural, linguistic and environmental criteria, the Government undertakes to regionalize the administration of the educational, health and cultural services of the indigenous peoples on the basis of linguistic criteria; in addition, it undertakes to facilitate the effective participation of community representatives in the management of education and culture at the local level in order to guarantee efficiency and relevance.

D. Participation at all levels

1. It is recognized that the indigenous peoples have been excluded from the decision-making process in the country's political life, so that it is extremely difficult, if not impossible, for them

freely and fully to express their demands and defend their rights.

2. In this connection, it is reaffirmed that the Maya, Garifuna and Xinca peoples have the right to create and manage their own institutions, to control their development and to have a genuine opportunity freely to exercise their political rights. It is also recognized and reaffirmed that the free exercise of these rights gives validity to their institutions and strengthens the unity of the nation.
3. Consequently, it is necessary to institutionalize the representation of indigenous peoples at the local, regional and national levels and to ensure their free participation in the decision-making process in the various areas of national life.
4. The Government undertakes to promote legal and institutional reforms to facilitate, regulate and guarantee such participation. It also undertakes to plan such reforms with the

participation of representatives of the indigenous organizations through the establishment of a joint commission on reform and participation, made up of representatives of the Government and of the indigenous organizations.

5. Without limiting its mandate, the commission may consider reforms or measures in the following areas:

(a) Mandatory mechanisms for consultation with the indigenous peoples whenever legislative and administrative measures likely to affect the Maya, Garifuna and Xinca peoples are being considered;

(b) Institutional forms of individual and collective participation in the decision-making process, such as advisory, consultative or other bodies that ensure a permanent dialogue between organs of the State and the indigenous peoples;

(c) Institutions representing the indigenous peoples which defend the interests of the

indigenous peoples at the regional and/or national level and which have statutes that ensure their representativity and powers that guarantee the adequate defence and promotion of those interests, including the power to make proposals to the executive and legislative bodies; and

(d) Guarantee of free access by indigenous peoples to the various branches of public service, promoting their appointment to posts within the local, regional and national government administrations whose work most directly concerns their interests or whose activities are limited to predominantly indigenous areas.

E. Customary law

1. The traditional norms of indigenous peoples have been and continue to be an essential element for the social regulation of the life of the

communities and, consequently, for the maintenance of their cohesion.

2. The Government recognizes that both the failure of national legislation to take account of the customary norms which govern life in the indigenous communities and the lack of access by indigenous peoples to the resources of the national judicial system have resulted in the denial of rights, in discrimination and in marginalization.
3. To strengthen the security before the law of the indigenous communities, the Government undertakes to promote, before the legislative organ and with the participation of indigenous organizations, the development of rules of law which would recognize the right of the indigenous communities to manage their own internal affairs in accordance with their customary norms, provided that the latter are not incompatible with the fundamental rights defined by

the national legal system or with internationally recognized human rights.

4. In cases where the intervention of the courts is required, and in particular in criminal matters, the competent authorities should take fully into account the traditional norms governing the communities. To this end, the Government undertakes to take the following measures:
 - (a) Propose, with the participation of representatives of indigenous organizations, legal provisions calling for the inclusion of cultural expertise and the development of mechanisms which would permit the community authorities to indicate the customs which constitute their set of internal norms; and
 - (b) Promote, in coordination with Guatemalan universities, professional associations and indigenous organizations, a continuing programme for judges and officers of the court (Ministerio Público) on the culture and identifying features

of the indigenous peoples and, in particular, an understanding of the norms and mechanisms which govern their community life.

5. To ensure the access of indigenous peoples to the resources of the national legal system, the Government undertakes to promote free legal advisory services for those with limited economic resources and reiterates its obligation to make court interpreters available to the indigenous communities, free of charge, thus ensuring the application of the principle that no one may be judged without having had the assistance of interpretation into his own language.
6. The Government, in cooperation with indigenous organizations, national universities and competent professional associations, shall promote the systematic and in-depth study of the values and procedures of the traditional system of norms.

F. Rights relating to land of the indigenous peoples

1. The rights relating to land of the indigenous peoples include both the communal or collective and the individual tenure of land, rights of ownership and possession and other real rights, and the use of natural resources for the benefit of the communities without detriment to their habitat. Legislative and administrative measures must be developed to ensure recognition, the awarding of title, protection, recovery, restitution and compensation for those rights.
2. The lack of protection of the rights relating to land and natural resources of the indigenous peoples is part of a very wide-ranging set of problems resulting, *inter alia*, from the fact that both the indigenous and the non-indigenous peasants have had difficulty in having their rights legalized through the acquisition of title and land registration. When, in exceptional

cases, they have been able to have their rights legalized, they have not had access to legal mechanisms to defend them. Since this problem is not exclusive to the indigenous population - although the latter has been particularly affected - it should be dealt with in the context of "Social and economic issues and the agrarian question", as one of the considerations to be taken into account in connection with the reform of the land tenure structure.

3. However, the situation with regard to the particular lack of protection and plundering of indigenous communal or collectively held lands merits special attention within the framework of this agreement. The Guatemalan Constitution establishes the obligation of the State to give special protection to cooperative, communal or collectively-held lands; recognizes the right of indigenous and other communities to maintain the system of administration of the lands which

they hold and which historically belong to them; and lays down the obligation of the State to provide State lands for the indigenous communities which need them for their development.

4. Recognizing the special importance which their relationship to the land has for the indigenous communities, and in order to strengthen the exercise of their collective rights to the land and its natural resources, the Government undertakes to adopt directly, when that is within its competence, and to promote, when that is within the competence of the legislative organ or the municipal authorities, the following measures, inter alia, which shall be implemented in consultation and coordination with the indigenous communities concerned.

Regularization of the land tenure of indigenous communities

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5. The Government shall adopt or promote measures to regularize the legal situation with regard to the communal possession of lands by communities which do not have the title deeds to those lands, including measures to award title to municipal or national lands with a clear communal tradition. To that end, an inventory of the land tenure situation shall be drawn up in each municipality.

Land tenure and use and administration of natural resources

6. The Government shall adopt or promote the following measures:
- (a) Recognize and guarantee the right of access to lands and resources which are not occupied exclusively by communities but to which the latter have historically had access for their traditional activities and their subsistence (rights of way, such as passage, wood-cutting, access

to springs, etc., and use of natural resources) and for their spiritual activities;

(b) Recognize and guarantee the right of communities to participate in the use, administration and conservation of the natural resources existing in their lands;

(c) Secure the approval of the indigenous communities prior to the implementation of any project for the exploitation of natural resources which might affect the subsistence and way of life of the communities. The communities affected shall receive fair compensation for any loss which they may suffer as a result of these activities; and

(d) Adopt, in cooperation with the communities, the measures necessary for the protection and preservation of the environment.

Restitution of communal lands and compensation for rights

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7. Recognizing the particularly vulnerable situation of the indigenous communities, which have historically been the victims of land plundering, the Government undertakes to institute proceedings to settle the claims to communal lands formulated by the communities and to restore or pay compensation for those lands. In particular, the Government shall adopt or promote the following measures:
- (a) Suspend the awarding of supplementary titles in respect of property to which the indigenous communities have claimed a right;
 - (b) Suspend the statute of limitations in respect of any action involving the plundering of the indigenous communities; and
 - (c) When the statute of limitations has already expired, however, establish procedures to compensate the communities which have been plundered with lands acquired for that purpose.

Acquisition of land for the development of indigenous communities

8. The Government shall take the necessary measures, without detriment to peasant smallholdings, to discharge its constitutional mandate to provide State lands for the indigenous communities which need them for their development.

Legal protection of the rights of indigenous communities

9. In order to facilitate the defence of the aforementioned rights and to protect the communities effectively, the Government undertakes to adopt or promote the following measures:
- (a) Develop legal rules recognizing the right of indigenous communities to administer their lands in accordance with their customary norms;

-
- (b) Promote an increase in the number of courts dealing with land cases and expedite procedures for the settlement of those cases;
 - (c) Urge faculties of law and the social sciences to strengthen the agrarian law component of the curriculum and include a knowledge of the relevant customary norms;
 - (d) Establish competent legal advisory services to advise on land claims;
 - (e) Provide the indigenous communities with the services of interpreters, free of charge, in respect of legal matters;
 - (f) Promote the widest dissemination, within indigenous communities, of information about land rights and the legal recourses available;
and
 - (g) Eliminate any form of discrimination against women, in fact or in law, with regard to facilitating access to land, housing, loans and participation in development projects.

10. The Government undertakes to give the fulfillment of the undertakings set out in this section F the priority which the situation of insecurity and urgency that characterize the land problems of the indigenous communities deserves. To that end, the Government shall, in consultation with the indigenous peoples, establish a joint commission on the rights relating to land of the indigenous peoples to study, devise and propose more appropriate institutional arrangements and procedures. The commission shall be composed of representatives of the Government and of indigenous organizations.

v. Joint Commissions

With regard to the composition and functioning of the commission on education reform referred to in part III, section G, paragraph 5, the commission on reform and participation referred to in part IV, section D, paragraph 4, and the commission on

rights relating to land of the indigenous peoples referred to in part IV, section F, paragraph 10, the parties agree as follows:

- (a) The commissions shall be composed of an equal number of representatives of the Government and representatives of indigenous organizations;
- (b) The number of members of the commissions shall be established in consultations between the Government and the Maya sectors of the Assembly of Civil Society;
- (c) The Maya sectors of the Assembly of Civil Society shall convene the Maya, Garifuna and Xinca organizations interested in participating in the said commissions for them to designate indigenous representatives to them;
- (d) The commissions shall adopt their conclusions by consensus;

- (e) The commissions shall base their operation on the mandates set out in this agreement; and
- (f) The commissions may request the advice and cooperation of national and international organs relevant to the discharge of their mandates.

VI. Resources

In view of the importance of the measures set out in this agreement, the Government undertakes to make every effort to mobilize the resources which are essential for the fulfilment of the undertakings it has given in this agreement. In addition to the Government, broad sectors of the national community may play an active role in promoting respect for the identity of the indigenous peoples and the full exercise of their rights. Those sectors are urged to contribute to the implementation of this agreement in the areas within their competence with the resources available to them. International

cooperation is essential to supplement national efforts with technical and financial resources, particularly in the context of the International Decade of the World's Indigenous People (1994-2004).

VII. Final Provisions

1. In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to undertake the verification of the implementation of this agreement, and it is suggested that, in planning the verification mechanism, he should take into account the views of indigenous organizations.
2. The aspects of this agreement which relate to the human rights recognized in the legislation of Guatemala and in the treaties, conventions and other international instruments in that area to which Guatemala is a party, shall have immediate force and application. It is requested that the verification should be carried out by

the United Nations Mission for the Verification of Human Rights and of Compliance with the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA).

3. This agreement shall form part of the firm and lasting peace agreement and, except as otherwise provided in the previous paragraph, shall enter into force at the time of the signing of the latter agreement.
4. This agreement shall be disseminated as widely as possible both in Spanish and in the principal indigenous languages. To this end, international financial cooperation is requested.

Note. The statements contained in the consensus document of the Assembly of Civil Society on this subject which relate more directly to outstanding items in the negotiating agenda will be discussed in due course.

Mexico City, 31 March 1995.

**For the Government of the Republic of
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The Socio-economic Accord

Agreement on the Social and Economic Aspects and Agrarian Situation

Whereas:

A firm and lasting peace must be consolidated on the basis of social and economic development directed towards the common good, meeting the needs of the whole population,

This is necessary in order to overcome the poverty, extreme poverty, discrimination and social and political marginalisation which have impeded and distorted the country's social, economic, cultural and political development and have represented a source of conflict and instability,

Socio-economic development requires social justice, as one of the building blocks of unity and national solidarity, together with sustainable economic growth as a condition for meeting the people's social needs,

Rural areas require an integral strategy that facilitates access by small farmers to land and other production resources, offers juridical security and promotes conflict resolution,

It is essential, both for the realisation of the production potential of Guatemalan society and for the achievement of greater social justice, that all sectors of society participate effectively in finding a

way to meet their needs, particularly in setting public policies that concern them,

The State should pursue democratisation in order to expand those possibilities for participation and strengthen its role as a leader of national development, as a legislator, as a source of public investment and a provider of services and as a promoter of consensus-building and conflict resolution,

This Agreement seeks to create or strengthen mechanisms and conditions to guarantee the effective participation of the people and contains the priority objectives for Government action to lay the foundations of this participatory development, The implementation of this Agreement should enable all the country's social and political forces to face together, in a cooperative and responsible way, the immediate tasks of combating poverty, discrimination and privilege, thus building a united,

prosperous and just Guatemala that will afford a dignified way of life to its people as a whole,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the Parties") have agreed as follows:

I. Democratisation and Participatory Development

A. Participation and consensus-building

1. In order to pursue a true, functional and participatory democracy, the process of social and economic development should be democratic and participatory and include: (a) consensus-building and dialogue among agents of socio-economic development; (b) consensus-building between these agents and State bodies in the formulation and implementation of development

strategies; and (c) effective citizen participation in identifying, prioritising and meeting their needs.

2. Expanded social participation is a bulwark against corruption, privilege, distortions of development and the abuse of economic and political power to the detriment of society. Therefore, it is an instrument for the eradication of economic, social and political polarisation in society.
3. In addition to representing a factor in democratisation, citizen participation in economic and social development is essential in order to promote productivity and economic growth, achieve a more equitable distribution of wealth and train human resources. It ensures transparency in public policies and their orientation towards the common good rather than special interests, the effective protection of the interests of the most vulnerable groups,

efficiency in providing services and, consequently, the integral development of the individual.

4. In this spirit, and in line with the agreements already concluded on the resettlement of the population groups uprooted by the armed conflict and on identity and rights of indigenous peoples, the Parties agree on the importance of establishing or strengthening mechanisms allowing the citizens and different social groups to exercise their rights effectively and participate fully in decision-making on the various matters affecting or involving them, with full awareness of both their individual and collective obligations to society, which they will fulfil responsibly.
5. Strengthening social participation means that greater opportunities in social and economic decision-making should be offered to organised groups. This assumes that all kinds of grass-

roots organisations representing different interests will be recognised and encouraged. It requires, in particular, the guarantee of full and effective rights for rural and urban workers and small farmers to participate, as organised entities, in the process of building consensus with the business sector or at the national level. For this purpose, flexible laws and administrative regulations must be passed to grant legal personality or other forms of legal recognition to those organisations requesting it.

6. This also assumes a major effort to promote a culture of consensus and capacity-building in business, labour and other types of organisations in order to increase their ability to plan and negotiate and effectively to assume the rights and duties inherent in democratic participation.

Consensus-building

7. Building consensus at the national, departmental and communal levels and among rural and urban units of production is essential in order to stimulate and stabilise economic and social growth. State structures must be adapted to fulfil this role of building consensus and reconciling interests, in order to be able to work effectively and efficiently to modernise the production sector, enhance competitiveness, promote economic growth and provide basic social services efficiently and universally.

Participation at the local level

8. Bearing in mind that the people who live in a department or municipality, whether business owners, workers, members of cooperatives or community representatives, are the ones who can best define the measures that benefit or affect them, a package of instruments must be adopted for institutionalising the decentralisation of social and economic decision-making,

involving a real transfer of government funds and of the authority to discuss and decide locally on the allocation of resources, how projects will be executed and the priorities and characteristics of government programmes or activities. In this way, government bodies will be able to base their actions on proposals arising from the reconciliation of interests among the various segments of society.

9. Through this Agreement, the Government commits itself to take a series of steps designed to increase the people's participation in the various aspects of public life, including social and rural development policies. This series of reforms must enable structures that generate social conflict to be replaced by new relationships that ensure the consolidation of peace, as an expression of harmonious life together, and the strengthening of democracy, as a dynamic and perfectible process from which advances

can be achieved through the participation of various segments of society in shaping the country's political, social and economic choices.

10. In order to reinforce the people's ability to participate and, at the same time, the State's management capacity, the Government agrees to:

Communities

(a) Promote a reform of the Municipal Code so that deputy mayors are appointed by the municipal mayor, taking into account the recommendations of local residents in an open town council meeting;

Municipalities

(b) Foster social participation in the context of municipal autonomy, pursuing the process of decentralisation to give more authority to municipal governments, and consequently, strengthening their technical, administrative and financial resources;

(c) Establish and implement as soon as possible, in cooperation with the National Association of Municipalities, a municipal training programme that will serve as a framework for national efforts and international cooperation in this field. The programme will stress the training of municipal staff who will specialise in executing the new duties that will be the responsibility of the municipality as a result of decentralisation, with an emphasis on land use planning, a land register, urban planning, financial management, project management and training of local organisations so that they can participate effectively in meeting their own needs;

Departments

(d) Promote in the Congress a reform of the Act concerning the governance of the departments of the Republic, to the effect that the governor of the department would be appointed by the President of the Republic, taking into

consideration the candidates nominated by the non-governmental representatives of the departmental development councils;

Regions

(e) Regionalise health care, education and cultural services for indigenous people and ensure the full participation of indigenous organisations in the design and implementation of this process;

System of urban and rural development councils

(f) Take the following steps, bearing in mind the fundamental role of urban and rural development councils in ensuring, promoting and guaranteeing the people's participation in the identification of local priorities, the definition of public projects and programmes and the integration of national policy into urban and rural development:

(i) Re-establish local development councils;

- (ii) Promote a reform of the Urban and Rural Development Councils Act to broaden the range of sectors participating in departmental and regional development councils;
- (iii) Provide adequate funding for the council system.

B. Participation of women in economic and social development

11. The active participation of women is essential for Guatemala's economic and social development, and the State has a duty to promote the elimination of all forms of discrimination against women.
12. Recognising women's undervalued contributions in all spheres of economic and social activity, and particularly their efforts towards community improvement, the Parties agree that there is a need to strengthen women's

participation in economic and social development on equal terms.

13. To this end, the Government undertakes to take the specific economic and social situation of women into account in its development strategies, plans and programmes, and to train civil servants in analysis and planning based on this approach. This undertaking includes the following:

(a) Recognising the equal rights of women and men in the home, in the workplace, in the production sector and in social and political life, and ensuring that women have the same opportunities as men, particularly with regard to access to credit, land ownership and other productive and technological resources;

Education and training

(b) Ensuring that women have equal opportunities for education and training in the same conditions as men, and that any form of

discrimination against women that may be found in school curricula is eliminated;

Housing

(c) Ensuring that women have equal access to housing of their own by eliminating the obstacles and impediments that affect women in relation to rental property, credit and construction;

Health

(d) Implementing nationwide comprehensive health programmes for women, which involves giving women access to appropriate information, prevention and health care services;

Labour

(e) Guaranteeing women's right to work, which requires:

(i) Using various means to encourage vocational training for women;

- (ii) Revising labour legislation to guarantee equality of rights and opportunities between men and women;
- (iii) In rural areas, recognising women as agricultural workers to ensure that their work is valued and remunerated;
- (iv) Enacting laws to protect the rights of women who work as household employees, especially in relation to fair wages, working hours, social security and respect for their dignity;

Organisation and participation

- (f) Guaranteeing women's right to organise and their participation, on the same terms as men, at the senior decision-making levels of local, regional and national institutions;
- (g) Promoting women's participation in public administration, especially in the formulation, execution and supervision of government plans and policies;

Legislation

(h) Revising national legislation and regulations to eliminate all forms of discrimination against women in terms of economic, social, cultural and political participation, and to give effect to the government commitments deriving from the ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

II. Social Development

14. The State is responsible for promoting, guiding and regulating the country's socio-economic development so as to ensure economic efficiency, increased social services and social justice in an integrated manner and through the efforts of society as a whole. In the quest for growth, economic policy should be aimed at preventing processes of socio-economic exclusion, such as unemployment and impoverishment, and maximising the benefits of economic growth for all Guatemalans. In seeking to

ensure the well-being of all Guatemalans, social policy should foster economic development through its impact on production and efficiency.

15. Guatemala requires speedy economic growth in order to create jobs and enhance social development. The country's social development, in turn, is essential for its economic growth and for better integration into the world economy. In this regard, better living standards, health, education and training are the pillars of sustainable development in Guatemala.

State responsibilities

16. The State has inescapable obligations in the task of correcting social inequities and deficiencies, both by steering the course of development and by making public investments and providing universal social services. Likewise, the State has the specific obligations, imposed by constitutional mandate, of ensuring the effective enjoyment, without discrimination of any

kind, of the right to work, health, education and housing, as well as other social rights. The historical social imbalances experienced in Guatemala must be corrected, and peace must be consolidated, through decisive policies which are implemented by both the State and society as a whole.

Productive investments

17. The country's socio-economic development cannot depend exclusively on public finances or on international cooperation. Rather, it requires an increase in productive investments that create adequately paid jobs. The Parties urge national and foreign entrepreneurs to invest in the country, considering that the signing and implementation of an agreement on a firm and lasting peace are essential components of the stability and transparency required for investment and economic expansion.

Gross domestic product

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18. For its part, the Government undertakes to adopt economic policies designed to achieve steady growth in the gross domestic product of not less than 6 per cent per annum, which would enable it to implement a progressive social policy. At the same time, it undertakes to implement a social policy aimed at ensuring the well-being of all Guatemalans, with emphasis on health, nutrition, education and training, housing, environmental sanitation and access to productive employment and to decent pay.

The State's leadership role

19. To meet this objective and to enable the State to play its leadership role in social policy, the Government undertakes to:
- (a) Apply and develop the regulatory framework to guarantee the exercise of social rights and provide social services through public entities and, where necessary, through semi-public or

private entities, and supervise the adequate provision of such services;

(b) Promote and ensure the participation, in accordance with the regulatory framework, of all social and economic sectors that can cooperate in social development, particularly in providing full access to basic services;

(c) Ensure that the public sector provides services efficiently, considering that the State has a duty to give the population access to quality services.

20. In response to the population's urgent demands, the Government undertakes to:

(a) Increase social investment significantly, especially in the areas of health, education and employment;

(b) Restructure the budget so as to increase social expenditure;

(c) Give priority to the neediest sectors of society and the most disadvantaged areas of the country, without short-changing other sectors of society;

(d) Improve the administration of government resources and investments by decentralising them and making them less concentrated and bureaucratic, reforming budget performance mechanisms by giving them autonomy in decision-making and financial management to guarantee their efficiency and transparency, and strengthening supervisory and auditing mechanisms.

A. Education and training

21. Education and training have a fundamental role in the country's economic, cultural, social and political development. They are central to the strategy of equity and national unity, and vital for economic modernisation and international competitiveness. Reform of the

educational system and of its administration is therefore necessary, as is the implementation of coherent and forceful State policies in the field of education, in order to achieve the following objectives:

(a) To affirm and disseminate the moral and cultural values and the concepts and behaviour patterns which are the foundations of democratic coexistence, including respect for human rights, for the cultural diversity of Guatemala, for the productive work of its people and the protection of the environment and for the values and mechanisms of power-sharing and social and political consensus-building which constitute the basis of a culture of peace;

(b) To avoid the perpetuation of poverty and of social, ethnic, sexual and geographical forms of discrimination, particularly those which arise from the divide between urban and rural society;

(c) To contribute to the application of technical and scientific progress and, consequently, to the achievement of higher productivity, the creation of more jobs and increased income for the population, and beneficial integration into the world economy.

22. In response to the country's needs in the field of education, the Government undertakes to:

Spending on education

(a) Implement significant increases in the resources allocated to education. By the year 2000, the Government proposes to step up public spending on education as a proportion of gross domestic product by at least 50 per cent over its 1995 level. These targets will be revised upwards in the light of future developments in State finances;

Adjustment of educational curricula

(b) Adjust educational curricula in accordance with the objectives set out in paragraph 21.

These adjustments will take into account the conclusions of the Education Reform Commission established by the Agreement on Identity and Rights of Indigenous Peoples;

Coverage

(c) Expand, as a matter of urgency, the coverage of education services at all levels, and in particular the provision of bilingual education in rural communities, by means of:

(i) The integration of children of school age into the educational system, ensuring that they complete the pre-primary and primary levels and the first level of secondary school; in particular, by the year 2000, the Government undertakes to provide access, for all those between ages 7 and 12, to at least three years of schooling;

(ii) Literacy programmes in as many languages as is technically feasible, with the participation of suitably qualified indigenous organisations;

the Government undertakes to raise the literacy rate to 70 per cent by the year 2000; and

(iii) Education, training and technical courses for adults;

Occupational training

(d) Develop, with appropriate and efficient methodology, training programmes in communities and enterprises for the retraining and technical updating of workers, with emphasis on the inhabitants of isolated areas and rural communities, with support from those sectors which are able to collaborate in this undertaking;

Training for participation

(e) Provide training to enable social organisations at the municipal, regional and national levels to take part in socio-economic development, including the fields of public administration, fiscal responsibility and consensus-building;

Civic education programme

(f) Design and implement a national civic education programme for democracy and peace, promoting the protection of human rights, the renewal of political culture and the peaceful resolution of conflicts. The mass media will be invited to participate in this programme;

Community-school interaction and community participation

(g) In order to encourage the enrolment of children in the educational system and to lower the school drop-out rate, the Government undertakes to encourage effective community and parental participation in the various aspects of the education and training services (curricula, appointment of teachers, school calendar, etc.);

Financial support

(h) Develop scholarship and student grant programmes, economic support and other

incentives, to enable needy students to continue their education;

Training of school administrators

(i) Develop continuing education programmes for teachers and school administrators;

Advisory commission

(j) For the purpose of designing and implementing the educational reform to be carried out by the Ministry of Education, an advisory commission attached to the Ministry will be set up, consisting of participants in the educational process, including representatives of the Education Reform Commission set up pursuant to the Agreement on Identity and Rights of Indigenous Peoples;

Higher education and research

(k) State-run higher education, the management, organisation and development of which is the sole responsibility of the Guatemalan

University of San Carlos, is a key factor in achieving economic growth, social equity, the dissemination of culture and a greater pool of technological know-how. The Government of the Republic undertakes to provide to the University of San Carlos, in a timely manner, the funding which is its prerogative under a constitutional mandate. With all due respect to the autonomy of the University, the parties urge the authorities of that distinguished institution to give favourable consideration to all initiatives which increase its contribution to the country's development and help to consolidate peace. The Government undertakes to heed such contributions and initiatives and to respond appropriately. Particular importance is attached to the development of the University's regional centres and of its internship programmes, especially in the poorest sectors. The Parties also urge the business sector to devote

increased efforts to applied technological research and to human resources development, forging closer exchange links with the University of San Carlos;

Educational outreach workers

(I) Pursuant to the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict and the Agreement on Identity and Rights of Indigenous Peoples, community educational outreach workers shall be incorporated into the national education system, and due regard shall be given to suitable curricula for indigenous communities and uprooted population groups.

B. Health

23. The Parties agree on the need to promote a reform of the national health sector. This reform should be aimed at ensuring effective exercise of the fundamental right to health, without any discrimination whatsoever, and the

effective performance by the State, which would be provided with the necessary resources, of its obligation with regard to health and social welfare. Some of the main points of this reform are as follows:

Concept

(a) It would be based on an integrated concept of health (including prevention, promotion, recovery and rehabilitation) and on humanitarian and community-based practice emphasising the spirit of service, and it would be applied at all levels of the country's public health sector;

National coordinated health system

(b) One of the responsibilities of the Ministry of Health is to formulate policies to provide the entire Guatemalan population with integrated health services. Under the coordination of the Ministry of Health, the health system would combine the work of public agencies (including the Guatemalan Social Security Institute) and

private and non-governmental organisations involved in this sector to implement actions designed to enable the whole Guatemalan population to have access to integrated health services;

Low-income population

(c) The system would create the conditions for ensuring that the low-income population has effective access to quality health services. The Government undertakes to increase the resources it allocates to health. By the year 2000, the Government proposes to step up public spending on health as a proportion of gross domestic product by at least 50 per cent over its 1995 level. This target will be revised upwards in the light of future developments in State finances;

Priority care

(d) The system would give priority to efforts to fight malnutrition and to promote

environmental sanitation, preventive health care and primary health care, especially maternal and child care. The Government undertakes to allocate at least 50 per cent of public health expenditure to preventive care and undertakes to cut the 1995 infant and maternal mortality rate in half by the year 2000. In addition, the Government undertakes to maintain the certification of eradication of poliomyelitis, and to eradicate measles by the year 2000;

Medicine, equipment and inputs

(e) The Ministry of Public Health and Social Welfare will revise current rules and practices with regard to the manufacture and marketing of drugs, equipment and inputs and will promote measures to ensure that these are in sufficient supply and that they are affordable and of high quality. In the case of popular basic or generic drugs, ways of purchasing them will be studied and applied in order to ensure

transparency in their marketing, quality and pricing to ensure that services are provided efficiently;

Indigenous and traditional medicine

(f) The system would enhance the importance of indigenous and traditional medicine, promoting its study and renewing its concepts, methods and practices;

Social participation

(g) The system would encourage active participation of municipalities, communities and social organisations (including groups of women, indigenous people, trade unions and civic and humanitarian associations) in the planning, execution and monitoring of the administration of health services and programmes, through local health systems and urban and rural development councils;

Administrative decentralisation and enhancement of local autonomy

(h) The decentralised organisation of the various levels of health care should ensure that health programmes and services are offered at the community, regional and national levels, which are the basis of the national coordinated health system.

C. Social security

24. Social security is a mechanism for expressing human solidarity and promoting the common good, laying the foundations for stability, economic development, national unity and peace. Under the Political Constitution of the Republic, the Guatemalan Social Security Institute, an autonomous body, administers the social security system. The Parties consider that appropriate measures should be taken to expand its coverage and increase its benefits and the quality and efficiency of its services. To that end, the following should be taken into account:

(a) The administration of the Guatemalan Social Security Institute should be completely autonomous, in accordance with the constitutional principle of coordination with health agencies under the national coordinated health system;

(b) Under the International Labour Organisation convention ratified by Guatemala, social security should include programmes for medical care and benefits in the areas of sickness, maternity, disability, old age, survival, job-related accidents and illnesses, employment and family welfare;

(c) The application of the principles of efficiency, universality, unity and compulsoriness to the operation of the Guatemalan Social Security Institute should be reinforced and guaranteed;

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- (d) The financial soundness of the Institute should be strengthened through a system of tripartite control of contributions;
 - (e) New ways of managing the Institute with the participation of its constituent sectors should be promoted;
 - (f) The Institute should be effectively incorporated into the coordinated health system;
 - (g) Conditions should be created that will facilitate the universal coverage of all workers by the social security system.

D. Housing

25. It has been recognised that there is a need to institute a policy, in accordance with the constitutional mandate, to give priority to the building of low-cost housing, through appropriate financial arrangements, in order to enable as many Guatemalan families as possible to own their own homes. To this end, the Government undertakes to:

Planning

(a) Closely monitor land management policies, especially urban planning and environmental protection policies, to enable the poor to have access to housing and related services in hygienic and environmentally sustainable conditions;

Standards

(b) Update health and safety regulations applicable to the construction industry and monitor compliance with them; coordinate with municipalities to ensure that construction and supervision standards are homogeneous, clear and simple, in an effort to provide high-quality, safe housing;

Housing stock

(c) Promote a policy to increase the stock of housing in Guatemala, in an effort to enable more people from low-income sectors to rent or own their own homes;

(d) Increase the supply of housing-related services, housing options and high-quality, low-cost building materials; in this context, apply anti-trust regulations to the production and marketing of building materials and housing-related services in accordance with article 130 of the Constitution;

Finance and credit

(e) Implement monetary policies designed to reduce the cost of credit significantly;

(f) Strengthen the securities market and make it more available as a source of funds to purchase housing, by offering first and second mortgages and facilitating the selling of securities issued for housing operations, such as common and preferred stocks in construction companies, mortgage bonds and debentures, real estate participation certificates, supplemental letters, promissory notes and other documents related to rental with an option to buy;

(g) Design a direct subsidy mechanism and apply it to the demand for low-cost housing, to benefit the most needy sectors. To this end, strengthen the Guatemalan Housing Fund to improve its capacity to grant funds to assist those living in poverty and extreme poverty;

Participation

(h) Stimulate the establishment and strengthening of participatory arrangements, such as cooperatives and self-managed and family businesses, to ensure that the beneficiaries are able to participate in the planning and construction of housing and related services;

Regularisation of the land situation

(i) Promote the legalisation, access to and registry of land, not only in the vicinity of Guatemala City but also for urban development in the province capitals and municipalities, together with the implementation of building

projects in villages and on farms, especially rural housing;

National commitment

(j) In view of the size and urgency of the housing problem, national efforts should be mobilised to solve it. The Government undertakes to allocate to the housing promotion policy no less than 1.5 per cent of the tax revenue budget, beginning in 1997, giving priority to the subsidy for low-cost housing options.

E. Work

26. Work is essential for the integral development of the individual, the well-being of the family and the social and economic development of Guatemala. Labour relations are an essential element of social participation in socio-economic development and of economic efficiency. In this respect, the State's policy with regard to work is critical for a strategy of

growth with social justice. In order to carry out this policy, the Government undertakes to:

Economic policy

(a) Through an economic policy designed to increase the use of the labour force, create conditions for the attainment of rising and sustained levels of employment, while sharply reducing structural underemployment and making possible a progressive increase in real wages;

(b) Encourage measures in coordination with the various social sectors to increase investment and productivity within the framework of an overall strategy of growth with social stability and equity;

Protective labour legislation

(c) Promote, in the course of 1996, legal and regulatory changes to enforce the labour laws and severely penalise violations, including violations in respect of the minimum wage, non-payment, withholding and delays in wages,

occupational hygiene and safety and the work environment;

(d) Decentralise and expand labour inspection services, strengthening the capacity to monitor compliance with the labour norms of domestic law and those derived from the international labour agreements ratified by Guatemala, paying particular attention to monitoring compliance with the labour rights of women, migrant and temporary agricultural workers, household workers, minors, the elderly, the disabled and other workers who are in a more vulnerable and unprotected situation;

Occupational training

(e) Establish a permanent, modern vocational instruction and training programme to ensure training at all levels and a corresponding increase in productivity through a draft law regulating vocational training at the national level;

(f) Promote coverage by the national vocational instruction and training programmes of at least 200,000 workers by the year 2000, with an emphasis on those who are joining the workforce and those who need special training to adapt to new conditions in the labour market;

Ministry of Labour

(g) Strengthen and modernise the Ministry of Labour and Social Welfare, ensuring its leading role in Government policies related to the labour sector and its effective deployment in the promotion of employment and in labour cooperation. To that end, it undertakes to:

Participation, coordination and negotiations

(i) Promote the restructuring of labour relations in enterprises by encouraging labour management cooperation and coordination with a view to the development of the enterprise for the

common good, including possible profit- sharing arrangements;

(ii) Facilitate the procedures for the recognition of the legal personality of labour organisations;

(iii) In the case of agricultural workers who are still hired through contractors, propose reforms for the speedy and flexible legal recognition of forms of association for the negotiation of such hiring; and

(iv) Promote a culture of negotiation and, in particular, train persons to settle disputes and coordinate action for the benefit of the parties involved.

III. Agrarian Situation and Rural Development

27. It is essential and unavoidable to solve the problems of agrarian reform and rural development in order to address the situation of the majority population, which live in rural areas and is most affected by poverty, extreme

poverty, injustice and the weakness of State institutions. The transformation of the structure of land use and ownership must have as its objective the incorporation of the rural population into economic, social and political development so that the land constitutes, for those who work it, the basis of their economic stability, the foundation of their progressive social well-being and the guarantee of their freedom and dignity.

28. Land is central to the problems of rural development. From the conquest to the present, historic events, often tragic, have left deep traces in ethnic, social and economic relations concerning property and land use. These have led to a situation of concentration of resources which contrasts with the poverty of the majority and hinders the development of Guatemala as a whole. It is essential to redress and overcome this legacy and promote more efficient and more equitable farming, strengthening the

potential of all those involved, not only in terms of productive capacity but also in enhancing the cultures and value systems which coexist and intermingle in the rural areas of Guatemala.

29. These changes will enable Guatemala to take full advantage of the capacities of its inhabitants and, in particular, the richness of the traditions and cultures of its indigenous peoples. It should also take advantage of the high potential for agricultural, industrial, commercial and tourist development of those resources deriving from its wealth of natural resources.
30. Solving the agrarian problem is a complex process covering many aspects of rural life, from modernisation of production and cultivation methods to environmental protection, as well as security of property, adequate use of the land and of the labour force, labour protection and a more equitable distribution of resources and the benefits of development. This

is also a social process whose success depends not only on the State, but also on a combination of efforts on the part of the organised sectors of society, in the awareness that the common good requires breaking with the patterns and prejudices of the past and seeking new and democratic forms of coexistence.

31. The State has a fundamental and vital role in this process. As the guide for national development, as a legislator, as a source of public investment and provider of services and as a promoter of social cooperation and conflict resolution, it is essential for the State to increase and refocus its efforts and its resources towards the rural areas, and to promote agrarian modernisation, in a sustained manner, in the direction of greater justice and greater efficiency.
32. The agreements already signed on human rights, on the resettlement of populations uprooted by armed confrontation and on the

identity and rights of indigenous peoples contain commitments which constitute essential elements of a global strategy for rural development. It is in line with these provisions that the Government undertakes, through this Agreement, to promote an integral strategy covering the multiple elements which make up agrarian structure, including land ownership and the use of natural resources; credit systems and mechanisms; manufacturing and marketing; agrarian legislation and legal security; labour relations; technical assistance and training; the sustainability of natural resources and the organisation of the rural population. This strategy includes the aspects described below.

A. Participation

33. The capacity of all actors involved in the agricultural sector must be mobilised to make proposals and to take action, including indigenous peoples' organisations, producers' associations,

business associations, rural workers' trade unions, rural and women's organisations or universities and research centres in Guatemala. To that end, in addition to the provisions of other chapters of this Agreement, the Government undertakes to:

(a) Strengthen the capacity of rural organisations such as associative rural enterprises, cooperatives, small farmers' associations, mixed enterprises and self-managed and family businesses to participate fully in decisions on all matters concerning them and to establish or strengthen State institutions, especially those of the State agricultural sector, involved in rural development so that they can promote such participation, particularly the full participation of women in the decision-making process. That will strengthen the effectiveness of State action and ensure that it responds to the needs of rural areas. In particular, participation in

development councils will be promoted as a framework for the joint formulation of development and land use plans;

(b) Strengthen and expand the participation of tenant farmers' organisations, rural women, indigenous organisations, cooperatives, producers' trade unions and non-governmental organisations in the National Agricultural Development Council as the main mechanism for consultation, coordination and social participation in the decision-making process for rural development, and in particular for the implementation of this chapter.

B. Access to land and productive resources

34. Promote the access of tenant farmers to land ownership and the sustainable use of land resources. To that end, the Government will take the following actions:

Access to land ownership: land trust fund

(a) Establish a land trust fund within a broad-based banking institution to provide credit and to promote savings, preferably among micro-, small and medium-sized enterprises. The land trust fund will have prime responsibility for the acquisition of land through Government funding, will promote the establishment of a transparent land market and will facilitate the updating of land development plans. The fund will give priority to the allocation of land to rural men and women who are organised for that purpose, taking into account economic and environmental sustainability requirements;

(b) In order to ensure that the neediest sectors benefit from its services, the fund will set up a special advisory and management unit to serve rural communities and organisations;

(c) Initially, the fund will limit its activities to the following types of land:

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- (i) Uncultivated State land and State- owned farms;
 - (ii) Illegally settled public land, especially in Petén and the Franja Transversal del Norte, which the Government has pledged to recover through legal action;
 - (iii) Land acquired with the resources allocated by the Government to the National Land Fund and the National Peace Fund for that purpose;
 - (iv) Land purchased with grants from friendly Governments and international non-governmental organisations;
 - (v) Land purchased with loans secured from international financing agencies;
 - (vi) Undeveloped land expropriated under article 40 of the Constitution;
 - (vii) Land acquired from the proceeds of the sale of excess land, as determined by comparing the actual dimensions of private property

with the dimensions recorded at the land register department, which has become the property of the State;

(viii) Land which the State may purchase pursuant to Decree No. 1551, article 40, on agricultural development areas;

(ix) Land which the State may purchase for any purpose; and

(x) Miscellaneous grants;

(d) The Government will promote and enact legislation to regulate all the activities of the land trust fund. Such legislation will establish, inter alia, the fund's aims, functions and financing and acquisition mechanisms, and the allocation, origin and destination of land. In 1999, the extent to which the allocation targets have been met will be assessed and, if need be, the functioning of the land allocation programme will be adjusted;

Access to land ownership: funding mechanisms

(e) Promote, through all means possible, the development of a dynamic land market that would enable tenant farmers who either do not have land or have insufficient land to acquire land through long-term transactions at commercial or favourable interest rates with little or no down payment. In particular, promote the issuance of mortgage-backed securities guaranteed by the State whose yield is attractive to private investors, especially financial institutions;

Access to the use of natural resources

(f) By 1999, allocate to small and medium-sized farmers' groups legally incorporated as natural resources management ventures, 100,000 hectares within multi-use areas for sustainable forest management, the management of protected areas, eco-tourism, conservation of

water sources and other activities compatible with the sustainable potential use of the natural resources of such areas;

(g) Promote and support the participation of the private sector and grass-roots community organisations in projects for the management and conservation of renewable natural resources through incentives, targeted direct subsidies or funding mechanisms on soft terms, in view of the non-monetary benefits that the national community derives from such projects. Given the benefit that the international community receives from the sustainable management and conservation of the country's forest and biogenetic resources, the Government will actively promote international cooperation in this venture;

Access to other productive projects

(h) Develop sustainable productive projects especially geared towards boosting productivity

and the processing of agricultural, forestry and fishery products in the poorest areas of the country. In particular, for the period 1997-2000, guarantee the implementation, in the poorest areas, of a Government agricultural sector investment programme in the amount of 200 million quetzales in the agriculture, forestry and fisheries sectors;

(i) Promote a renewable natural resources management programme which fosters sustainable forestry and agro-forestry production, as well as handicrafts and small- and medium-scale industry projects that give added value to forest products;

(j) Promote productive ventures related, inter alia, to agro-processing industries, marketing, services, handicrafts and tourism with a view to creating jobs and securing fair incomes for all;

(k) Promote an eco-tourism programme with the broad participation of communities which have received appropriate training.

C. Support structure

35. Prerequisites for a more efficient and just agricultural structure include not only more equitable access to productive resources but also a support structure that will enhance farmers' access to information, technology, training, credit and marketing facilities. Over and above its commitment to social investment as set forth in the chapter on social development, including in particular investment in health, education, housing and employment, the Government also undertakes to:

Basic infrastructure

(a) Engage in judicious public investment and foster a climate conducive to private investment with a view to upgrading the infrastructure available for sustainable production and

marketing, especially in areas of poverty and extreme poverty;

(b) Develop a rural development investment programme with emphasis on basic infrastructure (highways, rural roads, electricity, telecommunications, water and environmental sanitation) and productive projects, for a total amount of 300 million quetzales annually during the period 1997-1999;

Credit and financial services

(c) Activate the land fund not later than 1997, while simultaneously promoting conditions that will enable small and medium-scale farmers to have access to credit, individually or in groups, on a financially sustainable basis. In particular, with the support of the private sector and non-governmental development organisations, the Government proposes to strengthen local savings and credit agencies, including associations, cooperatives and the like, with a view to

enhancing their function as sources of credit providing small and medium-scale farmers with financial services efficiently and in accordance with local needs and conditions;

Training and technical assistance

(d) Strengthen, decentralise and broaden the coverage of training programmes, especially programmes designed to enhance rural people's managerial skills at various levels. The private sector and non-governmental organisations will be enlisted in the implementation of this action;

(e) Develop technical assistance and job training programmes that will upgrade the skills, versatility and productivity of the labour force in rural areas;

Information

(f) Develop an information collection, compilation and distribution system for the agriculture, forestry, food processing and fisheries sectors, one that will provide small producers with

reliable information on which to base their decisions relating to seeds, inputs, crops, costs and marketing;

Marketing

(g) Develop a system of storage centres and duty-free zones with a view to facilitating the processing and marketing of agricultural products and fostering rural employment.

D. Organisation of the rural population for production

36. Organising the rural population is a decisive factor in transforming the inhabitants of the countryside into genuine protagonists of their own development. In view of the vital role of small and medium-scale enterprises in combating poverty, creating rural jobs and promoting more efficient land use, there is a need to promote a more efficient form of organisation of small producers so that they can, in particular, take advantage of the support structure

described in paragraph 35. To this end, the Government undertakes to:

(a) Support micro-, small and medium-scale agricultural and rural enterprises by strengthening the various ways of organising them, such as associative rural enterprises, cooperatives, small farmers' associations, mixed enterprises and self-managed and family businesses;

(b) Tackle the problem of smallholdings through:

(i) A firm and sustained policy of support for smallholders so that they can become small-scale agricultural businessmen through access to training, technology, credit and other inputs;

(ii) Promoting, if the smallholders so desire, amalgamation of holdings in those cases where conversion into small businesses is not possible owing to the dispersal and size of the properties.

E. Legal framework and juridical security

37. Guatemala is in need of reform of the juridical framework of agriculture and institutional development in the rural sector so that an end can be put to the lack of protection and dispossession from which small farmers, and in particular indigenous peoples, have suffered, so as to permit full integration of the rural population into the national economy and regulate land use in an efficient and environmentally sustainable manner in accordance with development needs. To this end, and taking into account in all cases the provisions of the Agreement on Identity and Rights of Indigenous Peoples, the Government undertakes to:

Legal reform

(a) Promote a legal reform which will establish a juridical framework governing land ownership that is secure, simple and accessible to the

entire population. This reform will need to simplify the procedures for awarding title and registering ownership and other real estate rights, as well as to simplify administrative and judicial formalities and procedures;

(b) Promote the establishment of an agrarian and environmental jurisdiction within the judiciary through the enactment of the relevant legislation by the Congress;

(c) Promote the revision and adjustment of the legislation on undeveloped land so that it conforms to the provisions of the Constitution, and regulate, inter alia through incentives and penalties, the under utilisation of land and its use in ways incompatible with sustainable natural resource utilisation and preservation of the environment;

(d) Protect common and municipal land, in particular by limiting to the strict minimum the

cases in which it can be transferred or handed over in whatever form to private individuals;

(e) With respect to community-owned land, to regulate participation by communities in order to ensure that it is they who take the decisions relating to their land;

Prompt settlement of land conflicts

(f) To establish and apply flexible judicial or non-judicial procedures for the settlement of disputes relating to land and other natural resources (in particular, direct settlement and conciliation), taking into account the provisions of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict and the Agreement on Identity and Rights of Indigenous People. In addition, to establish procedures that will make it possible:

(i) To define formulas for compensation in the case of land disputes and claims in which farmers, small farmers and communities in a

situation of extreme poverty have been or may be dispossessed for reasons not attributable to them;

(ii) To reinstate or compensate, as appropriate, the State, municipalities, communities or individuals when their land has been usurped or has been allocated in an irregular or unjustified manner involving abuse of authority;

(g) Regulate the award of title to the lands of indigenous communities and beneficiaries of the Guatemalan Institute for Agrarian Reform who are in lawful possession of the land assigned to them;

Institutional mechanisms

(h) By 1997, to have started the operations of a Presidential office for legal assistance and conflict resolution in relation to land, with nationwide coverage and the task of providing advice and legal assistance to small farmers and

agricultural workers with a view to the full exercise of their rights, and in particular of:

- (i) Advising and providing legal assistance to small farmers and agricultural workers and/or their organisations upon request;
- (ii) Intervening in land disputes at the request of a party with a view to arriving at a just and expeditious solution;
- (iii) In the case of judicial disputes, providing advice and legal assistance free of charge to small farmers and/or their organisations when they so request;
- (iv) Receiving complaints of abuses committed against communities, rural organisations and individual small farmers and bringing them to the attention of the Office of the Counsel for Human Rights and/or of any other national or international verification mechanism.

G. Land register

38. On the basis of the provisions of paragraph 37, the Government undertakes to promote legislative changes that would make it possible to establish an efficient decentralised multi-user land registry system that is financially sustainable, subject to compulsory updating and easy to update. Likewise, the Government undertakes to initiate, by January 1997 at the latest, the process of land surveying and systematising the land register information, starting with priority zones, in particular with a view to the implementation of paragraph 34 on access to land and other production resources.

H. Labour protection

39. The Government undertakes to promote better participation of rural workers in the benefits of agriculture and a reorientation of labour relations in rural areas. It will place particular emphasis on applying to rural workers the labour policy outlined in the relevant section of the

present agreement. An energetic labour protection policy, combined with a vocational training policy, is in line with the requirements of social justice. It is also needed in order to attack rural poverty and promote an agrarian reform aimed at more efficient use of natural and human resources. Accordingly, the Government undertakes to:

- (a) Ensure that the labour legislation is effectively applied in rural areas;
- (b) Pay urgent attention to the abuses to which rural migrant workers, young tenant farmers and day labourers are subjected in the context of hiring through middlemen, sharecropping, payment in kind and the use of weights and measures. The Government undertakes to adopt administrative and/or penal sanctions against offenders;
- (c) Promote reform of the procedures for recognition of the legal personality of small farmers'

organisations with a view to simplifying such recognition and making it more flexible through the application of the 1975 International Labour Organisation Convention 141 on organisation of rural workers.

I. Environmental protection

40. Guatemala's natural wealth is a valuable asset of the country and mankind, in addition to being an essential part of the cultural and spiritual heritage of the indigenous peoples. The irrational exploitation of Guatemala's biogenetic and forest resource diversity endangers a human environment that facilitates sustainable development. Sustainable development is understood as being a process of change in the life of the human being through economic growth with social equity, involving production methods and consumption patterns that maintain the ecological balance. This process implies respecting ethnic and cultural diversity and

guaranteeing the quality of life of future generations.

41. In this sense, and in line with the principles of the Central American Alliance for Sustainable Development, the Government reiterates the following commitments:

(a) To adjust educational curricula and training and technical assistance programmes to the requirements of environmental sustainability;

(b) To give priority to environmental sanitation in its health policy;

(c) To link physical planning policies, particularly urban planning, with environmental protection;

(d) To promote sustainable natural resource management programmes that will create jobs.

J. Resources

42. In order to finance the measures mentioned above, and in view of the priority assigned to

modernising the agriculture sector and rural development, the Government undertakes to increase the State resources allocated to this area by, inter alia:

Land tax

(a) Promoting, by 1997, the legislation and mechanisms for the application, in consultation with municipalities, of a land tax in the rural areas from which it is easy for the municipalities to collect revenues. The tax, from which small properties will be exempt, will help to discourage ownership of undeveloped land and under utilisation of land. Taken as a whole, these mechanisms ought not to encourage deforestation of land use for forestry;

Tax on undeveloped land

(b) Establishing a new tax schedule for the annual tax on undeveloped land which imposes significantly higher taxes on privately owned unutilised and/or under-utilised land.

IV. Modernisation of Government Services and Fiscal Policy

A. Modernisation of government services

43. Government services should become an efficient tool of development policies. To this end, the Government undertakes to:

Decentralisation and redistribution

(a) Deepen the decentralisation and redistribution of the powers, responsibilities and resources concentrated in the central Government in order to modernise, render effective and streamline government services. Decentralisation should ensure the transfer of decision-making power and sufficient resources to the appropriate levels (local, municipal, departmental and regional) so as to meet the needs of socio-economic development in an efficient way and promote close cooperation between government bodies and the population. This implies:

(i) Promoting an amendment to the Executive Authority Act and the Departmental Control and Administration Act and, in particular, to Decree No. 586 of 1956, which will make it possible to simplify, decentralise and redistribute government services;

(ii) Promoting the decentralisation of support systems, including the purchasing and procurement system, the human resources system, the information-gathering and statistical system and the financial management system.

National auditing

(b) Reform, strengthen and modernise the Comptroller's Office.

Professionalisation and advancement of public servants

44. The State should have a skilled labour force which can ensure the honest and efficient management of public funds. To this end, it is necessary to:

- (a) Establish a career civil service;
- (b) Adopt legal and administrative measures to ensure real compliance with the Integrity and Accountability Act;
- (c) Promote criminal sanctions for acts of corruption and misappropriation of public funds.

B. Fiscal policy

45. Fiscal policy (revenue and expenditure) is the key tool enabling the State to comply with its constitutional commitments, particularly those relating to social development, which is essential to the quest for the common good. Fiscal policy is also essential to Guatemalan sustainable development, which has been impaired by low levels of education, health care and public security, a lack of infrastructure and other factors which militate against increasing the productivity of labour and the competitiveness of the Guatemalan economy.

Budgetary policy

46. Budgetary policy should respond to the need for socio-economic development in a stable context, which requires a public spending policy consistent with the following basic principles:
- (a) Giving priority to social spending, the provision of public services and the basic infrastructure needed to support production and marketing;
 - (b) Giving priority to social investment in health care, education and housing; rural development; job creation; and compliance with the commitments entered into under the peace agreements. The budget should include sufficient resources for strengthening the organisations and institutions responsible for ensuring the rule of law and respect for human rights;
 - (c) Efficient budget performance, with an emphasis on decentralisation, redistribution and auditing of budgetary resources.

Tax policy

47. Tax policy should be designed to enable the collection of the resources needed for the performance of the State's functions, including the funds required for the consolidation of peace, within the framework of a tax system consistent with the following basic principles:
- (a) The system is fair, equitable and, on the whole, progressive, in keeping with the constitutional principle of ability to pay;
 - (b) The system is universal and compulsory;
 - (c) The system stimulates saving and investment.
48. The State should also ensure efficiency and transparency in tax collection and fiscal management so as to promote taxpayer confidence in government policy and eliminate tax evasion and fraud.

Tax collection target

49. Bearing in mind the need to increase State revenues in order to cope with the urgent tasks of economic growth, social development and building peace, the Government undertakes to ensure that by the year 2000, the tax burden, measured as a ratio of gross domestic product, increases by at least 50 per cent as compared with the 1995 tax burden.

Fiscal commitment

50. As a step towards a fair and equitable tax system, the Government undertakes to address the most serious issue relating to tax injustice and inequity, namely, evasion and fraud, especially on the part of those who should be the largest contributors. In order to eradicate privileges and abuses, eliminate tax evasion and fraud and implement a tax system which is, on the whole, progressive, the Government undertakes to:

Legislation

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- (a) Promote an amendment to the Tax Code establishing harsher penalties for tax evasion, avoidance and fraud, both for taxpayers and for tax administration officials;
 - (b) Promote an amendment to the tax laws designed to eliminate loopholes;
 - (c) Evaluate and regulate tax exemptions strictly so as to eliminate abuses;

Strengthening of tax administration

- (d) Strengthen the existing auditing and collection mechanisms, such as cross-checking, tax identification numbers and tax credits for withholding of income tax and value-added tax;
- (e) Simplify and automate tax administration procedures;
- (f) Ensure the correct and prompt application or reimbursement of tax credit and punish severely those who do not return withheld value-added tax to the tax authorities;

- (g) Create a special programme for large contributors in order to ensure that they comply fully with their tax obligations;
- (h) Implement administrative structures specifically geared to the revenue collection and auditing programmes and to the application of the relevant tax laws;
- (i) Strengthen the capacity of municipalities to exercise their authority to collect taxes;

Participation

- (j) Ensure that the urban and rural development councils contribute to the definition and monitoring of tax policy within the framework of their mandate to formulate development policies;

Civic education

- (k) Within academic curricula, continue to promote knowledge of, respect for and compliance

with tax obligations as part of coexistence in a democratic society.

Enforcement of tax policy

51. The failure to fulfil tax obligations deprives the country of the resources needed in order to address the backlog of social needs affecting Guatemalan society. The Government undertakes to impose exemplary penalties on those who engage in various types of tax fraud, to modernise and strengthen tax administration and to give priority to spending on social needs.

V. Final Provisions

1. This Agreement shall form part of the agreement on a firm and lasting peace and shall enter into force at the time of the signing of the latter agreement.
2. In order to ensure that this Agreement serves the interests of Guatemalans, the Government shall initiate immediately the programming and planning activities which will enable it to comply

with the investment commitments contained herein.

3. In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to verify compliance with this Agreement.
4. This Agreement shall be disseminated as widely as possible; to this end, the cooperation of the mass media and of teaching and educational institutions is requested.

Mexico City, 6 May 1996

**For the Government of the Republic of
Guatemala**

Gustavo PORRAS CASTEJÓN

Raquel ZELAYA ROSALES

Brigadier General Otto PÉREZ MOLINA

Richard AITKENHEAD CASTILLO

**For the Unidad Revolucionaria Nacional
Guatemalteca General Command**

Commander Pablo MONSANTO

Commander Rolando MORÁN

Commander Gaspar ILOM

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Marrack GOULDING

Under-Secretary-General Jean ARNAULT.

Reframing Citizenship:

Indigenous Rights, Local Power and the Peace Process in Guatemala

By Rachel Sieder

Although the civil war in Guatemala was not fought over ethnic claims for self-determination, the peace process that brought the war to an end holds the prospect of incorporating historically neglected indigenous demands into a

democratic national agenda. Given that the majority of Guatemalans are indigenous, further democratisation that is responsive to the ethnic diversity of the country would radically transform Guatemalan politics and society.

One agreement in particular, the Accord on the Identity and Rights of Indigenous Peoples (AIDPI), signed on 31 March 1995, is of primary importance. It explicitly recognises the multi-ethnic, culturally plural and multilingual nature of Guatemala and the specific, collective rights of some six million indigenous people.

The Indigenous Rights Accord provoked a backlash from those who claimed that indigenous people were being given

'special rights' that violated the principle of equality before the law and that greater regional autonomy would lead to the break-up of the Guatemalan state. However, the efforts of indigenous organisations have focused on integration and inclusion, not separatism. Indeed, many would argue that indigenous conceptions and practices of power, participation and justice are enriching notions of democracy throughout Latin America.

Awakening Identity Politics

In the 1980s, many indigenous Guatemalans articulated their resistance to overwhelming military repression by supporting armed groups or the emerging human rights movement. In the 1990s, while human rights issues remained central, the Mayan movement

began to put forward national proposals for reform based specifically on ethnic interests.

In making this strategic shift, Mayan leaders and intellectuals had various motivations. One of these was a recognition of the power of pre-colonial history as a tool to mobilise and extend their own interests and those of their numerically large, but politically marginalised, constituency. Another was the belief that ideologies emphasising indigenous world-views as harmonious and conciliatory resonated deeply with the majority of Guatemalans and stood in stark contrast to the discriminatory and authoritarian practices of the Guatemalan state. As such, it was argued, Mayan traditions could provide highly appropriate

frameworks for reconstituting social structures destroyed by the war. Mayan organisations sought to advance political reconciliation and reconstruction through rebuilding indigenous identities, drawing on cultural elements such as language, and developing innovative interpretations of ancient myths and customs.



Leaders of the National Coordination of Guatemalan Widows (CONAVIGUA) in a national demonstration against price rises

A number of factors facilitated the shift towards greater indigenous activism. The first of these was the '500 Years of Resistance' campaign, a continental protest movement against official celebration of the 'discovery' of the Americas. As part of this campaign, in September 1990, Majawil Q'ij ('New Dawn') was set up by predominantly indigenous popular organisations to reflect on ethnicity and cultural rights. This group was also responsible for co-ordinating the second continental meeting, in Guatemala's second city of Quetzaltenango, of '500 Years of Indigenous and Popular Resistance'. This summit, held in 1991, had a huge impact, strengthening Mayan

consciousness and for, the first time, putting Guatemalans in touch with other indigenous organisations throughout North and South America.

A second factor underpinning the strengthening of an indigenous agenda was the formation of the Council of Mayan Organisations of Guatemala (COMG), an umbrella group of research centres, and cultural and development organisations. Since its emergence in 1991, COMG has acted as a popular forum for exploring and promoting Mayan aspirations, publicly advancing demands for devolution and ethnic parity within Congress and other national institutions.

"In the mid-1970s I was not consciously aware of my own Mayan

identity. The commemoration of the 500 years anniversary of the arrival of the Spaniards in America began to awaken that consciousness for all of us."

Rosalina Tuyuc, leader of National Co-ordination of Guatemalan Widows (CONAVIGUA), FDNG representative and Vice-President of Congress. Crónica, 26 July 1996.

In October 1992, the Nobel Peace Prize was awarded to Mayan human rights activist Rigoberta Menchú Tum. Two years later, a number of Mayan notables actively promoted the setting up of Decenio Maya, another umbrella organisation taking its cue from the United Nations mandate to ensure greater participation of indigenous peoples in

governance world-wide. The establishment of Decenio Maya and the attention arising from Menchú's award, strengthened international awareness of indigenous claims and further consolidated indigenous identities within Guatemalan politics and society.

Ethnicity and Poverty in Guatemala

Approximately 60 per cent of Guatemala's population is indigenous. The vast majority are Mayan, part of a wider community of some eight or nine million people who speak a Mayan language across four countries - Mexico, Honduras, Belize and Guatemala.

There are 21 Mayan linguistic communities in Guatemala, in addition to two other indigenous groups, the Xinca and the Garífuna. The rest of the population is *mestizo* or *ladino* (non-Indian), mixed race descendants of indigenous groups, Spanish settlers and other immigrants who colonised Guatemala after the sixteenth century. In many municipalities in the highland departments over 95% of the population is Mayan. While the touchstone of their identity remains the rural community, close to a million Maya now live in the capital, Guatemala City.

Most Guatemalan Maya continue to depend to some degree on subsistence agriculture for their survival. According

to the latest government estimates, some 81% live in extreme poverty. While 50% of the general population are illiterate, this figure rises to 75-80% for indigenous people. It increases further to around 90% for Mayan women, over 60% of whom are monolingual. Life expectancy among the Maya is 17 years lower than for *ladinos* - 47 and 48 years for men and women, compared to 64 and 65, respectively.

More than any other factor, however, it was probably the independence and self-confidence of Mayan actors in the peace process which confirmed the transformation in indigenous identity politics.

During discussion of the Indigenous Rights Accord, it became evident that non-indigenous intermediaries were no longer necessary; that Guatemala's indigenous peoples could themselves ensure that the issues which mattered to them were put on the national agenda.

Negotiating as 'Peoples'

Originally, Mayan activists lobbied for direct representation at the negotiating table on the issue of indigenous rights. This proposal was apparently accepted in principle by the Guatemalan National Revolutionary Unity (URNG), but rejected outright by the government. While many indigenous leaders objected to the characterisation of 60% of the population as a 'sector' of civil society, the sole opportunity for Mayan organisations to

contribute to the peace negotiations came through their participation as such in the Civil Society Assembly (ASC). Although many remained dissatisfied with this perceived under-representation, an early success of indigenous participation in the Assembly was the recognition of indigenous peoples within that forum as 'peoples' rather than 'groups'. Given the rights attached to 'peoples' by international law, it legitimised and framed a new way of conceiving and talking about national reform.

Articulating the Indigenous Rights Agenda

On 30 May 1994, the momentum for securing indigenous gains through the negotiations was further enhanced when the Co-ordination of Organisations of the

Mayan People of Guatemala (COP-MAGUA), representing over 200 individual organisations, presented a proposal on the identity and rights of indigenous peoples to the negotiating table and the ASC. This proposal outlined the historic discrimination and violence suffered by indigenous peoples. It mainly condemned the army, but it also blamed the URNG for miscalculating the disproportionate and genocidal response to its guerrilla activities. Both parties were further chastised for not securing Mayan participation in the initial stages of the negotiating process at Oslo in 1990.

The demands set out by COPMAGUA referred to the political, cultural, economic and social rights of Mayan people. Terms

such as 'autonomy', 'self-determination' and 'participation' were loosely defined, constituting markers set down to frame a debate about rights, rather than provide precise formulations for institutional or political reform. In terms of political rights, COPMAGUA called for the constitutional recognition of Mayan people: a redefinition of the Guatemalan nation as culturally plural and multi-ethnic. It also called for the constitutional and legal recognition of Mayan organisational forms, political practices and customary law. While these were not defined in the COPMAGUA document, they include indigenous mayoralties or councils of elders, selection of community representatives by consensus, rather than by the vote, and more restitutive forms of resolving conflicts.

Lastly, COPMAGUA called for guarantees of greater participation in state institutions and policy formation, although, again, the mechanisms by which these might be achieved were not specified. It also demanded explicit recognition of historical and linguistic criteria in redefining politico-administrative boundaries, with the aim of affording greater representation and regional autonomy for Mayan peoples.

On cultural rights, the proposal focused on language and cultural 'self-determination', calling for the creation of representative institutions to defend and strengthen Mayan culture, the officialisation of all Mayan languages, and the strengthening of those facing extinction. It also called for greater cultural

autonomy for indigenous peoples in educational affairs, including the development of new curricula and classroom materials to facilitate bilingual education, and greater community control over local schools. The document advocated positive discrimination to support disadvantaged Mayan students. It also asserted Mayan rights to greater access to the mass media, to their ceremonial and spiritual centres, and the use of indigenous dress without fear of discrimination.

Unsurprisingly, the section referring to economic rights focused on land. It called for the restitution of expropriated communal lands, the immediate titling of lands historically occupied by Mayan people, and a comprehensive

programme of land reform. Other demands included rights to the use of natural resources, a share in the benefits of tourism and the guarantee of a fair wage. In terms of social rights, the COPMAGUA document asserted Mayan entitlement to decide certain elements of social policy, such as birth control, and to receive adequate and culturally appropriate healthcare, basic services and housing. It also called for the criminalisation of ethnic discrimination.

A number of demands were directed specifically at the URNG and government negotiators. These included the rapid demilitarisation of Guatemalan society, including a thorough revision of the army's national security policy, a reduction of the military budget, and transferral of

funds to institutions protecting and strengthening Mayan culture and languages. COPMAGUA also insisted that Mayan demands should not be characterised as 'pro-URNG' and that its proposals form the basis of any subsequent agreement on the rights and identity of indigenous people.

"The greatest achievement [of the peace process] is that we were able to agree on concepts and definitions and make real proposals to the population for the construction of a pluricultural and multilingual state. It gave us a strategic vision which we previously lacked...[and was] a mechanism which speeded up processes of unification, articulation and

co-ordination among Mayan organisations.”

Juan León, Defensoría Maya and FDNG vice-presidential candidate in 1995. Personal interview, Guatemala, 2 May 1997.

Reaching agreement on this consensus proposal was an important political learning experience for the Mayan organisations in COPMAGUA. However, securing Civil Society Assembly approval of the proposal proved a difficult and at times acrimonious battle.

The Constructive Consensus

Discussions within the ASC added a number of provisions to the COPMAGUA proposal, including measures to ensure

greater equality of indigenous women. Non-Mayan civil groups exhibited profound differences on other issues, partly fearing that maximalist demands for land and greater regional autonomy would jeopardise the peace process, and also that these would foment ethnic separatism and conflict. It was only after all mention of Mayan autonomy had been dropped that a revised proposal for more equitable coexistence between ethnic groups was finally approved. By this point, more extensive discussions on indigenous land rights had also been postponed, on the understanding that these would be addressed within the subsequent negotiating theme of 'Socio-Economic Issues'. In July 1994, the Assembly reworking of the COPMAGUA proposal was finally agreed, signalling

the first time that an explicit advancement of indigenous rights had received the backing of both indigenous and non-indigenous organisations.

In consonance with powerful elements within its own support base, and in recognition of the increasing profile of the indigenous constituency, the URNG strengthened certain of the ASC recommendations, such as those referring to discrimination, and promptly adopted the Assembly proposal as its own official negotiating position. On 31 March 1995, the accord was signed in Mexico City.

"For we indigenous people here in Guatemala, the Indigenous Rights Accord isn't our final objective, but rather the starting point for us to

secure the claims that we have always made.”

Francisco Cali, Centre for Human Rights Legal Action (CALDH). Personal interview, Guatemala, 6 June 1997.

Although the need for demilitarisation of Mayan communities was significantly down-played in the Indigenous Rights Accord, this was due to government insistence that such issues be addressed in subsequent negotiations on the Role of the Army in a Democratic Society. Otherwise, the final agreement was generally faithful to the ASC proposals. That indigenous groups' demands were significantly represented through the formal peace process is testimony to the constructive consensus achieved through

COPMAGUA and the ASC. The relative gains made for indigenous rights also reflect the minor importance afforded by government negotiators to this theme, and the sympathies of the URNG with respect to indigenous rights, which resulted in their greater openness to civil groups' demands.

The Accord - Opportunities and Weaknesses

The provisions of the AIDPI, summarised in the chronology and presented in full in the centre pages of this issue, describe the various political, cultural and socio-economic rights guaranteed to indigenous peoples as a consequence of the peace process. While Mayan activists point out they had no direct role in approving these provisions - the

Assembly's recommendations were of a non-binding nature and the final agreement was signed by non-indigenous government and URNG representatives - they recognise the peace process as a crucial step forward for inter-ethnic relations in Guatemala and in the struggle for Mayan rights.

"The indigenous accord is a very valuable instrument which can serve us to reach a national coexistence respectful of difference. Now we aim to achieve political, social and economic participation without ceasing to be who we are."

Manuela Alvarado, member of Congress, New Guatemalan Democratic Front (FDNG). Personal interview, Guatemala, 7 May 1997.

Putting the Agreement into Practice

While promoting a broad range of indigenous rights, the Indigenous Rights Accord also establishes five official commissions, made up of government appointees and representatives from COPMAGUA, which guarantee indigenous participation in the implementation phase of the peace process.

The official joint commissions include:

- The Commission for the Officialisation of Indigenous Languages
- The Commission on Sacred Places
- The Commission on Reform and Participation

- The Commission on Communal Lands
- The Commission on Educational Reform

The commissions on participation, land and educational reform are officially designated bipartite commissions, which means that government and indigenous representation must be equal. This does not apply to the commissions dealing with language and sacred places. All commissions will make recommendations to Congress on legislative reforms, functioning, in effect, as parliamentary sub-committees.

COPMAGUA has also set up eight permanent committees of its own. Through these, it aims to continue its co-ordination of the different Mayan organisations and to facilitate the participation of all indigenous communities, including the Xinca and Garífuna, in discussing, analysing and formulating proposals to the official commissions.

The eight permanent committees set up by COPMAGUA will consider:

- indigenous women's rights;
- spirituality;
- indigenous law;
- land;

- participation at all levels;
- officialisation of indigenous languages;
- educational reform, and;
- constitutional reform.

The official joint commissions on sacred sites, educational reform and the officialisation of indigenous languages began work in April 1997. In July, the Commission on Communal Lands was also inaugurated. Unlike their government counterparts, COPMAGUA representatives on these commissions receive no payment for their time and face a conflict between the demands of participation and keeping in touch with their support bases. These factors, together with

the general shortage of qualified personnel and resources, limit the capacity of the indigenous sector to present its demands effectively and to lobby for their adoption. As a result, any claims to 'parity' with government representatives are something of a legal fiction.

Holding out the prospect of becoming more permanent fora for national level consultation, the joint commissions could constitute an innovative development for the effective, ongoing articulation of indigenous demands. For the above reasons, however, and considering Congress has no mandated obligation to adopt anyone's recommendations, it seems that COPMAGUA's extensive investment in the implementing

commissions could prove a high-risk strategy.

Women's Rights

All too often in ethnically-based movements, women's rights are subsumed to the 'reconstruction of the traditional', allowing men to decide what women's roles in cultural reproduction should be. Typically, this leads to a strong emphasis on the role of women as bearers and educators of children and the accusation that ideas of autonomy and emancipation of women invariably stem from Western 'cultural imperialism'.

In Guatemala, however, indigenous women demand their right to cultural difference and to equal treatment. As a consequence, COPMAGUA is already

proposing that the state provide legal defence offices specifically for indigenous women. This will entail the establishment of institutions within local structures of governance that provide access to indigenous women to defend their rights. This, and the importance accorded gender equality in the Indigenous Rights Accord more generally, represent an extremely positive dimension of the Guatemalan peace process.

Redefining Local Power

Through the early years of official negotiations, indigenous people had already begun to reclaim local politics and by 1993, many 'civic committees' - slates of local candidates not aligned directly with a national political party - were contesting municipal elections. Two years later,

in the crucial elections of 1995, out of 300 contested municipalities, over 100 indigenous mayors, both aligned and independent, were returned to office. Civic committees won many important municipalities, including Nebaj, Sololá and Quetzaltenango. These inroads in the struggle to democratise a highly centralised, militarised and authoritarian state can only be consolidated by further municipal reform, one element envisaged, although not precisely defined, in the Indigenous Rights Accord.

In addition, the incorporation of indigenous authorities, practices and norms mandated by the accord implies a radical change in the practice of Guatemalan politics. For example, the legitimacy of Mayan councils of elders and other

authorities potentially empowered by the accord does not derive from a popular vote, but from their record of service to the community. Although no consensus yet exists among Mayan organisations on this matter, many feel that formal elections have been widely discredited by decades of fraud and electoral indifference, and that the time is ripe for more 'traditional' consensual decision-making. Such developments do not constitute a coherent alternative to existing party politics; however, they are beginning to present a different vision of participation and governance than that traditionally advanced by the political parties.

"We began to discover a mutual enrichment between the formal, official

institutions of municipal government and indigenous organisations...In this respect we have an important contribution to make within the framework of the peace accords...Our common aspiration is that there be a different configuration of local power and of the state as a whole."

Pablo Ceto, Association of Indigenous Mayors and Authorities of Guatemala and indigenous rights spokesperson, URNG. Personal interview, Guatemala, 30 April 1997.

While there is room for guarded optimism at the local level, most commentators recognise that the general increase in indigenous participation promised in the Indigenous Rights Accord will require

a far more substantive administrative overhaul. Currently, municipalities are only linked with regional and national authorities, if at all, through highly centralised and undemocratic political parties. At the same time, regional governors continue to be appointed directly by the president. The accord did not specify mechanisms for effective co-ordination between community-level authorities, the municipalities, regional authorities and national political bodies. However, if the promises of greater indigenous participation are to be realised, the development of such mechanisms is imperative.

"We understand autonomy as the possibility that every Maya can obtain a share in decision-making"

within the country, a say in political decisions which directly affect them....as a people we are ceding a little of our independence, of our autonomy, to unity. It is a contribution to the task of constructing the state."

Alvaro Pop, Decenio Maya. Personal interview, Guatemala, 9 June 1997

In addition, it must not be forgotten that the civil war placed all local decision-making under military control. As a result, 'traditional' bodies are sometimes absent and frequently fragmented. In fact, local communities are often unrepresented even at municipal level. Considering these constraints therefore, the process of participatory local reconstruction is likely to remain partial, protracted

and difficult for at least the medium-term.

Traditional Dispute Resolution and Customary Law

The Indigenous Rights Accord also creates possibilities for countering the acute lack of public confidence in the rule of law, which is underpinned by the inefficiency, bias and corruption of the Guatemalan judicial system. By recognising customary indigenous law, it has already legitimised the community-based efforts of a number of indigenous organisations seeking to employ culturally acceptable, non-coercive means to resolve local conflicts. Based on 'traditional' principles of harmony, consensus and conciliation, these initiatives are generally based on the admission of guilt

and restitutive measures such as reparation payments. Stressing non-violence and respect for women's rights, they could begin to dismantle the entrenched culture of injustice and impunity in Guatemala.

"Land is the key to power in Guatemala. By not allowing the Mayan people the means to feed themselves or providing them with work, little by little you destroy their culture... In the long term, this constitutes ethnocide."

Juan Tiney, Co-ordinator of National Indigenous and Campesino Co-ordination (CONIC). Personal interview, Guatemala, 12 May 1997

However, the militarisation of local, regional and national government throughout the 1980s displaced the influence of traditional authorities and fomented the widespread use of violence to resolve conflicts. Unless recognition of customary law and promotion of traditional authorities is part of a comprehensive strategy for demilitarisation, involving extended processes of community-based education and reconciliation, there is the risk in some areas of the paramilitary structures imposed during the war permanently replacing traditional authorities. Over 300,000 civil patrollers and military commissioners were demobilised as part of the peace agreement, but many threaten to re-arm because of continued insecurity. As these groups have frequently been

implicated in gross human rights abuses and often retain the protection of army hard-liners, rural areas remain highly volatile and the legacy of fear and division may yet take years to overcome.

In August 1997, Congress approved reforms to the Criminal Code, providing for the establishment of 'mixed tribunals' in certain localities, comprising local, non-judicial and official representatives. The debate about the respective roles of state and customary law remains unresolved, however, and this move constitutes just one step in what will inevitably be a lengthy and complex process.

Land and Identity

Land for the Maya is a vital ancestral link and a site of religious communion. It is,

therefore, a linchpin of cultural identity. Crucially, access to land also remains, for the vast majority, the key to economic subsistence.

The Guatemalan oligarchy's historical fear of agrarian reform, combined with the relative weakness of the URNG at the negotiating table, meant that the peace accords made little impact on a highly unequal land distribution (see *Promised the Earth*, p. 74). Prevailing definitions of private property were not challenged, nor was any notion of social property introduced. In addition, while the accords do acknowledge the historical despoilment of indigenous lands, they fail to detail specific mechanisms by which restitutive measures might be effected. In these circumstances,

COPMAGUA representatives on the bi-partite Commission on Communal Lands - which aims to develop proposals to implement the sections of the accord pertaining to indigenous land rights - are pessimistic about the prospects of increasing indigenous access to land, particularly in the most agriculturally fertile regions of the country.

All in all, indigenous civil groups face formidable challenges in their attempts to secure and extend the rights promised them. On one hand, mechanisms for the successful representation of local rural communities must be constructed and reinforced, requiring sustained lobbying at regional and national levels. At the same time, reaching consensus positions within the highly plural indigenous

constituency also involves extensive and time-consuming consultation at the grass-roots level. Added to these problems, many fear the current government is more interested in advancing its own political agenda and neo-liberal economic programme than in effecting implementation of the peace accords. Official commitments to securing the consultation and participation of indigenous people, and to implementing both the spirit and the letter of the Indigenous Rights Accord, remain far from guaranteed.

Prospects for the Future

The Indigenous Rights Accord is an extremely wide-ranging agreement. Putting into practice the rights it promises will require many reforms and extensive

funding. As the political will of the government is questionable and the capacities of civil society sorely stretched, the success of implementation will require determined pressure and appropriate support from the international community.

Although COPMAGUA's more radical recommendations were left out of the Civil Assembly's final proposal, the accord has opened possibilities for progressive indigenous autonomy based on decentralisation and greater participation within existing national structures. Even those Mayan activists who favour administrative boundaries on the basis of linguistic communities, or proportional representation based on regional ethnic demographics, accept that any measure of

greater autonomy represents an important historic compromise:

Many aspects of the Indigenous Rights Accord threaten established economic and political interests. If the state and dominant classes fail to deliver on the promised socio-economic, political and cultural inclusion of indigenous people, the question of what kind of, and how much, autonomy should be granted indigenous groups will undoubtedly remain high on the political agenda of many civil groups. If indigenous people continue to be denied effective socio-economic and political inclusion, ethnically-based secessionist movements could be a future possibility.

"Those who have power in their hands also have to make changes; if not then they will be responsible for any future armed uprising that might occur."

Rosalina Tuyuc. Personal interview, Guatemala, 6 June 1997

Paternalistic or racist attitudes towards indigenous people, and the suspicions that exist on both sides of the cultural divide, will take a long time to overcome. At the same time, the persistent problems of militarisation, impunity and lack of access to land will continue to affect medium-term prospects for political stability. Ultimately, successful ethnic integration in Guatemala is likely to depend on solutions to the poverty and economic marginalisation of the

indigenous majority. Even though the war has ended, these, its central causes, remain largely unresolved. If change is to be achieved in the future, the consensus found in the COPMAGUA coalition and which so fundamentally influenced the peace process, will need to be maintained. A new indigenous consciousness has emerged and a degree of political consensus has been achieved. The national process of realising indigenous rights, however, has only just begun.

Further Reading

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Promised the Earth:

Agrarian Reform in the Socio-Economic Agreement

By Gustavo Palma Murga

Since the colonial period, unfair land distribution and the prevailing agricultural economic system have been the prime causes of armed and civil resistance in Guatemala. Successive authoritarian governments have granted national and international business elites unrestricted

privileges over communal lands expropriated from the Maya. As a consequence, the majority of Guatemalans live in abject poverty and *campesino* organisations have continually fought for the reinstatement of their ancestral lands. It is estimated that over 300 land disputes currently exist in 15 of Guatemala's 22 departments.

The Agreement on Socio-Economic Issues and the Agrarian Situation, while redirecting and restructuring approaches to the 'land problem', does not contain a strategic, long-term vision of Guatemala's economic, particularly rural, development. Its overly technical, market-driven proposals do not begin to address the economic injustice and inefficiency and the deep historical grievances which

are the root causes of past and ongoing rural conflict.

Patterns of Land Use and Ownership

Both the culture and economy of Guatemala is still, to a large extent, rooted in the land. Out of roughly ten million Guatemalans, around two thirds live in the countryside. Over half of the 'economically active' population work in agriculture, though it accounts for only 25% of the official Gross Domestic Product.

Land distribution and usage, however, remain grossly unjust and inefficient. Figures from the last Agricultural Census, carried out in 1979, indicate that only 38% of Guatemala's territory was registered as private farming land,

with over half this amount devoted to forestry and pastureland and less than a quarter to consumption crops. Further analysis shows that much of the registered land has been misallocated, with large highland areas best suited to forestry stripped bare for arable farming, and more fertile land, such as that along the southern coast, given over to pasture. At the same time, the census showed that the overall area devoted to subsistence farmers is disproportionately small. On one hand, farms of up to seven hectares - less than is required to feed the average family - accounted for 90% of productive land units, but only 16% of all privately-owned land. On the other, 65% of private land was taken up by the 2% of productive units larger than 45 hectares. Unjust in itself, this land

regime also results in credit, loans and other resources being channeled disproportionately to urban areas and the agro-export sector, and to chronic underinvestment in the countryside.



Nigel Dickinson/Leader Photos

Campesinos rejoice as they hear the Committee for Campesino Unity (CUC) has won them a legal

reprieve and postponement of their threatened eviction from occupied land in Champerico, SW Guatemala

While the shortcomings of Guatemala's system of land usage are evident, it is extremely difficult to envisage a solution which can satisfy the divergent interests of landless *campesinos*, tenant farmers and elite landowners. Attempts to effect a redistributive land reform in 1952 led to the overthrow of the government two years later. Since that time, the state authorities have implemented measures which have not begun to address the land problem. The 1996 Agreement on Socio-Economic Aspects and the Agrarian Situation promises a new approach, but many doubt whether it can improve the lot of the impoverished rural majority.

Land Distribution in Guatemala in 1979

Size of farm units (hectares)	No. of farms	(%)	Surface area of farms (hectares)	(%)
<0.7	250,918	41.1	60,871	1.5
0.7-7	296,654	48.7	608,083	14.7
7-45	49,137	8.0	774,974	18.4
45-902	13,158	2.1	1,793,619	42.7
>902	477	0.1	955,922	22.7
Total	610,344	100.0	4,193,469	100.0

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Poverty in Guatemala

The World Bank estimated in 1995 that approximately 75% of Guatemalans live in poverty, and almost 58% in extreme poverty. In 1989 the minimum wage of a male rural worker in the western highlands was US\$1.35 a day, while women earned scarcely \$0.76. Wage levels have not risen significantly in the 1990s and at present a seasonal worker picking coffee receives no more than \$3 a day. The World Bank has also drawn attention to the lack of access to basic services such as health, education and housing, a consequence of enormous resource distribution inequalities in Guatemala.

Opposing Civic Proposals for the Socio-Economic Accord

Throughout 1994, wide-ranging discussion of the planned Socio-Economic Accord produced a series of sectoral reports. Among the more radical of these was published in July by the National Co-ordination of Campesino Organisations (CNOOC). The central proposals of the CNOOC document were land tenure reform and greater rights for *campesinos* in natural resource management. Its most radical element was the clause calling for a redefinition of land ownership and use based on the idea of the social function of property. This directly challenged definitions of private property upheld by every Guatemalan government since 1954 and enshrined in the 1985 constitution.

Although CNOOC proposals were debated in the Civil Society Assembly (ASC), they were significantly diluted in the final ASC submission to the peace talks, published in September 1994. While endorsing a redefinition of land tenure 'to permit the legitimate and historical owners . . . best access to and use of their land-holdings' and to guarantee land access to the landless, the ASC proposals made tacit concessions to the neo-liberal preoccupations of the private sector. They recommended more 'rational and efficient use of the land' not only to increase production and meet historical grievances, but also to reflect the competitive 'comparative advantage' of Guatemala in the new global economy.

In December, the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), who had boycotted the Assembly, also produced a set of recommendations. In contrast to the CNOOC and ASC proposals, CACIF argued against the idea of social property, and stressed that 'collective systems of ownership have never in practice been as successful as it was claimed they were'. It refuted past attempts at redistributive land reform and, on the grounds of technical efficiency, called for the privatisation of the few remaining communal or municipal lands.

'Democratisation of Land Use, Rental and Ownership'

National Coordination of Campesino Organisations (CNOOC)

This document included a number of demands in five specific areas:

- **Campesino Rights:** including guarantees of *campesino* land ownership; compliance with the 1994 Comprehensive Agreement on Human Rights; demilitarisation of rural areas to enable *campesinos* to organise without fear; the speeding-up of the legal paperwork to register *campesino* organisations; and a fair wage.
- **Democratisation of the Use, Rental and Ownership of Land:** involving the introduction of the idea

of 'social property'; the recovery of communal and other lands illegally taken from *campesinos* during the previous 40 years; state expropriation of idle lands; the creation of a high-level multi-sectoral commission to establish the real situation with regard to land-holdings and to verify the peace accords on agrarian matters; the hand-over of state lands to *campesinos* in the form of collective titles; and the resolution of community conflicts over land.

- **Technical and Financial Support:** the document stated that this should be based on clearly defined policies which respect Mayan worldviews and

respond to the collective interests of *campesinos* with regard to production, distribution, commercialisation, etc..

- **Reform of State Institutions:** CNOOC called for these institutions to include representatives from the *campesino* sector, NGOs, the church, and government.
- **Constitutional Reform:** in order to put into effect the agreements signed by the government and Guatemalan National Revolutionary Unity (URNG) as part of the peace process.

Consensus Proposal: 'Socio-Economic Aspects and the Agrarian Situation', Civil Society Assembly (ASC)

The ASC submission focused on three areas:

- **Policies for Agrarian Development:** To promote, protect and strengthen the socio-economic development of rural areas, the ASC called for a special Agricultural Fund, similar in function to the Land Trust Fund introduced in the final accord. It also proposed an overhaul of state institutions involved in agrarian matters.

- **Property, Use and Rental of Land:** The ASC called for existing agrarian legislation to be reformed to introduce the idea of social use and ownership of land. It also demanded a new agricultural census, the creation of a land bank and other measures to regulate the land market.
- **Ecological Policies:** The ASC document called for specific policies and legislation to protect and preserve the environment.

The Socio-Economic Accord - A Minimum Consensus

After more than a year of acrimonious debate, the Agreement on Socio-Economic Aspects and the Agrarian Situation was finally signed on 6 May 1996. In its coverage of the 'agrarian situation and rural development', the accord clearly recognises the character and complexity of the land problem. It acknowledges that the concentration of land ownership is not a technical necessity, but rather the result of a political and historical process with no in-built bias towards efficiency. While arguing that private investment has a fundamental role to play in securing an 'efficient and equitable agricultural sector', it proposes that the state should play a central role, coordinating the efforts of a wide range of institutions.

Adopting much of the language of the ASC, the accord's stated purpose with regard to the land situation is to 'promote the access of tenant farmers to land ownership and the sustainable use of land resources.' This is to include not just the enhancement of productive capacities: the accord also commits the government to a 'global strategy' with ten core objectives:

- the promotion of participation
- improving access to land ownership
- a more equal distribution of credit, technology, training and information
- organisation of the rural population
- legal reforms
- prompt settlement of land conflicts

-
- the creation of a land register to clarify land ownership
 - measures to ensure labour protection
 - measures to ensure environmental protection
 - tax reform

'...Historic events... have left deep traces in ethnic, social and economic relations concerning property and land use...It is essential to redress and overcome this legacy and promote more efficient and equitable farming' (paragraph 28, Socio-Economic Accord)

'The State has a fundamental and vital role in (breaking with the patterns

*and prejudices of the past)
...as the force guiding national development; as a legislator; as a source of public investment and provider of services; and as a promoter of social cooperation and conflict resolution' (paragraph 31, Socio-Economic Accord)*

Within this broad strategy, key government commitments included:

1. Strengthening local and national agricultural development councils to enhance the decision-making role of rural organisations such as cooperatives, small farmers' associations, family businesses and trade unions.
2. The creation of a new, properly financed National Trust Fund for Lands

to promote access of tenant farmers to land ownership. Land allocated by this fund will be state-owned (including currently uncultivated and state-owned farms and illegally settled public land); land legally expropriated or compulsorily purchased under article 40 of the constitution (this article refers to land expropriations and appropriate compensation, although it does not mention under-utilisation of land as a justifiable cause for expropriation); or land purchased by the government on the open market. Purchases will be made with loans from international financial institutions; grants from foreign governments and international NGOs; and finance allocated through FONAPAZ (the body set up to

oversee and co-ordinate projects targeted at populations affected by the armed conflict). The fund will also facilitate *campesino* purchase of agricultural lands through the provision of guaranteed low-interest loans requiring little or no down-payments.

3. Legal reform to simplify procedures for registering land ownership; and to protect and regulate community-owned land.
4. Developing a Land Register through a new land survey and the systematisation of existing information.
5. Establishing a Land Tax on under-used and undeveloped lands.

Reactions to the Accord: Winners and Losers

The Socio-Economic Accord partially reflects the various positions of the interested parties. However, its provisions implicitly indicate that resolution of the agrarian problem is understood as a process of reallocating resources within a marginally reformed institutional context based on private ownership and the market. There are no provisions for structural changes in land tenure or for expropriating unused or under-utilised lands, while the notion of social property is entirely absent. In terms of underlying philosophy therefore, it is CACIF's vision which predominates. In explaining this, most commentators point to the weakness of the insurgent Guatemalan National Revolutionary Unity (URNG) in talks and the powerful influence of landowners on government negotiators.

It is also widely believed that the guerilla leadership opted to make strategic concessions on the land issue in order to bring the peace process to an end as soon as possible and to facilitate their own future participation in a legal political framework.

The reaction of the Guatemalan business sector and of those closely involved in the negotiations process was generally positive. CACIF president Humberto Preti hailed it as an important step toward ensuring agricultural productivity while 'providing legal certainty' for land owners. The National Farmers' and Ranchers' Council (CONAGRO) saw the agreement as a basis for national development within the framework of economic globalisation. Government negotiator

Gustavo Porras Castejón optimistically argued that the implementation of the Land Register and taxes on idle land would lead to the solution of land ownership conflicts, while Rodrigo Asturias (Commander 'Gaspar Ilom' of the URNG), although recognising that the accord did not represent a definitive solution, hailed it as the first significant agreement on land reform for many years. The ASC limited its response to a brief communiqué expressing broad 'satisfaction'.

In marked contrast to these positive interpretations, many popular organisations, in common with the URNG rank-and-file, were less enthusiastic. CNOC, the Committee for Campesino Unity (CUC) and the National Indigenous and

Campesino Co-ordination (CONIC), while conceding the accord provided possibilities for 'resolving ... the problems affecting *campesinos*', concluded that the accord was 'insufficient as a mechanism for solving land conflicts.' CONIC was the harshest in its criticism, stating that 'these are minimum accords, that do not satisfy Mayan and *campesino* demands, because our positions were not taken into consideration and because (the accord was signed) behind our back'.

In a personal interview in August 1997, Juan Tiney, leader of CONIC argued that the retention of article 39 of the Guatemalan constitution, which enshrines the principle of private landed property as an inherent human right and gives extensive state guarantees for

landowners to use and enjoy their property, consolidates the present unequal system of land ownership. He also questioned the capacity of the Land Fund and Land Tax to provide economic opportunities for *campesinos*, emphasising the lack of state-owned or fallow lands available for redistribution, and the difficulties inherent in defining what is taxable idle land, especially given landowners' tremendous lobbying power.

With regard to the land register, Tiney criticised the lack of clarity over the definition of property rights. It appears that lands illegally seized from poor *campesinos* throughout history can now be registered as legal holdings. There is no questioning of how a title came to be held, although many were undoubtedly

obtained through bribery, fraud and coercion. Neither is there any mention of what is to be done in cases where the legitimacy of land titles is contested and overlapping claims exist. Some community claims to land stretch back a century, but titles recently granted tend to legitimise the claims of new owners.

Negative reactions also came from sectors of the civic opposition not specifically involved in land issues. For Rigoberto Quemé, indigenous mayor of the city of Quetzaltenango, the accord proposes non-distributive land reform, putting *campesinos* at the mercy of market forces and the pressures of the credit and banking system, while down-playing the importance of social issues. According to the Co-ordination of

Organisations of Mayan People of Guatemala (COPMAGUA), the accord breathes fresh life into structures inherited from the colonial period, and fails to challenge the overriding interests of large landowners. Writing for the Latin American Faculty of Social Science (FLACSO), Leopoldo Sandoval Villeda highlighted how the new National Trust Fund for Lands is likely to make a significant impact in only two areas: the recovery of some illegally occupied public lands in the northern department of Petén and in the Northern Transversal Strip (an area which was illegally settled by large landowners and military officers during the 1970s); and the commercial purchase of lands with limited official finances. As such, it represents an

unsatisfactory, piecemeal and minimalist approach to land reform.

Losing Out in Implementation

The institutions set up for implementation of the Socio-Economic Accord have the role of mediating between landowners, the government and *campesinos*. Remarkably few verification mechanisms were specified, however, and so far, the interests of the powerful landowning sector have prevailed within these institutions. In June 1997, the government announced that it lacked the resources to carry out the Land Registry promised in the accord, and that it intended to contract the service to

private firms. CONIC and other organisations opposed this idea, convinced that the Land Registry is primarily a state responsibility and that private firms would favour large landowners.

Prospects for the Accord and the Land Problem in Guatemala

To understand the prospects of the Socio- Economic Accord addressing Guatemala's land problem, it is essential to examine the political and economic agendas influencing its design and implementation. Broadly speaking, two agendas have dominated Guatemalan politics in recent years:

The first of these, the so-called 'peace agenda', was concerned with bringing the government and the URNG to a negotiated solution to the armed conflict and with satisfying the political and diplomatic lobbying of the international community. This agenda is reflected in the text of the accords, which strikes a fine balance between reformist rhetoric and a pragmatic consolidation of established interests.

The second agenda was the overriding concern of the government to 'do the right thing' in the face of pressure from the international financial institutions, particularly the International Monetary Fund. Now clearly paramount in government thinking, this agenda comprises two main priorities: the implementation

of mechanisms to 'manage' macroeconomic imbalances (particularly fiscal), and 'modernisation' of the state. Privatisation, administrative reform and the search for ways of spreading the costs of political and economic transition across different sectors of society are now the main components of government economic policy.

Both these agendas overlook the multifaceted problems and aspirations of the majority of rural Guatemalans. In other words, they fail to consider reform of the historic favouring of agro-exports over domestic production, nor do they address the historical grievances which underpinned the war - centuries of displacement and socio-economic exclusion.

While the Socio-Economic Accord recognised previously neglected issues such as access to credit and technology, the titling of lands and the reform of state institutions to consider smallholder needs, it does not articulate a broad, national and long-term vision of development, and avoids any direct challenge to the inequitable status quo. Its appeals to a 'transparent land market' and 'friendly governments' may bring about a partial alleviation of rural poverty, but more substantial dimensions of the land problem have been postponed for future generations. As a consequence, low-level conflict is likely to continue, as expressed in *campesino* land invasions, strikes by rural workers and clashes between smallholders and armed agents of wealthy landowners. In all probability,

simmering agrarian unrest will not lead to a full-scale rekindling of the war, yet it may well preclude a substantive and stable peace in the Guatemalan countryside.

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Chronology of Peace Talks

This chronology focuses on the agreements which marked the gradual transition away from armed conflict to a negotiated settlement in Guatemala. For the national, regional and international background to the events related below, please consult the 'Historical Background' and 'Key Actors' sections of this issue.

The 'Esquipulas II' Accord

The Procedure for the Establishment of a Firm and Lasting Peace in Central America (The 'Esquipulas II'

Accord) is signed in Guatemala City by the five Central American presidents on 7th August 1987. It draws heavily on the Peace Plan submitted by Costa Rican President Oscar Arias on 15th February 1987 which evolved from a summit meeting ('Esquipulas I') attended by the presidents in May 1986.

The Esquipulas II Accord describes a number of measures to promote national reconciliation, an end to hostilities, democratisation, free elections, the termination of all assistance to irregular forces, negotiations on arms controls, and assistance to refugees. It also lays

the ground for international verification procedures and provides a timetable for implementation.

The 'Esquipulas Process'

1986-87 Picking up the pieces of the failed 'Contadora Process' (see Historical Background, p. 10) Guatemalan president Vinicio Cerezo Arévalo plays a key role in expediting a series of meetings in Esquipulas, Guatemala in which Central American heads of state agree on economic co-operation and a framework for peaceful conflict resolution.

Civil Society Helps Shape the Agenda (1987-93)

In compliance with the terms of Esquipulas II an amnesty is declared and the National Reconciliation Commission (CNR - see Key Actors) is

formed. Despite strong disapproval from military hardliners, the first public contact is made between the Guatemalan National Revolutionary Unity (URNG) and government representatives in Madrid, Spain but both sides impose prohibitive conditions on further talks. The sticking points are disarmament arrangements for the rebels and the investigation of army human rights abuses.

1988 Strategically embracing the framework of the Esquipulas II Accord, the URNG presses for dialogue on a range of political and socio-economic themes. The Catholic Church also calls for a national dialogue on peace and on the social inequities underlying the Guatemalan conflict. The URNG meets the CNR for the first time in Costa Rica.

1989 With the moral and logistic backing of the Catholic Church and the Lutheran World Federation (LWF), frequent meetings are held between the CNR and the URNG, with UN observation. The CNR

also inaugurates a Grand National Dialogue to discuss Guatemala's principal problems. The dialogue involves 84 delegates from 47 civic organisations, organised into 15 commissions. Animated by the Unity of Labour and Popular Action (UASP), and despite boycotts from business, farming, and right-wing political interests, the process increases pressure on the government, army and URNG to engage in constructive consultation. However, President Cerezo continues to refuse pre-disarmament government involvement.

1990 January-February The government announces its willingness to meet the rebels prior to disarmament and appoints its representative on the CNR. The Catholic Bishop of Zacapa, Msgr. Rodolfo Quezada Toruño, is invited to become official 'conciliator' and the UN Secretary-General is invited to observe the dialogue.

The Oslo Accord

The Basic Agreement on the Search for Peace by Political Means (the 'Oslo Accord'), is signed by the URNG and the CNR on 30th March 1990. It sets out arrangements for facilitation of future government-URNG dialogue, confirming the appointment and the mandate of the CNR 'conciliator'. It also confirms the invitation for UN monitoring of the peace process, and outlines plans for a series of consultations involving the URNG and a range of civil and political groups, leading to direct dialogue between the rebels and the government at an unspecified future date.

March-April

The URNG meet with members of the CNR in Norway. Under the auspices of the Lutheran World Federation, they sign the so-called 'Oslo Accord'.

June-October

As an outcome of the Oslo talks, the URNG meet with leading Guatemalan political parties in Spain, with business associations in Canada, with churchmen in Ecuador and with popular organisations and academics in Mexico. The Canadian meeting produces two separate, tactfully worded communiqués. The others produce the Escorial, Quito, Metepec and Atlixco agreements, which condemn social and economic marginalisation and support constitutional reform, respect for human rights, the removal of repressive state apparatus and direct talks between the URNG and the government.

1991 April

The newly elected government of President Jorge Serrano Elías publishes its 'Initiative for a Total Peace', which fails to take into account the Oslo process but gains the support of conservative civil society and leads to three-days of URNG- government talks in Mexico. The so-called 'Mexico Accord' is then signed re-incorporating all the 'substantive' issues raised through the Oslo process.

July-December

A second round of discussions opens the 11-point agenda, leading to the signing of the Querétaro Agreement. The government gradually hardens its position on human rights, however, and two further meetings in Mexico fail to reach consensus. The Mutual Support Group (GAM) and other popular organisations protest their exclusion from talks.

1992 January

The impasse on human rights guarantees continues through a fifth round of talks in Mexico.

The Search for Peace by Political Means

With the **Agreement on the Procedure for the Search for Peace by Political Means** ('The Mexico Accord' - 26th April 1991), the parties decide the agenda for negotiations, divided into substantive and procedural issues. The substantive issues are to be discussed first and include democracy; human rights; refugees; a truth commission; indigenous rights; the economic, social and agrarian situation; the role of the army; strengthening of civil authorities and institutions; and constitutional

reform. Procedural issues are to be discussed later, covering arrangements for a cease-fire and for the demobilisation and reintegration of the URNG into normal political life. The functions of the 'Conciliator' and the UN observer are also confirmed and both parties pledge not to abandon the negotiation process unilaterally.

The Framework Agreement on Democratisation in the Search for Peace by Political Means (The Querétaro Agreement - 25th July 1991) concerns the meaning and implications of a democratic regime. Democracy is qualified as 'functional' and participative and both parties agree on the importance of definitively ending political repression,

electoral fraud and illegal manipulation of elections. The parties also agree on the need to promote citizen participation in the development, implementation and assessment of government policies. However, no details are provided on implementation, a concrete timetable is not proposed, and no progress is made on core human rights issues such as the establishment of a truth commission, the abolition of the Civil Defence Patrols and forced conscription.

May-July

The URNG issues a new peace platform, omitting some contentious items of the Mexico agenda but re-emphasising such issues as constitutional

reform, indigenous rights, land tenure and tax reform. The government rebuffs the proposals, hamstrung by its need to maintain strategic alliances with the army, political parties and business associations.

August-December

The URNG and government reach partial agreement on the freezing of Civil Defence Patrols (PACs) and on an investigation of their conduct. Existing PACs will remain, but new ones are to be permitted only in the event of a renewed rebel offensive. Agreement is also reached, with the intervention of the UNHCR, on the terms of return of refugees from Mexico.

1993 January-March

The URNG and President Serrano both announce new peace plans but each side rejects those of the

other. Bishop Quezada declares negotiations at an impasse.

June-December

Following an attempted executive coup (see Key Actors, p. 87) by government and army hardliners, President Serrano is replaced by former Human Rights Ombudsman Ramiro de León Carpio. The CNR is then dismantled, the position of Conciliator annulled, and a Government Peace Commission (COPAZ) installed, headed by sociologist Héctor Rosada Granados, to continue negotiations with the URNG. Meanwhile, in Washington, an ecumenical alliance of church bodies, with the LWF as lead agent, sponsors the first of four consultations aimed at giving civic representatives a platform to share their visions of justice and peace with the parties to the negotiations and with the international community.

The UN-Mediated Peace Process (1994-96)

1994 January-June

With encouragement from the USA, the European Union and, in particular, Mexico, negotiations restart between the Government and the rebels. After President de León's 'Proposal for Restarting the Peace Process' is found unacceptable by the URNG, the Mexico agenda of substantive and procedural themes is recalled and progress is relatively swift, leading to the signing, in Mexico City and Oslo of framework and calendar agreements and three substantive accords. While the Civil Society Assembly (ASC) is founded under the provisions of the Framework Accord, the LWF ecumenical alliance convenes its second consultation in Guatemala City.

The Accords of 1994

The Framework Agreement for the Resumption of Negotiations between the Government of Guatemala and the Guatemalan National Revolutionary Unity (Mexico City - 10th January), based on the 11--point agenda of the Mexico Accord, lays the ground rules for subsequent negotiations. Jean Arnault, the UN observer, is appointed moderator of the talks; Colombia, Mexico, Norway, Spain, the US and Venezuela are invited to be 'friendly country' guarantors of the process; The UN is assigned responsibility for verification; and a broad Civil Society Assembly (ASC) is charged with

discussing the substantive themes, making recommendations to the negotiators and ratifying all accords. The Framework Agreement is only cautiously welcomed by the church and popular society, who remain sceptical concerning the depth of political will for negotiations. (for full text see p. 37)

The Agreement on a Timetable for Negotiations on a Firm and Lasting Peace in Guatemala (Mexico City - 29th March) fixes a schedule for negotiations. Although the agenda is scrupulously respected by both parties, the negotiation process extends two years beyond its anticipated completion date of December 1994.

Under **The Comprehensive Agreement on Human Rights** (Mexico City - 29th March), both parties commit themselves to fully observe human rights and to improve mechanisms for their protection, while the government assumes a range of specific responsibilities to meet these ends. The verification role of a UN mission is defined to encompass all human rights violations committed by either side after its inauguration, but the establishment of a 'truth commission' to investigate human-rights abuses is strongly opposed by the military. This is the only agreement which enters into force immediately, and popular reaction to it is broadly positive. Once the agreement is

signed, Bishop Quezada and the Catholic Church act immediately to accelerate the creation of the Civil Society Assembly (ASC).

In The Agreement on the Resettlement of Population Groups Uprooted by the Armed Conflict (Oslo - 17th June), the government commits itself to guarantee the conditions necessary for the safe return of the internally displaced to their places of origin or to another place of their choice, to promote the return of land abandoned by uprooted populations, and to involve them in the design and implementation of a comprehensive reintegration plan. The government also assumes responsibility for decentralising the state and

strengthening municipal government, and requests UN support in the design and funding of projects resulting from the accord.

The Agreement for the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to

Suffer (Oslo - 23rd June) defines a process for investigating human rights abuses taking place between the beginning of the war and the signing of the final peace agreement, and for producing recommendations that contribute to national reconciliation. Findings will not individualise responsibility for crimes, and recommendations will not

be legally binding. The Commission will not have any powers of search, seizure or subpoena and will operate behind closed doors. The content and sources of received information will not be made public. The accord draws sharp criticism from leaders of human rights groups and popular organisations. It also fails to fulfil the expectations of many URNG militants and sympathisers, producing substantial disillusionment within the organisation. (For full text see p. 39)

July-December

To ease rank-and-file concerns at the pace and scale of URNG concessions, rebel negotiators slow down the talks and focus on the government's

failure to comply with the Comprehensive Human Rights Agreement. In September, a third ecumenical consultation in Oslo helps to revitalise the peace process, and the UN Mission to Guatemala (MINUGUA - see Key Actors, p. 87) is installed two months later. The ASC produces consensus documents on all the substantive themes of the peace process, and the URNG adopts its proposals more or less unamended in negotiations on Indigenous Rights.

1995 January-March

The URNG modifies its demands for indigenous rights and an accord is signed in Mexico with recommendations for wide-ranging political and constitutional reforms.

The Agreement on the Identity and Rights of Indigenous Peoples

The Agreement on the Identity and Rights of Indigenous Peoples (31st March 1995) includes four chapters outlining wide-ranging commitments to recognise the identity of indigenous peoples, to eliminate discrimination against them and to guarantee their cultural, civil, political, social and economic rights. The accord also establishes five commissions. Three of these are to be composed of government and indigenous representatives and tasked to develop specific proposals on educational reform, political reform and

participation, and indigenous peoples' land rights. The other two, not necessarily of mixed composition, are to address the granting of official status for indigenous languages and the definition and preservation of sacred areas. All elements of this agreement that relate to human rights go into effect upon its signing, to be verified by MINUGUA. The accord, unique in the history of Latin America, receives a cautious welcome from the Co-ordination of Organisations of Mayan People of Guatemala (COPMAGUA). (For full text see p. 41)

April-December

Organised business, from outside the ASC, puts intense pressure on the government and military to

ensure its interests are not undermined by negotiations on private property and land tenure, tax reform, and the economic role of the state. The URNG and political parties meet in Contadora, Panama to sign an agreement confirming that accords already signed should be considered formal state commitments. After many of its leaders leave to join the electoral campaign of the New Guatemalan Democratic Front (FDNG - see Key Actors), the profile and influence of the ASC recedes. While high-level government, URNG and civil sector representatives participate in the fourth ecumenical consultation in Costa Rica, the official talks peter out in the run-up to November's general elections.

1996 January-May

The election results increase the political influence of reform-minded business associations over that of the army, invigorating the negotiation process. The newly elected President Alvaro Arzú Irigoyen

names Gustavo Porras Castejón, one-time leader of the URNG-affiliated Guerrilla Army of the Poor (EGP) as new president of COPAZ. On 30th March, the URNG announces an immediate, unilateral ceasefire and promises to end the collection of war taxes once the Socio-Economic Accord is signed.

June-November

Despite growing speculation about the existence of dissident groups within the URNG and divisions within the guerrilla leadership, the URNG General Command remains united around a strategy to push negotiations forward. The URNG and the military also become more confident that the security situation will allow significant demobilisation.

December 4th-18th

Agreements are signed around Europe and in Guatemala City covering a definitive ceasefire, constitutional reform and the reintegration of the

URNG. The Law of National Reconciliation is also passed by Congress to elaborate on the reintegration accord.

December 29th

The final peace accords are signed in Guatemala City.

The Accords of 1996

The Agreement on Socio-economic Aspects and the Agrarian Situation

(Mexico City - 6th May) contains four chapters. The first outlines commitments to effect broader civic participation at all levels of sub-national government. The second promises high levels of economic growth and a restructuring of public expenditure to increase social

investment. In chapter three, the government agrees to strengthen provisions for popular consultation in rural development, to establish a trust fund to purchase underutilised and undeveloped land to re-distribute to land-hungry tenant farmers, to develop a register of land tenure, new taxes on land, and to implement just and speedy resolution of land conflicts. The final chapter promises increases in the tax base and a range of measures against tax evasion and fraud. This agreement is greeted with enthusiasm by business associations, the international community, the legislature and the army, but labour, indigenous and *campesino* movements express dissatisfaction at

both the process and content of the accord. Similarly, sections of the URNG are dismayed by the concessions made by their leaders. (For full text of the Socio-Economic Accord, see p. 51)

The Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society (Mexico City - 19th September) contains a comprehensive package of provisions relating to the strengthening of democratic government covering the legislature, executive and judiciary. It also emphasises the need to overhaul the security functions of the state. Under a reformed Constitution, the Civil Patrols will be abolished; the various police units will be substantially

restructured and unified as the National Civil Police; reform of the Penal Code will be promoted; the operations of private security firms will be regulated; and forced conscription ended. The army will also limit its role to external defence and will adjust its doctrine, training, deployment, size and budget accordingly.

The Agreement on a Definitive Ceasefire (Oslo - 4th December) sets out a 60-day timetable for the separation and assembly of forces, and for URNG disarmament and demobilisation. The timetable is to commence with a definitive ceasefire on the date on which the United Nations verification

mechanism is in place with full operational capacity.

The Agreement on Constitutional Reforms and the Electoral Regime

(Stockholm - 7th December) contains a series of specific proposals for constitutional reform that the government is to place before the Congress within 60 days of the signing of the Agreement on a Firm and Lasting Peace. The proposals focus mainly on the recognition of the identity and rights of indigenous peoples and the mandate and structure of the country's security forces. The Agreement also provides for the establishment by the Supreme Electoral Council of an Electoral Reform

Commission to review and modernise the electoral process.

The Agreement on the Basis for the Legal Integration of the URNG

(Madrid - 12th December) provides a comprehensive programme for the integration of URNG members into Guatemalan society. It enables the establishment of a joint government/ URNG "Integration Commission" to coordinate and facilitate integration projects and contains provisions to be included in a National Reconciliation Act that will constitute the legal framework for this integration.

The Law of National Reconciliation

(18th December), developed from The

Agreement on the Legal Integration of the URNG, overtly contradicts the anti-impunity undertakings of earlier accords, containing provisions for extinguishing culpability for war-related crimes. The law recognises the reparation rights of victims, and exemption from criminal responsibility is not to apply in cases of forced 'disappearance', torture and genocide. However, a way is clearly opened for members of the security forces and armed opposition groups who perpetrated deliberate and unlawful killings to be granted immunity from prosecution. Popular organisations and human rights groups strongly object to the law.

The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agree-

ments (Guatemala City - 29 December) is a detailed guide for the implementation of all the commitments undertaken since 1994. It sets out a calendar for their phased implementation from 1997 to the end of 2000 and for the establishment of a Follow-up Commission to ensure that the process is carried out effectively. The mandate of the Commission for Historical Clarification is set for six months, renewable for a further six. The Agreement also requests that the UN establish a mission to verify all the agreements, into which MINUGUA is to be absorbed.

The Agreement on a Firm and Lasting Peace (Guatemala City - 29

December) triggers implementation of all the previous agreements and binds them into a comprehensive nationwide agenda for peace.

Key Actors through the Peace Process

This article describes the roles of key individuals and institutions in the broader Guatemalan peace process. Information from before 1987 can be found in the Historical Background article at the front of this issue.

National Antagonists

The Military

After conducting a brutal counter-insurgency campaign causing tens of thousands of civilian deaths and 'disappearances', the forced displacement of hundreds of thousands, and the co-opting of close to a million villagers into '**Civil Defence Patrols**' (**PACs**), the Guatemalan army was militarily victorious in the mid-1980s. Thereafter, its 'constitutionalist' wing commenced a slow and fitful ascendancy, staunchly defending army interests related to political influence, the economy and human rights, while gradually relinquishing degrees of control over the government and peace process. In 1985, a civilian government was installed. In 1991, peace talks commenced with the rebels. In 1993, when military hard-liners are thought to

have supported an executive 'autocoup' (see below), the constitutionalists facilitated the reinstatement of a legitimate interim administration. Soon after, they relinquished a degree of independent representation in peace negotiations and three years later, pledged to limit the role of the army to external defence and to adjust its doctrine, training, deployment, size and budget accordingly.

The army has consistently resisted calls for a judicial inquiry into human rights abuses and an entrenched culture of silence and impunity has allowed torture and killings to remain widespread well into the 1990s, accompanied by high-level profiteering from drugs and other illicit trade. These problems have yet to be addressed.

At the signing of the peace accords, official figures placed army numbers at around 46,000. After disarmament, the figure will be close to 30,000.

The Private Sector

Private sector elites have generally opposed any substantive redistribution of political and economic power, identifying less with their disadvantaged compatriots than with allies in the government and the US/international business community. Through the peace process, they worked to limit government concessions and conspicuously boy-cotted reformist civil society fora. However, with the development of new sectors of the economy, particularly tourism, and the need to protect existing interests, some elements retained a degree of engagement. In 1990, representatives of the **Co-ordinating Committee of Farming, Commercial, Industrial and Financial Associations (CACIF)** met with the armed opposition, producing a communiqué which was tactful, if not wholly conciliatory.

In concert with the priorities of international financial institutions (IFIs), sectors within CACIF and the **National Farmers' and Ranchers' Council**

(CONAGRO), have gradually increased their commitment to deregulating markets and modernising the state along neo-liberal lines. Since 1996, this has brought prominent business people into key posts in the executive and civil service from where they act as close advisers to the government. As a result, the interests of the business community are strongly reflected in current government policy and in key peace accord provisions on land tenure and the economic role of the state. Despite pressure from the IFIs, the private sector remains notorious for evading its minimal tax liabilities, and for resisting fiscal reform.

The Armed Opposition

Organised guerrilla activity began in Guatemala in 1960 and reached its peak around 1979-80 (see Historical Background, p. 10). After much of their support base was displaced or eliminated, the various Guatemalan rebel groups, organised as the

Guatemalan National Revolutionary Unity (URNG), switched tactics in the mid-1980s, strengthening links with civilian organisations and increasingly exploiting international support networks to highlight army human rights abuses and militarisation. While sustaining a campaign of extortion and infrastructural sabotage against the private sector, they tentatively welcomed the reinstatement of civilian rule and embraced the nascent peace process, opening discussions with a cross-section of political and civil society to gain maximum coverage for their political programme. Direct talks with the government ensued from 1991 but strategic disagreements led to a fluctuation in URNG engagement.

In the substantive negotiations of 1994-96, the **General Command** and the **Political and Diplomatic Commission** of the URNG were put under conflicting pressure from the international community and the government on one hand, who

both wanted a quick conclusion to the process, and from their rank-and-file and the civic opposition on the other, who held out for more substantial reforms. In the event, negotiators made major concessions on economic reform and the establishment of a truth commission, but secured UN participation in the verification of ongoing human rights abuses and wide-ranging commitments to the rights of indigenous peoples. Despite several gestures of resistance from constituent forces, the negotiations strategy held and by the end of 1996, ceasefire and disarmament provisions were agreed, together with a comprehensive programme for rebel reintegration.

The URNG comprised several armed groups organised in roughly distinct geographical areas. They were typically led by *ladinos*, though rank-and-file guerrillas were predominantly indigenous (see Historical Background, p. 10). At the time of disarmament, the combined membership of rebel groups

totalled 3,614. Of this number, 1,812 had fought as the **Guerrilla Army of the Poor (EGP)**, 1,025 as the **Rebel Armed Forces (FAR)**, 307 as the **Revolutionary Organisation of the People in Arms (ORPA)**, and 470 as the so-called **Unitary Front (FU)**, a force dominated by ORPA but also incorporating a number of EGP and **Guatemalan Workers (Communist) Party (PGT)** combatants. All registered rebels disarmed according to schedule in mid-1997.



Russell Yip/The San Francisco Chronicle

Fighter at a URNG hideout in the northern Petén rainforest

Political Society and the Civilian State

Though failing to secure substantial human rights improvements, the civilian government of President **Vinicio Cerezo Arévalo** (1985-1991) and the **Christian Democratic Party (PDCG)** did temper Guatemala's dismal international reputation through its role in expediting regional peace talks. In doing so, it survived two coup attempts and paved the way for direct dialogue between the rebels and a range of political and civic groups.

In 1991, **Jorge Serrano Elías** of the minority, rightist **Solidarity Action Movement (MAS)** won a close-run presidential campaign. Key figures within the hard-line military hierarchy were immediately removed, direct talks with the URNG ensued and the agenda for all subsequent negotiations was established. Despite these early successes, Serrano proved incapable of managing the political and economic crises of the early '90s. Renewed peace talks broke down within months of his inauguration, human rights abuses proliferated

with impunity, and the protests of civil society were met with increasing authoritarianism. The gathering crisis culminated in the so-called 'auto-coup' of 1993, in which Serrano suspended the constitution and attempted to dismiss the legislature and judiciary.

The Electoral System in Guatemala

The Presidency	The Legislature	Local Administration	Pol Par
The President is elected for a four-year term without the possibility of	Guatemala has a unicameral Congress. The 80 members are elected by proportional representation. In the last	For the purposes of administration, Guatemala is divided into departments and municipalities, headed	24 par tes last elec sev who nov

re-election. If none of the candidates receives a majority of votes, a second round of voting is held.

election (1995), 16 were elected from national lists and 64 from departmental lists. Votes are cast separately for the national and departmental lists.

respectively by governors and mayors.

Governors are appointed by the president. The duration of their terms is also decided by the president. At present, elections are being considered as an alternative mechanism for the selection of governors.

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sources - Europa Yearbook, Europa Publications, London; Voter Turnout from 1945 to 1997, Institute for Democracy and Electoral Assistance, Stockholm; and the Political Database of the Americas, <http://www.georgetown.edu>

The 'Autocoup' and its Immediate Aftermath

5 May 1993	Manuel Conde, leader of the government's negotiation team, breaks off peace talks, announcing the war will be won by military means alone
25 May	Discredited, deserted by political allies and under increasing pressure from the army, President Serrano attempts to dissolve Congress, the Supreme Court and the Court of Constitutionality and announces he will rule by decree, pending the drafting of a new constitution.
26-29 May	The Constitutional Court, backed by the Human Rights

	<p>Ombudsman and the Supreme Electoral Council, declares the 'autocoup' criminal. US, Japanese and European aid programmes are suspended. Fearing that events in Guatemala would derail the peace process in El Salvador, the US threatens to block IMF and World Bank loans.</p>
<p>30-31 May</p>	<p>Members of the political elite, private sector, the church and popular organisations come together in the National Consensus Body (INC) to condemn the 'autocoup'. The Organisation of American States (OAS)</p>

	holds talks with Serrano over sanctions, tabled for ratification in three days.
1-2 June	Serrano flees to El Salvador. His deputy, Gustavo Espina Salguero, declares himself president with hard-line military support, but Congress refuses to ratify his succession.
3-5 June	A general strike is called by popular organisations. The INC presents a list of prospective presidential candidates. The Court of Constitutionality declares Espina incompetent and calls on Congress to select a

	replacement. The military resolves not to intervene.
6 June	Human Rights Ombudsman Ramiro de León Carpio, nominated by the popular organisations within the INC, is duly elected by Congress to complete Serrano's term.
7 June	Senior military figures are fired and demoted by de León. The US restores aid.
June- Nov.	Under pressure from the political elites, the private sector and the army, de León excludes the popular

	<p>organisations from talks on constitutional reform and tones down his own radical proposals.</p>
January 1994	<p>A constitutional reform package is approved by referendum. While only 16% of the electorate participate in the vote, which is boycotted by popular organisations, a number of important steps are taken. These include diminishing the president's power relative to Congress, creating more open mechanisms for the selection of judges, establishing new functions for the Public</p>

Prosecutor's Office and increasing the share of the national budget allocated to municipalities.

After Congress had re-asserted itself and installed as president the former Human Rights Ombudsman **Ramiro de León Carpio**, a constitutional reform package was approved and long delayed agreements on human rights signed. Although de León enjoyed unprecedented support in the early months, perceived inconsistency and indecisiveness cost him dear in the following two years, leading to a rapid decline in popularity and renewed social unrest.

In the 1995-96 elections, ex-Guatemala city mayor **Alvaro Arzú Irigoyen** and his **National**

Advancement Party (PAN) narrowly defeated the populist **Guatemalan Popular Front (FRG)**. Uncompromised by hard-line military influence and with strong support in the business community, Arzú's election was a catalyst for a swift conclusion of the peace process. Of equal long-term significance was the creditable third place won by the **New Guatemalan Democratic Front (FDNG)**, a broad-based, left-of-centre party dominated by activists from the unions and popular organization. While the realignment of the Guatemalan left continues, with the tortuous transformation of the URNG, the formation of the **Democratic Alternative** party (formerly the United Left), and the full complement of power struggles, defections and disillusionment, the fact that the FDNG could successfully canvass largely free of harassment signifies a new-found tolerance and pluralism in Guatemalan politics. This liberalisation could be further enhanced by the political/administrative

decentralisation envisaged in the peace accords. It has already allowed an unprecedented level of scrutiny and criticism of government policy on matters as far-ranging as poverty, redistributive reform, state corruption, crime and tax evasion.

However, in the medium-term at least, it looks like the criminal justice system will remain ineffectual in addressing crime and the political culture of silence and impunity. Factors behind this include the bewildering array of obstructionist appeals procedures, the limited scope and sluggish organisation of the **Commission of Historical Clarification (CEH)**, and the 1996 **Law of National Reconciliation** which contradicts previous human rights accords and effectively establishes a new amnesty for the perpetrators of past political killings.



Presidents Ramiro de León Carpio and Alvaro Arzú Irigoyen (left and right), at the latter's inauguration; Guatemala City, January 1996

The Civic Opposition

In 1984, the **Mutual Support Group (GAM)** emerged, quickly becoming the figurehead of popular resistance and facing fierce military repression that claimed the lives of its two founders within the year. Comprising 85% Mayan women, GAM was

initially focused in support of the families of the 'disappeared'. In time, however, it came to share with the **Catholic Archbishop's Human Rights Office (ODHA)** the broader role of unofficial monitor of all military abuses.

With the re-emergence of the **Committee for Campesino Unity (CUC)**, the prominent civic group of the 1970s, new largely Mayan human rights organisations were also established, including the 11,000-strong **National Co-ordination of Guatemalan Widows (CONAVIGUA)** and the **Council of Ethnic Communities (CERJ)** who vocally opposed the Civil Defence Patrols. Together with GAM, these groups began to identify clandestine cemeteries and commenced an ongoing series of exhumations which have severely embarrassed successive governments and provoked military and paramilitary campaigns to undermine and eliminate their critics. In 1987, the **Unity of Labour and Popular Action (UASP)** was established,

pressing for social and economic reform, as well as an end to repression. A broad-based umbrella group led by the radical leftist **Unity of Guatemalan Labour (UNSITRAGUA)**, the UASP soon became a central forum for the civic opposition, not least in its contributions to the peace process.

In the early '90s, tens of thousands of internally displaced Guatemalans organised into **Communities of People in Resistance (CPRs)** to denounce army terror campaigns in the north of the country. Meanwhile, the **National Indigenous and Campesino Co-ordination (CONIC)** broke away from the CUC to concentrate on issues of land ownership and the **Association of Families of the Disappeared (FAMDEGUA)** also broke from GAM. In short, a panoply of new organisations started to emerge, increasingly Mayan-led and independent of links to the rebels. Employing various methods, these groups promoted the full range of human rights, supporting sectoral interests both

independently and from within umbrella groupings such as UASP, the **Co-ordination of Organisations of Mayan People of Guatemala (COPMAGUA)**, and the **Council of the Displaced of Guatemala (CONDEG)**.

Benefiting greatly from their links to international human rights groups and NGOs, civic organisations clearly played a key role in the broadening of debate and the maturation of Guatemalan political society. This was particularly evident when they joined with business associations and political parties in the **National Consensus Body (INC)**, a grouping which sought to re-establish legitimate governance after the 1993 'auto-coup'. As conventional channels for political expression have begun to widen though, members of GAM, CERJ, CONAVIGUA and other groups have reoriented their energies, committing themselves to the debates and activities of centrist and centre-left

political groupings. As a result, 'civil society' is less focused and unified than it has been in the past.

Richard Wilson



A Unity of Labour and Popular Action demonstration on the Plaza Mayor, outside the National Palace; Guatemala City, January 1988

National Peace-Making Institutions

National Reconciliation Commission (CNR)

Under the terms of the 1987 Esquipulas II agreement, the CNR was established by the government with one official delegate, one representative of existing political parties, one prominent citizen and a delegate from the Guatemalan Bishop's Conference (CEG). In the same year, the commission facilitated the first ever meeting between the URNG and state representatives and then engaged in further talks with the rebels in 1988. In 1989, it inaugurated a Grand National Dialogue to discuss Guatemala's principal problems. Though boycotted by private sector organisations, the Dialogue created a unique forum for civil society and enabled it

to set the agenda for all subsequent peace talks. In 1990, the government appointed its representative on the CNR and called for a summit between the commission and the URNG to prepare conditions for direct dialogue. This meeting which produced the so-called 'Oslo Accord' was followed by others involving the CNR, the rebels and five separate groupings of political and civil society. These meetings further developed the agenda for talks that was subsequently agreed by the government, army and the URNG.

After 1991, the influence of the CNR waned significantly and the commission was disbanded by the government in 1993. While polarised attitudes continued to constrain constructive negotiation throughout the lifetime of the CNR, civic influence working through the commission was crucial in increasing pressure on the parties for public accountability and in promoting greater political participation free of the fear of repression.

Guatemalan Bishop's Conference (CEG)

While many of its personnel remain compromised by past associations with anti-democratic forces in Guatemala, the Catholic Church has in recent years been a prime catalyst for progressive change. On one level, its community education and broader development work have fostered the emergence and consolidation of a self-assertive civil society. On another, it has employed its place in the national establishment to exert moral and political pressure on government and rebels alike.

Emboldened by international support and by its leading role in the CNR, the Bishop's Conference was instrumental in instituting the Grand National Dialogue of 1989. The following year, its representative on the CNR, the Bishop of Zacapa, **Msgr Rodolfo Quezada Toruño**, was named by the government as official 'conciliator', a post through which he facilitated dialogue first between the CNR, the URNG and the socio-political sectors and

later between the government, the army and the rebels.

Though influential in establishing an agenda for comprehensive talks and in bringing the parties into dialogue, the church was perceived as possessing neither the impartiality nor the political leverage to broker agreements on the more sensitive issues and was relieved of its mediatory role in 1993. The Bishop's Conference was subsequently called upon to convene the Civil Society Assembly (ASC), and Msgr Quezada held the chair of this forum until 1995.

Government Peace Commission (COPAZ)

COPAZ was created under **President de León**. Headed initially by **Héctor Rosada Granados**, a sociologist with close links to the army, it became the formal negotiating body of the government and army, institutionally divorcing their interests from civil society sectors which had influenced its

predecessor, the CNR. In 1996, **President Arzú** replaced Rosada with **Gustavo Porras Castejón**, one-time leader of the rebel Guerilla Army of the Poor (EGP). Both the formation of COPAZ and this later overhaul represented a dilution of hard-line military influence on the peace process and preceded significant breakthroughs in negotiations. However, they also signified a progressively exclusivist dimension to the peace process that allowed the army, rebels and government to engineer a peace settlement well above the heads of civil society.

Civil Society Assembly (ASC)

The creation of a broad civil society assembly was promoted by the government and the URNG in early 1994 to discuss the substantive agenda of peace talks, to draw up consensus documents and to submit recommendations which, though not binding, were intended to 'facilitate understanding

among the parties'. The ASC was established after the signing of the Comprehensive Human Rights Agreement. Representatives of 11 social sectors were invited to participate, of which only the business association, CACIF, declined. Keeping assiduously to a one-year timetable, consensus documents were drafted on all substantive negotiating themes, first by individual organisations, next by the sectors and finally by the ASC as a whole. In many cases, the ASC's proposals were more radical than both the final accord signed and the initial negotiating positions of the URNG.

The ASC comprises ten representatives from the 11 social sectors invited to participate. The first five of these sectors participated in the post-Oslo Accord consultations of 1990. The sectors are:

1. Political parties
2. Business associations, represented by CACIF
3. Religious groups
4. Unions and popular organisations
5. Academics, co-operative members, entrepreneurs, community organisations and professionals
6. Mayan People's organisations
7. Women's organisations
8. Journalists
9. Development NGOs
10. Research centres
11. Human rights protection and promotion centres

The ASC president was supported by a secretary-general and an

organising committee drawn from the five 'Oslo sectors' and the Mayan organisations. Each sector was responsible for arranging its own meetings and electing its representatives to the Assembly.

To a significant degree, the ASC was dominated by leftist unions and popular organisations, and its relations with the government and business were therefore erratic. Its influence is clearly evident in the 1995 Accord on Indigenous Rights, but the assembly subsequently became marginalised, as the negotiations became progressively less consultative. Simultaneously, the unity, capacity and public credibility of the ASC was significantly undermined by the resignation of its president and by the

defection of a number of leaders to the emerging political parties of the left.

The most concrete achievements of the ASC are probably the experience it afforded civil organisations in cross-sectoral communication and consensus-building and its successes since mid-1995 in lobbying international lending agencies on the implementation and monitoring of post-settlement assistance.

International Intervenors

Regional governments

From the mid- to late- 1980s, **United States** regional policy underwent a gradual shift in favour of demilitarisation, political liberalisation, public sector reform and human rights. This shift was

reflected in the volume and function of US financial assistance to Guatemala and was decisive in influencing the pace of political reform. It was executed after US-backed military activities had decisively undermined the capacities and morale of the revolutionary **Sandinista National Liberation Front (FSLN)** government in Nicaragua and the left-wing rebels of the **Farabundo Marti National Liberation Front (FMLN)** in El Salvador. It was consolidated after the Sandinistas lost elections in February 1990, and sealed when the Salvadorean war ended in a political settlement in January 1992.

Despite continuing US ambivalence towards an independent sub-regional peace initiative, **Costa Rican President Oscar Arias** also made decisive moves in 1986-87 to resurrect the failing 'Contadora' initiative (see Historical Background, p. 10). A new round of talks was convened between the Central American presidents aimed at raising

awareness of the ongoing cost of regional conflicts, furthering debate on shared interests, and developing inclusive frameworks for conflict resolution. Held at Esquipulas, Guatemala, these talks culminated in the 1987 Procedure for Establishing Firm and Lasting Peace for Central America (the 'Esquipulas II' accord). Among other things, Esquipulas II provided for the establishment of the National Reconciliation Commission (CNR) in Guatemala.

In the three years following Esquipulas II, **Mexico, Costa Rica, Ecuador** and **Canada** all hosted negotiations involving the CNR, civic and political groupings, and the URNG. Between 1991-96, Mexico hosted government- URNG talks for most of the 'substantive' accords. Together with the **US, Venezuela** and **Colombia**, they were also accorded 'friendly country' status in 1994, charged with supporting United Nations contributions to the

peace process and providing 'security and firmness' to peace commitments.

Extra-Regional Governments

Outside of the Americas, it was the government of **Norway** which played the most constructive facilitatory role in the Guatemalan peace process. It was they who hosted the CNR/URNG talks in 1990 which produced the so-called 'Oslo Accord', opening the way for further discussions between the rebels, socio-political groupings, the government and the army. While providing substantial assistance to the peace-making initiatives of international ecumenical bodies in the mid-1990s, the Norwegians also hosted the signing of two substantive agreements in 1994 and the definitive ceasefire in December 1996.

For its part, the government of **Spain** hosted the first ever contact between the URNG and state representatives in 1987, the first of the post-Oslo

consultative meetings in 1990 and the signing of the Agreement of Legal Integration of the URNG in December 1996. Talks leading to the previous agreement, on Constitutional Reform, were hosted in Stockholm by the government of **Sweden**. In 1994, Norway and Spain were appointed 'friendly country' guarantors of the UN-mediated peace process.

International Financial Institutions

Once the momentum for a political settlement had begun to build in the early 1990s, the range of donors affiliated to the **International Monetary Fund (IMF)** and **World Bank Consultative Group** began to tie its support for Guatemala to a comprehensive neo-liberal agenda. In addition to the over-riding priorities of macroeconomic stability and privatisation, this agenda implies a degree of commitment to administrative efficiency, political pluralism, social investment and basic human

rights. Strategically exploited by civil society lobbyists to promote sustainability and local participation in aid projects, it also created an urgent incentive for the Guatemalan government to complete negotiations.

Meeting in early 1997, the Consultative Group promised to cover almost 75% of the \$2.6 billion cost of the accords' implementation, channelling donations and loans from the **European Union, the Interamerican Development Bank, the World Bank, the Central American Bank of Economic Integration, the US, Germany and Spain**. However, this support was also tied, notably to demands that the Guatemalan government meet the remaining shortfall. This condition, which compels the government to bite the bullet of tax reform, was later reiterated forcefully by the IMF. There is little doubt that international donors have played and will continue to play a key role in

determining the success and direction of peace-building in Guatemala.

International Non-Governmental Organisations

International NGOs working in the fields of human rights and development have been key allies of the civic opposition in Guatemala, raising awareness of military repression and providing financial, moral and institutional support.

In the peace process itself, the **Lutheran World Federation (LWF)** played a key role with the Catholic Church in consultations leading to the signing of the 'Oslo Accord' in 1990. Subsequently, the LWF was the lead agent in an ecumenical alliance of church bodies that co-sponsored four consultations between 1993 and 1995. These consultations, held in Washington, Guatemala, Oslo and Costa Rica, aimed at giving civic representatives a platform to share their visions of justice and

peace with the parties to the negotiations and with the international community. They took place at particularly difficult times, when peace negotiations were at an impasse, or during periods of frustration, marked by disappointment over the lack of concrete action to honour promised undertakings.

The other co-sponsors of the ecumenical consultations were the **Latin American Council of Churches, the World Council of Churches and the National Council of the Churches of Christ in the USA**. These groups were supported by a Local Committee in Guatemala, a **'Four Council Team'** in the Central American region and a **Support Group** in Costa Rica. They received financial backing from the Norwegian government through **Norwegian Church Aid** and the **Churches' Development Service of the Evangelical Church** in Germany.

United Nations

In the late 1980s and early 90s, the UN had provided observers to the 1989 Grand National Dialogue and the ill-fated 'Oslo process', and had maintained an office for monitoring human rights violations. In 1993, it was called upon by the parties to upgrade its role in negotiations. Subsequently, erstwhile observer **Jean Arnault** was appointed as UN 'moderator' to chair all subsequent talks and to 'make proposals to facilitate the signing of a firm and lasting peace agreement'.

In 1994, the UN was also requested to verify the implementation of the Comprehensive Agreement on Human Rights. The **United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA)** was formally established in November and was fully operational three months later, working from 13 offices nation-wide

with a staff of over 400. Its role was: (i) to deal with and verify complaints of human rights violations; (ii) to monitor the performance of state institutions in dealing with these abuses; (iii) to conduct public information and education campaigns; (iv) to provide institutional support to existing human rights organisations; and (v), to make general recommendations to promote the full observance of human rights. This mandate has been extended twice; first to cover verification of the human rights provisions of the 1995 Indigenous Rights Accord and then to monitor the implementation of all the accords.

In 1997, **Arnault** was appointed head of the new MINUGUA but was subsequently implicated in the alleged cover-up of the army murder of URNG operative Juan José Cabrera Rodas (alias 'Mincho' - see *Violent Truths*, p. 18). This sparked fears that Arnault could be compromised by his double role as both mediator and verifier of the peace process.

Despite these reservations, and its failure to reverse the military culture of impunity, MINUGUA has provided a model of international mediation and verification which will be analysed for some years to come. It is widely credited with providing a significant deterrent to further human rights abuses and for providing a space for greater organisation and freedom of expression on the part of civil groups.

Other UN agencies that have made significant contributions to recent peace-building in Guatemala include the **United Nations Development Programme (UNDP)**, the **United Nations High Commission for Refugees (UNHCR)**, the **Development Programme for Displaced Persons, Refugees and Returnees in Central America (PRODERE)** and the **United Nations Volunteers (UNV)**.

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the Economic and Social Research Council and the British Academy, involves a comparative study of truth commissions in South Africa and Guatemala. This project is concerned specifically with the impact of the work of truth commissions at the local level.

The Accord Series

Accord: An International Review of Peace Initiatives is published by Conciliation Resources (CR). It provides detailed narrative and rigorous analysis on specific war and peace processes, combining readability with practical relevance. *Accord* readers work in governments, non-governmental and inter-governmental organisations in the fields of conflict resolution, human rights, relief and development. Its appeal should also extend to anyone with a

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Specific activities include:

- collaborative consultation, analysis, design and implementation of conflict transformation strategies;

-
- support for seminars, workshops and other fora aimed at clarifying issues in a particular conflict, at building confidence and capacities, and at generating a range of political, economic and social options for constructive change and peaceful settlement;
 - conflict transformation training and production of educational and training materials;
 - media in conflict training programmes;
 - institutional development support for organisations addressing conflict issues.

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In 1997, Conciliation Resources' three principal areas of activity have been Fiji, Sierra Leone, and the production of *Accord: An International Review of Peace Initiatives*, with issues on Liberia, Guatemala, Mozambique and Sri Lanka published or in production.

Sierra Leone

CR has been active in Sierra Leone since 1995. In-country activities have included:

- support for the National Catholic Development Office Programme for reconciliation and trauma healing;

-
- conflict analysis with national and international NGOs;
 - negotiation and mediation training with religious, labour and women's organisations and individual peace activists in Sierra Leone;
 - skills training for members of the Sierra Leone Association of Journalists in electoral coverage;
 - teambuilding workshop for the Sierra Leone Women's Movement for Peace.

Fiji

CR has been working on a democracy and conflict prevention programme in Fiji since 1994. CR's programme partners, the Citizen's Constitutional Forum (CCF), have played a lead role in promoting dialogue and discussion within civil society, aimed at reforming Fiji's race-based constitution. CCF/CR activities have largely focused on community and national political education work on the constitutional review. Projects have included an ongoing

series of workshops in rural areas, as well as national consultations, articles and cartoon strips in the media, workshops with journalists, and the dissemination of teaching and discussion aids on constitutional reform. In addition to raising levels of awareness and debate, the aim of these activities has been to help promote conditions favourable to a constitutional settlement broadly acceptable to all sectors of Fijian society.

Other areas

CR has worked with the Peace Committee for Somaliland, supported the Liberian Women's Initiative in their programme of voter education and election monitoring and provided election coverage training for members of the Gambia Press Union. We have also undertaken short-term consultancies for UNESCO, CARE UK, Oxfam-UK, CEDRIDE-Ghana, the Kiev Centre for Political Studies and Conflictology, the Moscow Institute for Humanities

and Political Studies, the Foundation on Inter-Ethnic Relations in The Hague and the King Baudouin Foundation in Brussels.

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