

GUATEMALA: FIVE YEARS AFTER THE PEACE ACCORDS

THE CHALLENGES OF IMPLEMENTING PEACE

A Report for the Norwegian Ministry of Foreign Affairs

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PREFACE

First, and foremost, I would like to thank the Norwegian Ministry of Foreign Affairs for the financial support that made this study possible. The Norwegian Embassy in Guatemala has been particularly helpful in sharing experiences and facilitating contacts in Guatemala. Special thanks to Ambassador Rolf Berg and NORAD's Guri Rusten for their efforts in this regard. In addition, I would like to express my gratitude to FLACSO-Guatemala and its director Víctor Gálvez Borrell for fruitful discussions and for helping organize interviews in Guatemala.

Last, but not least, I would like to thank those who have constructively commented on numerous drafts of this study: Stener Ekern at the International Institute of Human Rights; Cynthia Arnson, Deputy Director of the Latin American Program at Woodrow Wilson International Center for Scholars; and Stein Tønnesson, Director of the International Peace Research Institute, Oslo (PRIO). The content of this report, however, remains my sole responsibility.

Hilde Salvesen

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EXECUTIVE SUMMARY

This study assesses the situation five years after the peace accords in Guatemala and asks: Have the peace accords been a success? In the most immediate sense, the answer is yes, since there has been no resumption of war. But, if we go further and examine the implementation of the substantive peace accords, the answer becomes less clear. Another question then arises: What does it take for a peace agreement to be implemented successfully? Using a conceptual framework of five factors expected to have relevance for the implementation of peace accords, this report analyses the current situation in Guatemala.

On a more general level, whereas much has been written on peace processes and how to reach a settlement, very little has been published on the actual implementation of peace accords. The present study suggests that more focus be given to the implementation phase of peace accords, also during the negotiations of the accords themselves. As a result of the analysis of the implementation of the peace accords in Guatemala, lessons are drawn along the five axes indicated in the conceptual framework. These lessons are expected to have relevance for the implementation of peace accords more generally and can be summarized as follows:

1. Concerning the *content of the peace accords*: When peace accords are as extensive as they were in Guatemala – addressing both peace and development concerns – it is essential to define priorities, to differentiate between the various types of commitment and to develop strategies for implementation of the different commitments. Accords should be constructed in a way that allows the parties to involve additional actors in the implementation phase.
2. Regarding *political will and capacity to implement peace accords*, in the case of Guatemala, it appears that, for a number of reasons, the dynamic impetus was lost once the accords were signed. To remedy this type of problem, one suggestion is to focus more on the implementation aspect of peace accords and to follow up on strategies for implementation. The experience in Guatemala also suggests that fundamental legal reforms should be passed as soon as possible after the signing of accords, while there is still a political momentum and international will to support the implementation of the new legislation.
3. When it comes to *ownership of the peace accords*, more actors should be involved in the implementation phase than just the signatory parties. The positive experience from the fiscal pact in Guatemala suggests that it is necessary to make alliances with actors other than those who were present at the negotiations if progress is to be made on sensitive issues.
4. Concerning *institutional mechanisms for making peace sustainable*, the peace accords in Guatemala presupposed conditions that at best would be the results of implementation, namely, a state able to deliver. In a weak state, like Guatemala, emphasis should be given to institution-strengthening and the building of a strong civil service with increased professionalism.
5. Regarding *third-party involvement*, the experience with MINUGUA in Guatemala suggests that verification of extensive peace accords requires a long-term commitment and presence. A continued international presence is still important in Guatemala. Used with caution, peace conditionality can be an efficient pressure mechanism for the international donor community in ensuring compliance with peace accords.

LIST OF ABBREVIATIONS

<i>ANN</i>	Alianza Nueva Nacion (Alliance for a New Nation)
<i>ASC</i>	Asamblea de la Sociedad Civil (Civil Society Assembly)
<i>CACIF</i>	Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras (Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations)
<i>CCAR</i>	Caribbean and Central America Report
<i>CNOC</i>	Coordinadora Nacional de Organizaciones Campesinas (National Coordinator for Peasants Organizations)
<i>CONADEA</i>	Consejo Nacional de Desarrollo Agropecuario (National Council of Agrarian Development)
<i>CONAVIGUA</i>	Coordinadora Nacional de Viudas de Guatemala (National Coordinating Committee of Guatemalan Widows)
<i>CONTIERRA</i>	Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos (Presidential office for Legal Assistance and Conflict Resolution)
<i>COPAZ</i>	Comisión de la Paz (Peace Commission of the Guatemalan Government)
<i>CTC</i>	Central de Trabajadores del Campo (Land Workers Union)
<i>FDNG</i>	Frente Democrático Nueva Guatemala (Democratic Front for a New Guatemala)
<i>FLACSO</i>	Facultad Latinoamericana de Ciencias Sociales (Latin American Faculty of Social Sciences)
<i>FMLN</i>	Frente Farabundo Martí para la Liberación Nacional (Farabundo Martí Front for National Liberation)
<i>FONTIERRAS</i>	Fondo de Tierras (The Land Fund)
<i>FRG</i>	Frente Republicano Guatemalteco (Guatemalan Republican Front)
<i>MINUGUA</i>	Misión de Naciones Unidas de Verificación en Guatemala (UN Verification Mission in Guatemala)
<i>PAN</i>	Partido de Avanzada Nacional (National Advancement Party)
<i>RTU</i>	Registro Tributario Unificado (Unified Tax Register)
<i>SAT</i>	Superintendencia de Administración Tributaria (Superintendancy of Tax Administration)
<i>SEPAZ</i>	Secretaría de la Paz (Peace Secretariat of the Guatemalan Government)
<i>SIAF</i>	Sistema Integral de Administración Financiera (Integral System for Financial Administration)
<i>URNG</i>	Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity)

INTRODUCTION

The date of 29 December 2001 marked the five-year anniversary of the signing of the peace accords for a 'Firm and Lasting Peace' by the government of Guatemala and the *Unidad Revolucionaria Nacional Guatemalteca* (URNG). The signing of the peace accords, which took place on 29 December 1996, ended the last armed conflict in Central America and thus completed the principal task set by the presidents of the region when they signed the Esquipulas II agreement in 1987. The end of 36 years of armed conflict was widely celebrated nationally and highly welcomed internationally.

Now, five years after the signing, it is pertinent to ask whether the peace accords have been a success. In the most immediate sense, they have been, since there has been no new outbreak of war. On the other hand, crime has risen to unprecedented levels in post-settlement Guatemala, and most people have not felt any improvement in their living conditions. The peace accords have been implemented only to a very limited extent, and there is widespread disillusion and indifference towards the peace process. Apart from ending active warfare, the accords cannot therefore be considered to have had sufficient effect.

This report will take a look at why implementation of the peace accords has been so difficult in Guatemala. It will then examine what there is to be learned from the Guatemalan experience and what can be done to promote the implementation of a peace agreement.

One major setback in the process of implementation was the negative result of the referendum on constitutional reforms in May 1999. A positive result in the referendum would have been a significant step forward because it would have incorporated significant parts of the peace accords into the Guatemalan constitution, with regard to indigenous rights, the role of the military in a democratic society, democratization of the legislature and a more independent judiciary. The negative result of the referendum did not make it impossible to implement the reforms agreed in the peace accords, but the process of implementation will take much longer. It is also important to note that the negative result in the referendum was not a rejection of the peace process as such. Public opinion surveys carried out after the referendum and before the 1999 elections showed that an overwhelming majority of the respondents wanted the incoming government (from January 2000) to continue the peace process (Azpuru, 1999:18).

Relevance of the Study

Norway played an active role in the Guatemalan peace process, first as a facilitator of a 'track two' approach to peace¹ (1990–94) and then, from January 1994, as one of the countries in the 'Group of Friends', together with Mexico, the USA, Spain, Venezuela and Colombia.

After the signing of the peace accords, Norway continued to support implementation of the accords both through the UN system and through support to nongovernmental organizations (NGOs). Since the late 1970s, Norwegian NGOs have been involved in emergency and development work in Guatemala, and in the 1980s an active solidarity movement for Guatemala

¹ A 'track two' approach here refers to the fact that Norwegian involvement at this initial stage was based on the provision by non-official actors – especially Norwegian Church Aid and the Church of Norway – of contacts with various actors in Guatemala and the hosting of meetings in Norway. This political activity took place, however, always in close cooperation with the Norwegian authorities. For a thorough discussion on the track two approach in the Middle East context, see Karin Aggestam (1996), *Two-Track Diplomacy: Negotiations Between Israel and the PLO Through Open and Secret Channels*, Davis Papers on Israel's Foreign Policy, no. 53, November 1996.

emerged. An analysis of the implementation of the peace accords and of the current situation in Guatemala five years after their signing is of interest not only for policymakers and academics but also for a larger Norwegian public.

Mandate for the Study

According to the application granted by the Norwegian Ministry of Foreign Affairs on 28 March 2001, PRIO should conduct a study on the implementation of, and compliance with, the substantive peace accords in Guatemala. The study is one part of a threefold project on 'Guatemala Five Years after the Peace Accords'. This wider project included support for FLACSO-Guatemala for organizing round tables on the aforementioned theme in November 2001 and for an international conference, which was held in Oslo on 4–5 December 2001. The papers and discussions of these events have been used as part of the sources for the present report.

Implementation of, and compliance with, the substantive accords is the main focus of this report, and the accords have been organized into four sections:

1. Strengthening of civilian power and the role of the armed forces;
2. The comprehensive accord on human rights, judicial reform and the Commission on Historical Clarification;
3. Identity and rights for the indigenous population; and
4. Socio-economic aspects and the agrarian situation.

Sources and Delineations

Many eyes are watching the implementation of the peace accords in Guatemala. Among these, the most important are the United Nations Verification Mission in Guatemala (MINUGUA), the government's peace commission (SEPAZ) and various NGOs. This report is based on the extensive MINUGUA reports, on the verification of the human rights situation (12 reports), on the peace accords in general (6 reports) and on thematic reports (13 reports). It also draws on secondary literature, as well as on interviews conducted with Norwegian and Guatemalan government representatives, NGO workers and researchers in Guatemala. A two-week fact-finding mission to Guatemala initiated the period of study; participation at the FLACSO roundtable-conference in Guatemala and the PRIO conference on Guatemala in Oslo concluded it.

The report was planned to be of a limited scope (30–40 pages), and it has therefore not been possible to conduct an in-depth analysis of the accords and the peace process. Rather, this report offers a synthesized review of the most important achievements and limitations of the implementation process. My fieldwork in Guatemala lasted only two weeks, but the conferences organized by FLACSO in Guatemala and by PRIO in Oslo provided much additional input. To the extent that it is possible, this report tries not to recover what has been previously written about the peace process, but rather to build on such material.² In my approach, I draw upon current discussions in peace research on the theme of peacebuilding.

Research Questions

The first question to be asked is of a general character: What makes peace agreements work? Or, more precisely, what does it take for a peace agreement to be implemented successfully? The other questions focus specifically on the Guatemalan peace agreements: To what degree have the substantial peace accords been implemented? What have been the main challenges in implementing the peace accords? How has the international community contributed to their implementation,

² The most extensive contribution to the study of peace processes in Latin America is without doubt Cynthia Arnson's (1999) *Comparative Peace Processes in Latin America*, which compares the peace processes of Nicaragua, El Salvador, Guatemala, Mexico (Chiapas), Colombia and Peru.

and how might it have done so better? At the end, the report will return to the first question and try to establish some general lessons from the Guatemalan case.

Outline of the Report

The report is organized into four parts. In the first, a conceptual framework is developed. Five factors are found to have special relevance for the implementation of peace accords: the content of the accords; political will and capacity for implementation; ownership of the accords; institutional mechanisms; and third-party involvement. The second part focuses on Guatemala and the status of the implementation of the substantive peace accords. The third part uses the conceptual framework to analyse the situation in Guatemala. Finally, in the fourth and last part, considerations and policy implications are proposed, based on the previous analysis.

WHAT MAKES PEACE AGREEMENTS WORK?

WHEN ONE GOES THROUGH THE VAST LITERATURE on conflict resolution, it is striking to see how much more has been written on peace negotiations and how to reach a settlement than on the post-settlement period. I prefer to use the term post-settlement instead of post-conflict here, in accordance with Oliver Ramsbotham's (2000) comment that a peace agreement does not end conflict; rather, it redirects conflicts into a political, non-military arena.

In recent years, however, some works have focused on post-settlement situations and peacebuilding. In the 1992 document *Agenda for Peace*, UN Secretary-General Boutros Boutros-Ghali defined post-conflict peacebuilding as 'actions to identify and support structures which tend to strengthen and solidify peace in order to avoid relapse into conflict' (1992: 11). The concept of peacebuilding was first connected to demobilization and the development of participatory democracy. The concept has, however, progressively expanded to include other measures for promoting lasting peace.

Much of the debate on post-conflict settlements seeks to answer questions about why some peace settlements succeed while others fail. The evaluation of 'success' is normally related to the question of whether there has been a resumption of armed conflict or not. But success in this sense is only partial, since it neither includes the building of a sustainable peace nor addresses the factors that led to the armed conflict in the first place.

Miall *et al.* (1999: 188–194) have captured both the aspect of ending the war and that of building a sustainable peace in their definition of post-settlement peacebuilding: (a) the 'negative' task of preventing a relapse into overt violence and (b) the 'positive' tasks of aiding national recovery and expediting the eventual removal of the underlying causes of war. The greatest challenges in post-settlement peacebuilding concern precisely the relationship between the prevention of a relapse into war, on the one hand, and the reforms needed to address the underlying causes of war, on the other.

The Content of the Peace Accords

Fen Osler Hampson draws attention to the importance of the actual content of peace agreements: 'Peace agreements sometimes contain the seeds of their own destruction' (1996: 3). Referring to Kalevi Holsti, he states that 'the success of peace settlements to a large extent depends upon their ability to anticipate and devise means to cope with the issues of the future' (*ibid.*). Peace settlements may lack the flexibility necessary to adapt to changing circumstances in the post-settlement period. 'The design of an agreement, particularly with regard to its provisions for reconstructing political authority ... can significantly affect the prospects of achieving a viable peace process and a durable settlement' (*ibid.*: 217).

Hampson and several others underline that peace accords must address at least some of the *underlying causes* of conflict (see, for example, Arnson [1999] and Smith [2000]). However, this requirement may lead to a dilemma, since addressing the underlying causes of a conflict may make it more difficult to reach a settlement and implement it once it has been reached. Addressing the underlying causes may indeed be indispensable for reaching a *durable* settlement and for hindering a recurrence of war, but underlying causes of war are often rooted in deep, structural, social and economic patterns, which are very difficult to alter. In order to implement peace accords, it seems central to ask about the *realism* of agreed reforms. Is it possible to implement

them? How complicated are the issues dealt with? Do the accords reflect the realities on the battlefield, the balance of forces in society more generally?

How the accords are designed is another important factor. In El Salvador, for instance, compliance by one party was made dependent on compliance by the other. Such requirements may enhance implementation, but they can also result in a standstill, as happened at times in El Salvador. The way the Salvadoran accords were designed was generally considered to be a positive driving force for compliance. Both parties retained a certain amount of power to sanction the other party if it did not comply with the terms of the accords. The *Frente Farabundo Martí para la Liberación Nacional* (FMLN) wielded its sanction power to great effect at various points in the implementation process. As for other guerrilla forces, this power to sanction usually lasts only until the final demobilization, when arms are surrendered.

This design seems, however, to be more applicable to a situation where there are more or less symmetrical power relations. It might be difficult to agree on such provisions where power relations are clearly asymmetrical and where the guerrillas have limited leverage, as in Guatemala. Implementation will then primarily depend on the political will and capacity of the post-settlement power holders.

On the basis of the above, we may advance as a first, perhaps rather obvious, assumption that peace accords addressing the underlying causes of conflict are those most likely to prevent a relapse into war. Less ambitious peace accords, however, are more likely to be implemented.

Political Will and Capacity To Implement

In asymmetrical power relations, where the governing party maintains a position of superior strength, the implementation of peace accords depends on the will and ability of the governing party. What state apparatus does the government have at its disposal? Does the government enjoy sufficient support from major stakeholders? Are there powerful groups that stand without any real stake in implementation, and how do these exercise power in the post-settlement situation?

Among the more general conclusions that emerged at the end of a conference organized in December 1999, ten years after the El Salvador peace accords, by the US Institute of Peace on El Salvador was that leadership and political will are critical to the successful implementation of any settlement (Hampson, 2001: 53).

There will also be some social groups who prefer not to implement the more substantial parts of a peace agreement. Stedman has drawn our attention to the problem of ‘spoilers’ in peace processes: persons or groups who might hinder or destroy the possibilities of reaching peace agreements (Stedman, 1997). Spoilers normally stay outside the peace process and consciously try to wreck it, examples being the Real IRA in Ireland and the paramilitaries in Colombia. The problem of spoilers is also present in a post-settlement situation. Peace accords are the results of compromises from both sides, and Hansen & Lia (1998) mention that most peace accords meet resistance and much criticism both from the parties involved and from rejectionist groups within or outside those parties. Peace agreements often contain proposals for extensive reforms of the state, and some might prefer to maintain the ‘old’ order of things.

A related factor is the capacity of a government to fulfil its obligations. A government may actually want to implement the peace accords, but may be without sufficient economic resources and/or institutional capacity. Countries emerging from conflict typically have weak state institutions in the fields of social policy and justice.

On this basis, we may formulate our second assumption: The successful implementation of a peace settlement depends on the political will and capacity of the governing party to do so.

Ownership of the Peace Process

A feeling of ownership of the process is particularly important in the implementation phase, since only the ‘owners’ seem to have a real drive to implement the accords and ensure their legitimacy

in the eyes of the population. Cynthia Arnson draws the lesson from El Salvador that the legitimacy of a peace process is reduced if negotiations between a government and a guerrilla movement do not involve civil society. This deprives the process of an important constituency, thus making implementation more difficult (Arnson, 2001: 44). Besides, civil society can have an important overseeing role in the formulation of policies after a peace settlement (Hampson, 2001: 53). The role of civil society in the post-settlement phase should not, however, be over-emphasized. After a war, civil society is usually fragmented and weak, with little capacity for political organization. In Guatemala, civil society did play an influential role during the negotiation process through the *Asamblea de la Sociedad Civil* (ASC).¹ However, it is necessary to ask: What kind of civil society was this? What has been its role in the post-settlement period? And how important is the peace agenda for people in general?

Our third assumption is derived from the above observations: The chances for the successful implementation of a peace accord are increased by a general feeling of ownership of it and by its promotion by civil society.

Institutional Mechanisms

When talking about institutional mechanisms, it is necessary to distinguish between various kinds. A set of provisions is necessary to prevent a recurrence of war, such as security measures to protect the contending parties while they move from a situation of self-protection to a situation where they can expect to be protected by a central authority. Addressing the security and material needs of ex-combatants in demobilization and reintegration appears to constitute a minimum condition in a transition to peace. A set of broader institutional mechanisms is necessary to provide a long-term sustainable peace. Cousens & Kumar (2001: 12) argue that the most effective means of achieving a self-enforcing peace is to cultivate political processes and institutions that can manage group conflict without violence, but with authority and, eventually, legitimacy. They further stress the importance of effective public institutions, meaningful political inclusion, norms of fairness and access, and legal protection for groups or individuals (ibid.: 13).

When it comes to the question of which institutional mechanisms are most important to ensure implementation of a peace accord, a good candidate is one that allows for continuing consultation and negotiations among the parties also after the agreement has been signed. An agreement will always contain some ambiguities, and there will always be different interpretations of its key provisions. It is therefore important that there is a mechanism to allow for continued negotiations.

This leads us to our fourth assumption: Implementation of a peace accord depends on institutional mechanisms for continued consultation and negotiations among the parties.

Third-Party Involvement

The role of third-party involvement in internal conflicts has been the focus of many authors recently, as the UN has been brought in as a third party in many conflicts. After the positive experiences with UN involvement in Namibia (1990) and El Salvador (1992), the failure of humanitarian intervention and various international mediation efforts in Rwanda, Somalia, and Bosnia and Herzegovina affected the reputation of the United Nations and reduced public support for peacekeeping and third-party involvement more generally. The sceptics were not necessarily critical of international involvement as such, rather of the way interventions were undertaken, the timing, and the fact that the involvement was too limited or too reticent: it was felt that there should have been more efforts and that stronger priority should have been given to the interventions. Third-party involvement in the negotiation and implementation of the peace accords in Angola and Cyprus was more limited than in Namibia, Cambodia and El Salvador. In Angola, assistance with implementation was limited to a small UN observer force whose mission was given low priority (Hampson, 1996: 208).

¹ The ASC consisted of a large number of Guatemalan organizations that provided important input on the themes discussed by the negotiating parties during the peace negotiations.

There are good arguments for saying that external third parties may play an important role after a settlement has been reached, especially in monitoring and verification tasks. Governments may have insufficient credibility to enforce a peace agreement, and external third parties can play an important role as ‘custodians of peace’, whose task is to oversee the implementation of peace agreements (Stedman, 1997: 12).

Are there also negative aspects of third-party involvement in post-settlement peacebuilding? Hampson mentions a few. If the third party becomes too intrusive, it may weaken rather than strengthen local infrastructure and rehabilitation elements (1996: 253). Related to this is the possibility that too much international pressure could weaken local feelings of ownership of the peace process as the latter becomes directed from the outside. Lack of familiarity with local conditions, culture and forms of government could also undermine a third party’s role and make it counterproductive.

From this stems our fifth assumption: Implementation of a peace accord will benefit from third-party involvement in the process, but only within certain limits.

To sum up, we have discussed five factors that are frequently emphasized in the peacebuilding literature and that we believe will have an impact on the implementation of a peace accord. These factors are the content of the peace accord; the political will and capacity of the parties; civil society involvement; institutional mechanisms; and third-party involvement. The five factors are complementary rather than mutually exclusive. The purpose of the study is to discuss to what extent they were present in the Guatemalan process of implementing the peace accords.

THE GUATEMALAN PEACE ACCORDS AND THEIR IMPLEMENTATION

WHEN THE FINAL PEACE ACCORD WAS SIGNED on 29 December 1996, it not only brought an end to 36 years of armed conflict, but also created hopes for a deepening of democracy and socio-economic development. The process by which the accords were reached was difficult and long, and at times came to a complete standstill.¹

The initial framework agreement established in Mexico (24 April 1991) set an agenda of eleven issues to be negotiated. These included substantive and operational themes, and it was decided that substantive themes were to be negotiated before the operational ones. Although government negotiators on several occasions tried to insist on a ceasefire before addressing the substantial issues, the URNG insisted on maintaining the basic framework established in the Mexico accord, and this became the pillar of the peace process (Jonas, 2000: 69). Within the substantive agreements, three were signed in 1994 (on human rights, resettlement and the Historic Clarification Commission) and three in 1995–96 (on indigenous rights, socio-economic issues and the civil–military accord). Three consecutive governments were involved in the peace process from 1990 to 1996 when the final peace accord was signed. See Appendix 1 for an overview of the peace agreements, and when and where they were signed.

Whereas some of the substantive accords primarily addressed the consequences of war (the Human Rights Accord, the Judicial Reform Accord, and the Accord on Establishing a Commission on Historical Clarification), others focused on overcoming the causes of conflict (the Socio-Economic Accord, the Indigenous Rights Accord and Demilitarization).

According to the timetable that was agreed on the day the final peace accord was signed, the commitments were divided into three phases of implementation, though all commitments were to be complied with and implemented by 31 December 2000. However, the Follow-up Commission to the Peace Accords met on 12 December 1999 and agreed to revise the timetable. A new timetable will cover the period 2000–04. All in all, there are 119 commitments to be implemented in that four-year period. The most comprehensive and numerous are in the areas of socio-economic development and the agrarian situation (66 commitments), civil power and the role of the armed forces (23 commitments) and the indigenous accord (18 commitments) (Comisión de Acompañamiento, 2000).

Before going through the various substantive accords and their implementation, it is important to bear in mind that the operative accords – which are generally the most common form of peace accords – have been complied with satisfactorily for the most part in Guatemala (MINUGUA 1999: 21–22, 39–44). These include the definitive ceasefire of the armed conflict, the demobilization and reintegration² of the guerrilla combatants, and the return of refugees. Compared to other civil-war contexts where these minimum conditions for peace have been very difficult – if not impossible – to meet, the implementation of these accords in Guatemala is a significant achievement indeed. It is important to remember that the ‘peace process glass’ is actually half full when we now go on to demonstrate that it is also half empty.

¹ For a good insight into this process, see ‘The Mined Road to Peace’, Chapter 2 of Susanne Jonas’s *Of Centaurs and Doves: Guatemala’s Peace Process* (2000: 37–68).

² Many would argue that the reintegration of guerrilla combatants has not been successful. The main question being: reintegrated into what? There have been follow-up programmes that have privileged ex-combatants and their communities, but these have been insufficient. Most combatants have been reintegrated into poverty (Beate Thoresen, interview, 28 May 2001).

The Agreement on Strengthening of Civilian Power and the Role of The Armed Forces (the Civil–Military Accord)³

This accord was signed in Mexico City on 19 September 1996. It contained a comprehensive package of provisions that covered the legislature, executive and judiciary. The theme of these provisions was a redefinition of the role of the military and a strengthening of the democratic government. The role of the army was to be limited to external defence, and its doctrine, training and tasks adjusted accordingly. The size of the military and defence budgets was to be reduced by one-third. The Civil Patrol legislation was to be repealed, and the various police units restructured and unified within a single force called the National Civil Police.

Commitment	Implementation
<i>Public Security Functions</i>	
Repealing the law creating the civil defence patrols	Implemented 28 November 1996
Demobilization of 200,000 civil defence patrol members	Implemented by December 1996, but reports confirmed on regrouping (UN, 2000a: §84)
Dissolving of the ambulatory military police	Implemented
Creation of a National Civil Police force with 20,000 persons by the end of 1999	Partly implemented: a police force has been established and spread around the country, but bad practices and inefficiency prevail (UN, 1997: §46; UN, 2000a: §78)
Establishment of an Advisory Security Council consisting of representatives from different environments	In October 2001, a National Commission for Security was established headed by General Miguel Angel Calderón (retd). The functions and spheres of operation are not publicly known, and organizations working in the area claim that this effort is against the spirit and content of the peace accords (CEG, 2001a)
<i>Restructuring of the Military</i>	
Reduction in size of the military by 33%	Implemented by December 1997
Reduction in military budget by 33%	Partly implemented: budgets meet minimum standard, but reallocations during the year tend to increase allocations to the military.
Limiting the role of the armed forces to external defence	Not implemented. This constitutional reform and other proposed changes in the civil–military accord were presented in the reform package that was turned down in the referendum in May 1999. The military is still involved in internal security functions. A June 2000 decree formalized the military's participation in internal security, contrary to the content of the peace accords (UN, 2000b: §14)
New military doctrine	Not implemented (UN, 2001: § 20)
<i>Intelligence Functions</i>	
The Presidential Chief of Staff (Estado Mayor Presidencial [EMP]) should be dismantled	Not implemented
A Secretariat for Strategic Analysis, (Secretaría de Análisis Estratégico [SAE])	Implemented in 1997; but, under the existing law, the SAE can also undertake intelligence operations, not just analysis. This should be changed so

³ All of the accords can be found at <http://www.minugua.guate.net>. Jonas (2000) provides a useful review of the accords, and Accord (1997) contains a valuable analysis of the Socio-Economic Accord and the Indigenous Rights Accord.

Commitment	Implementation
should be established under the President.	that the functions are separated.
A Department for Civil Intelligence and Information Analysis should be established under the Ministry of Interior (Ministerio de Gobernación), with the gathering of information on organized and common crime as its primary function.	Not implemented. In September 2000, the government decreed the establishment of Departamento de Inteligencia Civil y Análisis de Información (DICA). There has been considerable scepticism over how this unit was established and how it should function. In October 2000, the Constitutional Court ruled that the establishment of DICA should be postponed (CEG, 2001b).

First and foremost, it should be noted that the size of the army has been reduced and the civil patrols and the ambulatory military police have both been dissolved. Still, the military is heavily involved in internal security, and the military intelligence service has responsibilities that go far beyond normal military obligations. An important principle in the civil–military accord is the separation of functions between civilian and military institutions, with the former taking responsibility for internal and the latter for external security. There should also be a separation of functions between analysis, intelligence and actual operations. This separation has not taken place to a sufficient degree, and this marks one of the most serious non-compliances of the Civil–Military Accord.

Overall status: Only partly implemented.

The Comprehensive Accord on Human Rights (the Human Rights Accord), the Judicial Reform Accord⁴ and the Historical Clarification Commission Accord

When the Human Rights Accord was signed in 1994, it was meant to enter into force immediately (unlike the other accords, which became effective only after the signing of the final peace accord in December 1996). The main provisions of the accord were that both the government and the URNG would respect human rights and international humanitarian law. The government would respect the independence of national human rights institutions and strengthen them. The government also agreed to eliminate illegal security units and would work to end impunity. An important provision of the accord was to invite the United Nations to send a human rights verification mission to work in Guatemala. Modernization and reform of the justice system were seen as essential to ensuring basic rights to justice and preventing the judiciary from producing or covering up a system of impunity and corruption (see Civil–Military Accord §9). The Historical Clarification Commission Accord was signed on 23 June 1994. As a result basically of military resistance, the commission’s mandate was limited: it should not attribute responsibility to any individual, only to institutions; it had a limited time within which to operate; and only abuses connected to the armed conflict were to be addressed.

Commitment	Implementation
<i>Human Rights</i>	
Deployment of a UN human rights verification mission	Implemented. The UN mission, MINUGUA, was deployed in November 1994. The results of its deployment were positive: human rights violations fell significantly (Amnesty International, 1997:43).
Respect for human rights	Partly implemented: In 1998, the Human Rights Commission of the UN concluded that there no longer existed an institutional policy by the state of violating human rights in Guatemala (MINUGUA, 2001d: §4). However, while 1996–98 marked a clear

⁴ Reform of the judiciary is actually part of the Civil–Military Accord (part III) but is treated here owing to its relevance for the fight against impunity and for the respect of human rights.

Commitment	Implementation
	improvement in the human rights situation, after 1998 threats and violations against human rights increased again (interview with Carmen Aida Ibarra interview, 28 May 2001). One characteristic of the recent period (July 2000–June 2001) is the considerable number of threats, harassment and intimidation against persons and institutions working with human rights (MINUGUA 2001d: § 22).
Commitment against impunity	The state is still failing to fulfil its obligation to prevent, investigate and punish crime and human rights violations. Complaints are directed mainly against the Public Prosecutor's office, the National Civil Police and the judiciary. Many circumstances contribute to impunity: deficiencies in the investigation system, the administration of justice, and non-compliance with the duty to investigate and sanction violations of human rights (MINUGUA, 2001d: §§ 47–56).
Elimination of illegal security units	Not implemented. There exist security groups whose actions are incompatible with the respect for human rights. Their secret character makes it difficult to verify the scale of their activities. There are serious indications that they have been participating in 'social cleansing' campaigns and organized crime (MINUGUA, 2001d: § 58).
<i>Judicial Reform</i>	Implemented to a large degree
Establishment of a commission to follow up on the strengthening of the judicial system.	Implemented. The Comisión de Seguimiento y Apoyo al Fortalecimiento de la Justicia has been converted into an important dialogue forum for civil society and state institutions on themes related to judicial reform.
Modernization of the judicial system	The Coordinating Instance for Modernization of the Justice Sector was established in 1997. A plan for modernization of the Judicial organism (1997–2000) was established.
Reforms in the judicial career system	A law on the judicial career system was passed in 1999, and a council on the judicial career system was established. Other reform measures consist of: a reorganization programme of the municipal and district fiscals, law on the public defence institute and a Judicial Ethical code. There are still structural deficiencies in the judicial system – for example with regard to clarifying cases of violations of human rights. Also, there is a lack of human resources.
<i>The Commission on Historical Clarification (CEH)</i>	Implemented
Commission on Historical Clarification	The CEH was established, and it presented its report 'Guatemala: Memory of Silence' on 25 February 1999. It attributed 93% of the human rights violations to the state and 3% to the guerrilla forces.
Recommendations (84, distributed across 6 categories)	Little progress in implementation February 2000, Congress issued Legislative order 15/2000 establishing 25 February as Victims of Violence Day in honour of the presentation of the commission's report (UN, 2000a: §51).

Commitment	Implementation
National Reparation programme	Implemented by SEPAZ, but with inadequate funding. ⁵
Establishment of a Commission of Peace and Concordance	The commission was created by a unilateral presidential decree in June 2001. This is not consistent with the legal proposal elaborated by means of consultations, and it does not provide the commission with a proper budget to function (Hans Petter Buvollén, Oslo conference, 4 December 2001). Civil society organizations in the ‘Multi-Institutional Instance for Peace and Concordance’ have not been consulted, though they are critical to the commission.

It is important to note some of the positive achievements in the area of human rights. The fact that violations of human rights are not considered an acceptable part of governmental policy marks a clear change from the past.⁶ There have also been important achievements in the area of justice. In its 2001 report, MINUGUA emphasizes the importance of securing the sustainability of these institutions (MINUGUA, 2001b: § 24). However, there are still structural deficiencies in the judicial system – for instance, in clarifying cases of violations of human rights, and impunity still exists at many levels and constitutes the largest challenge for the time to come.

The publishing of the report of the Commission of Historical Clarification in February 1999 must be highlighted as a major achievement, even though the commission had a limited mandate (i.e. it could not attribute responsibility for abuse of power or human rights violations to any individual and could not have any judicial aim or effect). The report was a positive surprise to many human rights advocates and victims’ representatives. It provided a comprehensive explanation of the causes of the armed conflict and the extensive violence. Particular institutions were singled out as responsible for extensive human rights abuses. State institutions were attributed responsibility for 93% of these, and the guerrilla forces 3%. In unexpectedly strong language, the report described Guatemalan governmental policy at the height of the war as a policy of genocide. It recommended further investigations and proposed that judicial proceedings should take place. The following month after publication of the report, US President Bill Clinton expressed regret for US support of Guatemalan security forces during the counterinsurgency. Although the majority of the report’s recommendations have not been implemented, it has contributed to increased internal debate and consolidated the room for expression: It is legitimate to acknowledge that the state acted wrongly and that the guerrilla could have acted differently in order to prevent exposure of the civilian population to massive violence.

Overall status: Partly implemented. Respect for human rights improved in the period 1994–98, but has deteriorated since 1998.

The Agreement on Identity and Rights for the Indigenous Population (the Indigenous Rights Accord)

The Indigenous Rights Accord was signed in March 1995 and took nine months to negotiate. It incorporated many of the demands of the Mayan organizations participating in the Assembly of Civil Society (ASC). The accord acknowledges that the indigenous peoples (Maya, Garífuna and Xinca) have been subjected to discrimination, exploitation and injustice throughout modern history. The accord constitutes a comprehensive framework for change on a large number of political and cultural issues that are necessary in order to obtain respect for a multi-ethnic society and promote the rights of the indigenous populations.

⁵ The most recent event took place on 10 December 2001, when President Portillo provided economic compensation to 176 family members of the 200 persons massacred in the village Dos Erres in 1982. With this act, the state recognized for the first time its responsibility for acts of massive violence (CEG, 2001c).

⁶ The military–political alliance shaping Guatemalan policy has been excellently described by Jennifer Schirmer in her 1998 book *The Guatemalan Military Project: A Violence Called Democracy*.

Commitment	Implementation
<i>Identity of the Indigenous Peoples</i>	
Recognition of the identity of the indigenous peoples and constitutional reform re-defining the Guatemalan nation as being multi-ethnic, multicultural and multilingual in nature	Not implemented. This constitutional reform and many of the proposed changes in the indigenous accords were presented in the reform package that was turned down in the referendum in May 1999.
<i>Struggle Against Discrimination</i>	
Effective protection of indigenous rights, legal offices for the defence of indigenous rights and the installation of popular law offices.	Partly implemented. In 1998, a Defensoría Maya was created in the Institution of the Human Rights Ombudsman (PDH). Lack of political interest and budget limitations have reduced it to only one person without any power (MINUGUA, 2001c: §29).
Measures against discrimination against indigenous women	An office for the defence of indigenous women was established in 1999 within the Presidential Commission on Human Rights (COPREDEH). Its efficiency has been negatively affected by lack of governmental support and funds.
Measures to avoid that people being sentenced in a language that they do not understand.	Partly implemented. Justices of the Peace that speak local languages have been appointed. Justice administration centres, and a Commission on Indigenous Affairs has been established within the Supreme Court of Justice (MINUGUA 2001c §32). However, there is still a lack of judges and translators.
Revision of the existing legislation in order to abolish any laws or provisions that may have discriminatory implications for the indigenous population	Not implemented
<i>Cultural Rights</i>	
Establishment of a commission on making indigenous languages official.	Ratification in 1996 of ILO Convention 169 on Indigenous Rights. Implemented. The commission was established in 1997. In March 1998, it presented a proposal for official recognition of indigenous languages.
Promotion of the use of indigenous languages in public administration	Not implemented.
Establishment of a commission on sacred places	Partly implemented. The commission was established, but it failed to reach agreement before its time of function expired. The commission, however, has since been re-established.
<i>Civil, Political and Economic Rights</i>	
The incorporation of customary law within the legal system	Not implemented.
Indigenous peoples' right to land	A commission was created, but no legislation regulating the indigenous population's administration of land has been passed (UN, 2001: §54).
Education: the implementation of bilingual and intercultural education through a transformation of the curriculum and administrative reform.	Partly implemented. Work is in progress, a substantial part being through nongovernmental actors. The Commission on Educational Reform promotes an overall transformation of the curriculum in its work.

Commitment	Implementation
<i>Joint Commissions</i>	
Establishment of joint commissions on different themes related to indigenous issues.	Implemented. Three joint commissions were established: on educational reform, on reform and participation, and on the right to land. Two specific commissions were also established: on the definition of sacred places and on giving indigenous languages official status.

The Indigenous Rights Accord is the one that has been implemented to the least degree (MINUGUA, 2001c: § 9). The timetable for 2000–04 contains deadlines for complying with the remaining commitments, among these being 18 commitments related to indigenous rights. The MINUGUA report concludes that there are serious limitations in the political will to break with the dominant Ladino culture and racial discrimination and to construct a democratic culture of peace based on recognition of ethnic diversity and equal access to the public space (ibid § 92). So far, the establishment of commissions has been the most concrete achievement under the Indigenous Rights Accord. The commissions have improved the possibility for indigenous peoples to participate in the design of policy and have created a space for direct negotiation between the indigenous movement and government officials. The negotiations have, however, produced few results. In his report of June 2001, the UN Secretary-General gave a positive evaluation of recent meetings between different indigenous organizations and leaders with the purpose of establishing a basic agenda for compliance with the Indigenous Rights Accord.

Overall status: little implementation.

The Agreement on Socio-Economic Aspects and the Agrarian Situation (the Socio-Economic Accord)

The Socio-Economic Accord, signed in May 1996 after more than a year of negotiations, established several measures for restructuring the economic development and pattern of landholding. Guatemala's land distribution is one of the most unequal in the world. Less than 1% of the farmers own 75% of the land (and all the best land), while 96% of the producers are concentrated on 20% of the land (MINUGUA, 2000: §59). While not providing for any structural transformation, the accord proposed measures for distributing land, increasing social spending and instituting a new fiscal policy.

The accord consists of four thematic sectors: democratization and participation; social development; the agrarian situation and rural development; and modernization.

Commitment	Implementation
<i>Democratization and Participation</i>	Partly implemented.
Measures for enhanced participation and consensus-building in the socio-economic field	The National Council of Agrarian Development (CONADE) was broadened in 1997 to include the National Coordinator for Peasants' Organizations (CNOC) and the Land Workers Union (CTC) (MINUGUA, 1999: 29). A Women's Forum has been established, with locally based processes that in some cases have given increased legitimacy and impact within local and regional power structures (ibid:§56).
Reestablishment of local development councils	Implemented, but the development councils do not constitute a mechanism for social participation and consultation, as intended in the accord (UN, 2000b: §54).

Social Development

Commitment	Implementation
To channel more of the state's resources towards social spending: education and health, social security, housing and work.	Partly implemented. Progress has been made in meeting the targets for health and education coverage and infrastructure investment. However, most Guatemalans still see no improvement in their living standards (UN, 2000b: §48). The Portillo government, on assuming power in January 2000, wanted to revise the measures of social spending. This led to long delays in the social programmes (ibid.: §49).
Education	Partly implemented. The education plan 2000–04 and the Matrix of Social Policy have been elaborated. The coverage of primary education did not reach the established goals, and there are serious concerns about the quality of education due to the absence of bilingual and multicultural aspects (UN, 2001: §34). A positive sign is the establishment of the Commission for Support and Verification of the Literacy Movement.
Health	The budget was reduced by 23% in 2001 compared to 2000, affecting its coverage. An important development is the establishment of a National Health Council in March 2000. Other health goals show a low degree of compliance (UN, 2001: §§ 37–38).
Housing	The 2000 budget was not implemented by the housing fund, Fondo Guatemalteco de Vivienda, because it lacked access to the funds (UN, 2001: §42). In March, after a mobilization by the beneficiaries, the government committed itself to contributing Q 100 million for already approved housing projects for 103 communities of uprooted demobilized persons (ibid.).
Employment and labour code	Partly implemented. There has been an increase in the territorial coverage of the Ministry of Labour and Social Provision and increased facilities for the register of labour organizations (UN, 2001: §45). Positive efforts have been taken to bring together the labour and business sectors to seek consensus on reform of the Labour Code. The Congress approved 36 amendments in this code, which constituted significant progress in compliance with the peace accords and the recommendations of the International Labour Organization (ibid.: §48)
<i>The Agrarian Situation and Rural Development</i>	
Provisions for popular consultation in rural development and increased access to land. Establishment of a land trust fund to provide credit assistance, to promote savings, and to provide public funding for land acquisition.	Partly implemented. A land fund, Fondo de Tierras or FONTIERRAS, was established in May 1999. The main problem it faced was lack of funding. The aim of assigning Q 300 million for the period 1999–2000 has not been met. With the current level of funding, it will only be possible to satisfy less than 5% of the demand (MINUGUA, 2000: §20).
Implementation of just and speedy resolution of land conflicts.	Partly implemented. In July 1997, a mechanism for the resolution of land conflicts, la Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos sobre la Tierra or CONTIERRA, was established. There has been positive evaluations of tension reduction in the conflicts it addresses, but it lacks human, technical and financial resources to maintain a sufficient presence in the regions where it is most needed. One exception is Petén, where the World Bank has assigned resources (MINUGUA, 2000: §42).
Development of a land register.	Not implemented
<i>Modernization and Fiscal Policy</i>	Partly implemented.

Commitment	Implementation
Measures for an increase in the tax base and measures against tax evasion and fraud. With the goal being 6% annual growth at the macroeconomic level, the accord commits the government to raising taxes from 8% to 12% of GDP by 2000.	A Fiscal Pact, el Pacto Fiscal para un Futuro con Paz y Desarrollo, was signed in May 2000. This was the product of a consensus reached between 131 civil society organizations, including CACIF, in an effort to gain social commitment to the fiscal policy. The Fiscal Pact had an integral approach to the fiscal policy, including tax measures, fiscal balance and control mechanisms with a long-term perspective. The Fiscal Pact was, however, not passed in Congress (MINUGUA, 2001a: §17).
Fiscal balance: the deficit should not be higher than 1% of GNP according to the fiscal pact.	From 2000, MINUGUA notes a positive development in relation to the fiscal balance, but there is still a deficit well above the goal of 1% of GNP (MINUGUA, 2001a: §25a).
Tax income of the state should reach 12% of GNP by 2002 (new deadline from 2000).	For 2001, tax revenue as a percentage of GNP was supposed to reach 10,4%, which is not sufficient in order to meet the state's expenditures (MINUGUA, 2001a: §25b). A tax package was passed in July 2001. Value Added Tax was increased from 10 to 12%.
Tax administration: systems and mechanisms that facilitate and improve the efficiency of the tax system are to be developed.	An information system for income has been established. This permits the Superintendencia de Administración Tributaria (SAT) to compare information held by the banks in the system and the Guatemalan Central Bank, BANGUAT.
Public spending: priority, quality and transparency.	SAT has implemented some commitments, such as the Unified Tax Register (RTU), a key tool for improving monitoring of compliance with tax obligations.
Public spending: priority, quality and transparency.	A National Commission against Fraud and Smuggling, consisting of SAT, the Public Ministry, the PNC and the army, was created at the end of 2000, focusing on combating smuggling on the highways. The commission has focused on smuggling on the highways but is it fighting tax evasion, an aspects central to the Fiscal Pact (MINUGUA, 2001a: §25c).
Public spending: priority, quality and transparency.	A Commission for Transparency, Comision de Transparencia y Racionalidad del Gasto Público, was created by Legislative Accord 36–2001, but it has presented no new legislation for combating corruption (<i>Prensa Libre</i> , 30 August 2001).
Evaluation and control	Implemented. The Integral System for Financial Administration (SIAF) is a central tool in improving transparency in public spending.
Evaluation and control	A Fiscal Office Against Corruption in Public Service has been created, but there are no concrete results yet. During the last few years, SIAF has been able to improve the control and transparency of public spending, but has suffered many shortages (MINUGUA, 2001a: §25g).

Implementation has been uneven. The main progress has been seen in the increased spending on health and education, the collection and administration of taxes, the establishment of mechanisms for transparency in public spending (SAT and SIAF), and the development of a broad and integral concept of fiscal policy in the fiscal pact. However, none of the eight sections of the fiscal pact have been fully complied with. According to Juan Alberto Fuentes, former adviser to the UNDP, expectations for growth in the economy in the post-settlement period were too high. While annual growth of 6% was estimated in the accord, there were no instruments to promote such high growth (Fuentes, at the FLACSO conference, Guatemala, 23 November 2001).

Overall status: Partly implemented.

THE CHALLENGES OF IMPLEMENTING PEACE

The Content of the Peace Accords

Addressing Root Causes

As seen in the previous chapter, the substantive accords were ambitious and comprehensive in terms of themes addressed and issues targeted for reform. Broadly speaking, we can place the Civil–Military Accord, the Human Rights Accord and the plans for judicial reform in a category of necessary changes to the state’s behaviour, whereas the Socio-Economic and Indigenous Rights accords require more profound changes at a structural level.

Perhaps one could also say that the first category of accords basically addressed the consequences of war, while the latter focused on overcoming the root causes of the conflict. If by root causes we mean the political, social, economic and ethnic exclusion of large segments of the population from the economic and political system, the Guatemalan peace accords, by and large, address all the root causes of the conflict. Although it is debatable whether they go far enough, for instance in land and income distribution, the fact that the Socio-Economic Accord actually addresses the problem of uneven distribution and proposes measures to deal with it is a feature that distinguishes the Guatemalan settlement from most other peace accords.

One characteristic of the Guatemalan peace accords is precisely that they address both *peace* and *development* issues. Whereas peace accords normally only provide for a ceasefire, demobilization and political participation and in some way address past human rights violations, the Guatemalan accords also contain a detailed programme for economic and social reform, legal and state reform and recognition of the indigenous population. When a settlement is so complex and far-reaching, this will obviously have implications for the implementation, and one can ask if the accords were at all realistic in the first place.

Realism in the Accords

We shall now return to the first assumption cited above, namely, that less ambitious peace accords reflecting the existing balance of power are easier to implement than ambitious accords that do not reflect the balance of power. Did the Guatemalan peace accords reflect the balance of power in Guatemalan society?

The answer to this is a clear no. Most observers will agree that the Guatemalan accords were much more comprehensive and ‘radical’, proposing much more substantial change than what would be indicated from the balance of power. The guerrillas, who had been strategically defeated a decade before the peace negotiations, pressured for an agenda for substantial change and achieved much of what they wanted – at least on paper.

The peace accords were organized according to a four-year timetable for compliance, a deadline that proved impossible to meet. Would it have been better to have a peace accord that was simpler and with more realistic expectations of being implemented?

It would perhaps have been an advantage to draw a clearer distinction between the more short-term changes that were possible to implement on schedule and the ones that would require more long-term processes. It was perhaps not wise to give the impression that all the changes mentioned could be achieved within a four-year period.

At the FLACSO conference on 22–23 November 2001, Luis Pásara, former adviser to MINUGUA, pointed to the costs incurred as a result of nurturing the illusion that the peace accords could be implemented as a four-year reconstruction programme. One price has been that it is easy not to recognize the importance of the changes that actually took place. The big promises and lack of compliance frustrate many people and become the main focus of attention. As a consequence, the status of the peace accords has been devalued, and the accords not considered credible as an agenda for change.

Design of the Accords

Ideally, peace accords should be structured in a way that makes actions by one side conditional on the actions of the other. However, power relations in Guatemala were highly asymmetrical, and Guatemala's peace accord, unlike that of El Salvador, did not make the URNG's demobilization dependent upon government compliance with other accords. The URNG was therefore unable to use its own demobilization as leverage for pressuring the government and army for compliance. Could the URNG have placed further conditions on its demobilization, for instance that the main constitutional reforms would first have to be approved? According to ORPA leader Rodrigo Asturias, the guerrillas wanted a quick demobilization and reintegration of the combatants in order to avoid the situation that occurred in El Salvador, where the ex-combatants remained too long in demobilization camps, a situation that created a lot of discontent and frustration. The desire to have a fast URNG demobilization was therefore given priority over the need to use the demobilization as a pressure mechanism (Rodrigo Asturias, Oslo conference, 4 December, 2001).

The way the Guatemalan accords were designed would suggest that *verification* of their implementation should be easier: A special effort was made to formulate complete and detailed documents on the main themes of the accords, and compliance was organized within a four-years timetable, divided into three distinct phases. Implementation of the accords should have followed this scheme, and verification of compliance should hence have been facilitated. But, as Jean Arnault, director of MINUGUA commented, it was not always an easy task to identify where priorities and pressure should be placed (Arnault, 1999: 10).

Content of the Peace Accords: Conclusion

It is not necessarily desirable that peace accords reflect the local balance of power. In the Guatemalan case, the peace accords would then have been minimal (probably only covering demobilization of the URNG, reduction in the army and an opening-up of the political system. But it is important to understand in advance the problems that ambitious, idealistic aims may have in the implementation phase, and take these into account when designing the form of the accords. It might have been preferable to state clearly the different nature of the various accords, and to emphasize that some required long-term processes. This would have been better than creating the false expectation that all the accords could be implemented within a four-year period. It would have been advantageous to define priorities more clearly, and to have different, and sometimes more drawn-out, timetables for the various accords.

Political Will and Capacity to Implement

It was assumed above that, in a situation marked by asymmetric power relations, implementation depends on the government's will and capacity. In Guatemala, it was up to the government to implement most of the peace accords. Let us first have a look at the commitment of two consecutive post-settlement governments to the peace process and the political constellations of the implementation period.

Political Forces in Favour of Implementation

The party that governed when the peace accords were signed (and also the party that had concluded the negotiations) was the *Partido de Avanzada Nacional* (PAN), which won a majority in Congress in the 1995 elections, with the right-wing *Frente Republicano Guatemalteco* (FRG) as the strongest opposition force. In the same year, the leftist coalition *Frente Democrático Nueva Guatemala* (FDNG) won six seats in Congress, which was the first time that the left had held congressional positions since the Arbenz period (1951–54).

Alvaro Arzú's PAN government (1995–99), which had a conservative and neoliberal orientation, took strong unilateral steps before and immediately after the signing of the accords to create confidence in its commitment to peace. These steps included making significant changes in the military High Command and appointing capable and committed people to key positions with responsibility for implementing the agreements (Spence *et al.*, 1998: 5).

One would assume that the Arzú government had the necessary strength to carry out the task of implementing the peace accords: It was an elected government with a strong legitimacy; it controlled a majority in Congress; and it was backed by the business community, many other sectors of society and the international community. However, it seems that as early as the first year after the signing of the peace accords, implementation failed to proceed in accordance with expectations.

Some have pointed to President Arzú's lack of vision for a restructuring of the state as one explanation for the initial weakening of the peace accords. Although Arzú's government included people who actively promoted structural change – such as Presidential Aide Gustavo Porras, Foreign Minister Eduardo Stein, SEPAZ leader Rachel Zelaya and SEPAZ adviser Ricardo Stein – the president himself did not share their vision. His interest was in creating governability so that businesses could function rather than structural changes (interview with Bernardo Arévalo de León, 28 May 2001). This corresponded with the priorities of the more conservative members of PAN, many of whom had close allies in the private sector and the army. One concrete example of the lack of vision was Arzú's changes to the military leadership in July 1997. These changes included the removal of not only the pro-peace Defence Minister Julio Balconi but also the hard-line Chief of Staff Sergio Camargo. Although these changes to the military high command demonstrated civilian control over the military in one area normally most resilient to civilian interference, they were not followed by more structural changes to expand the role of civilian institutions in creating internal security. In addition, the removal of Balconi had the effect of making peace accord implementation a much lower priority for the military (Jonas, 2000: 145).

As the 1999 election approached, the electoral dynamics appeared to downgrade the accords as the key focus of governmental action. It is conceivable that the PAN government believed that, if it spent resources on implementation of the accords or made concessions to the URNG and various civil society NGOs, this would be used against it by opponents on the right, namely the FRG, which brought to the electoral fray much stronger resources than the left (Spence *et al.*, 1998: 5).

Another factor that did much to weaken the political commitment to implementing the peace accords was the negative result in the referendum on constitutional reform in May 1999. In order to change the constitution in accordance with the peace agreements, a number of constitutional reforms were required. According to the accords, 12 important amendments were to be made to the constitution. The necessary legislation should have been passed during the first 90 days of implementation. Instead, the process only started in 1997 and dragged on until the constitutional amendments were passed by Congress in October 1998 and subjected to a referendum on 16 May 1999.

The political discussion that preceded the referendum was long, confusing, and anything but transparent, and it undermined the original intent (Azpuru, 1999: 1). In addition to the original 12 amendments, a number of others were added, so the referendum concerned altogether 50 changes. These 50 amendments were divided into four blocks, which each were to be voted on as a unit. The inclusion of some reforms not directly linked to the peace accords caused inconsistency within some of the blocks. For instance, regarding the Indigenous Accord, some reform proposals meant progress for indigenous peoples and the society as a whole, while others included in the same package were setbacks. One example of a setback was Article 255, which

threatened municipal autonomy by subordinating the municipalities to the Development Councils, which are controlled by the central government (Cojtí Cuxil, 1999: 21).

A majority voted against all four blocks of reforms. The remarkably low voter turnout (under 19% of those legible to vote) may provide a partial explanation for the negative result, but other factors also contributed. The complexity of the constitutional reforms, the divisive environment that prevailed during the referendum, distrust in the political elite and a widespread conception that the referendum was irrelevant have been mentioned as factors explaining both the low turnout and the negative result (Azpuru, 1999: 14).

The other signatory party to the peace accords, the URNG, faced difficulties in transforming itself from an armed revolutionary front composed of four different groups into a unified political party. During the demobilization phase, it also became clearer that the guerrilla movement was relatively small and did not command a large group of cadres prepared to enter the political field as campaigners (Spence *et al.*, 1998: 11). The formal conversion of the URNG into a political party took place in November 1998 and was an important step in the peace process. The URNG was reluctant to define itself in terms of ideology, preferring to present itself as the democratic, multi-class expression of a new project of national unity, the main task of which was to ensure full compliance with the peace accords. The URNG frequently referred to the need to construct a broad national front and, before the 1999 elections, formed the left coalition *Alianza Nueva Nación* (ANN) together with the FDNG and another small leftist party. Yet, the new alliance remained small and fraught with splits and scandals, which limited its possibility to play an active role in organizing pressure for implementation of the peace accords.

The FRG won the 1999 elections and gained a majority in Congress, with 63 of 113 seats. The second largest party was PAN, with 37 seats. The ANN came third, winning only six seats.

The FRG had been founded by former dictator Efraín Ríos Montt and was traditionally connected with the hard elements in the army. It had always been ideologically opposed to the peace accords. In his inauguration speech, however, the new president, Alfonso Portillo, committed himself to implementing the peace accords and, moreover, promised to carry out the recommendations of the Commission of Historical Clarification.

Internal contradictions have characterized the FRG government and have contributed to shifting focus away from implementation of the peace accords. President Portillo is considered weak and inefficient. Many see him as a mere puppet for the party leader and President of Congress Ríos Montt. Political life has been characterized by internal power struggles, and Portillo has used political and military appointments to bring in his own supporters. This has resulted in a high degree of turnover in the leading political positions and little stability. During the first year of the Portillo government (2000–01) the country had two defence ministers, two ministers of interior and three police chiefs. In spring 2000, more than 20 generals in high-ranking military positions were ordered into retirement; these were replaced by colonels (CCAR, 2000). Many interpreted this degrading as a first step towards reducing the role of the military. It was not, however, part of a larger restructuring plan, and can rather be interpreted as a way for President Portillo to strengthen his own personal authority, both over the army and in the party, just as Arzú had done before.

Corruption allegations and scandals haunted the FRG during 2001. If anyone gained from this situation, it was the groups that resisted the peace process. The pressure for implementation of the peace accords almost vanished from the political agenda.

The two other large parties, the PAN and the ANN, have also been characterized by factional infighting and splits. Guatemalan politics is dominated by a few strong personalities. People's loyalty is to persons rather than to parties. This makes Guatemalan politics highly volatile and weakens the capacity to make more long-term political priorities.

While powerful groups in Guatemala manoeuvred to limit or frustrate the implementation of the accords, spoilers with the explicit goal of rejecting or undermining the accords did not emerge in Guatemala. Open resistance to the peace process came primarily from parts of the private sector, some former and current army officers, and some congressional representatives in the FRG (Jonas, 2000: 138). The peace resisters were marginalized in the course of the peace process, and there was a general consensus in favour of signing the peace accords. After the signing, however, the peace resisters seem to have gained more ground. As we have seen above, resis-

tance to the peace accords was present both within the PAN and the FRG, especially among the most reactionary elements of the landowners and industrialists, organized in the Co-ordinating Committee of Agricultural, Commercial, Industrial and Financial Association (CACIF) and the army.

Capacity to Implement

Capacity can be both economic and institutional. With regard to the former, in order to implement peace accords a government may count on two financial sources: increased taxation and foreign assistance. One characteristic of Guatemala is its very low tax revenue. According to the peace accords, the revenue should have been raised from 10% to 12% of GDP during the first four years following the agreements. This aim was not met and has now been rescheduled for 2002. As was seen in the previous chapter, lack of funds has been a constant problem in the implementation of the peace accords. This is primarily due to the state is unable to provide a financial counterpart to match international funding. We will return to the subject of international assistance under the section on third parties.

Not only economic capacity, but also institutional capacity to comply with the peace accords must be taken into account. Guatemala shares many characteristics of a weak state, with little national cohesion/integration, limited socio-economic capability and weak institutions. There are vast areas that have never benefited from public services, and significant groups of the population take a non-committal position or have a very negative image of the state as such, no matter who is in power.

Political Will and Capacity: Conclusion

The Guatemalan experience shows how a political leadership, although formally committed to implementing a peace accord, may lack the vision, will or capacity to actually follow it through. As the Guatemalan peace process slowed down, the obstacles to the implementation process became more visible. Congress became an arena for the setting up of new hurdles, with many strategies being devised to delay the implementation of reforms. This led to an erosion of faith in the potential of the peace process.

If we should suggest some lessons learned from the experience with the constitutional reforms in Guatemala, these would be: first, that the reforms should have been passed during the first three months, as was planned in the original timetable and second, that only the reforms embedded in the peace accords should have been subjected for the referendum. The PAN government was primarily responsible for dragging out the process. Some considered this to have been its 'capital sin' (Torres-Rivas and others at the FLACSO conference, 22–23 November 2001).

The armed forces did more than any other institution to limit implementation. This resistance, together with the government's lack of vision regarding actual subordination of the military to civilian control, contributed to the military's continued maintenance of its reserve domains in post-settlement Guatemala. Moreover, the negative result of the 1999 referendum was interpreted by the military as a confirmation of their extended role in society and as an indication that people actually want its participation. The internal pro-peace coalition in Guatemala was not strong enough by itself to counter the pressures from the peace resisters, not even on the issues it was most committed to. Thus, there was a need for pressure from the international community to keep the process on track (Jonas, 2000: 193).

Ownership of the Peace Accords

It is assumed that successful implementation of a peace accord depends on all of the most influential groups sharing ownership of it, and on civil society involvement in its promotion.

The two main parties behind the Guatemalan peace accords – the governing party *Partido de Avanzada Nacional* (PAN) and the URNG guerrilla movement – were relatively weak social ac-

tors with limited support in society. In the previous section, it was also shown that not all inside the PAN shared an ownership of the peace agenda. However, the most noticeable factors are: first, the FRG, which came to power in January 2000, did not have a real stake in the accords; second, the military officers who had participated in the negotiations, and thus shared in the ownership of the peace process, were removed from power and replaced with officers who had not been personally involved in the negotiations. In addition to these factors, there was no strong pressure on the politicians from civil society.

Civil Society Involvement

The lack of social ownership of the peace process also has its explanation in the historical legacy of Guatemala, with its weak social actors and a highly fragmented society. The counterinsurgency policy of the state had instilled fear in the minds of significant parts of the population, and social organizations had been constant targets of state repression. This contributed to widespread distrust of official authorities, which did not simply disappear when the accords were signed. In addition, many people conceived of the guerrillas simply as terrorists and saw little reason to go to great lengths in a political negotiation process that bypassed ordinary political procedures.

Civil society organizations were weak in the wake of the peace accords, emerging as they were from a long period of repression. Although the peace negotiations created better conditions for the existence of civil groups, they did not prompt a massive response from the population. The main reasons for this were inadequate channels of communication, people's reluctance to get involved in politics and a general lack of confidence in how the issues were dealt with by the principal political actors (Palencia Prado, 1996: 30).

In 1994, during the negotiation period, the *Asamblea de la Sociedad Civil* (ASC) was set up to represent civil society, by which was meant the organized modern Guatemala, in an effort to broaden the negotiation process. With the exception of CACIF, all invited sectors took part in the assembly.¹ The ASC played an important role during the negotiation process. It prepared consensus documents on each theme for the negotiating parties, and the content of these documents was to a large extent included in the accords. The ASC never managed, however, to become really representative, and its capacity to disseminate the content of the peace accords and to gain support for the peace process at the grassroots level was more limited than expected (Arnault, 1999: 28). This was perhaps not so important during the negotiations, but in the process of implementation it became crucial. The exclusion or self-exclusion by important powerful groups that at heart were against the peace accords affected the process and was not met with any strong pro-peace movement in civil society (Luis Pásara, FLACSO conference, 22 November 2001).

Other factors also weakened the ASC's influence in the post-settlement period. According to Rosalina Tuyc of CONAVIGUA, one reason was that many organizational leaders became politicians (seminar in Oslo, 23 October 2001). Although participation in the political process is generally positive, this led to a 'brain drain' from civil society organizations, which undermined their capacity. In addition, many of the ASC's leftist member-organizations put their energy into the FDNG campaign for the 1999 elections. Although the ASC has been active through the forum set up by the peace accords, the Multi-Institutional Instance, it has had no formal role in accord implementation.

The fact that the economic situation did not improve may to some extent explain why there was relatively little enthusiasm for the peace accords among the general population. Poverty, illiteracy and unemployment still affect a majority of the people, and many were probably disappointed when the peace accords did not produce rapid improvements in public services and the standard of living.

Another reason for the lack of identification with the peace accords is that most people had not been directly affected by the armed conflict. It had taken place in limited areas of the country and

¹ The sectors which established the ASC were religious organizations, journalists, labour and popular organizations, human rights activists, political parties, Mayan groups, women's organizations, study and research centres, nongovernmental development organizations, cooperatives, academics and independent businesses (Palencia Prado, 1996: 30).

had been at its most intense in the beginning of the 1980s. Some even argue that it should not be called a civil war, rather moments of armed conflict in certain areas of the country at two different moments in time (interview with Edelberto Torres-Rivas, 29 May 2001).

For whom was the peace process important? Bringing an end to the armed conflict was of course important for those directly affected, but also for those who saw the peace accords as a catalyst for desirable change and modernization of the Guatemalan state. Jean Arnault notes, however, that – especially from 1998 – it became clear that many Guatemalans in the urban middle and upper classes no longer identified themselves with the peace accords. They did not support all the required changes that the peace process implied (Arnault, 1999: 18).

As we have seen, there are thus several reasons why the peace accords failed to become a project of the society as a whole, remaining rather a project that belonged to a few, increasingly marginalized, factions of the political elite.

However, there are some positive signs. Strong demands for political participation have been voiced by some social groups, particularly indigenous organizations. Another growing social movement was represented from the fall of 1997 by the Women's Forum, *Foro de Mujeres*. By late 1998, this had a membership of some 25,000 women, who came from all of the country's language groups (Jonas, 2000: 140).

Ownership of the Peace Process: Conclusion

The previous discussion first and foremost shows how difficult it is to build a broad social base for peace accords in a highly fragmented society. The ASC had much more influence during the negotiations than during the implementation phase. It is tempting to conclude – as Edelberto Torres-Rivas did at the FLACSO conference in Guatemala on 22 November 2001 – that the Guatemalan society was prepared to sign the accords but not to comply with them.

Institutional Mechanisms

Institutional mechanisms are thought to be highly important in ensuring progress in the implementation of peace accords. A useful mechanism is to allow for continued consultation and negotiations between the parties even after an agreement has been signed. In accordance with Boutros-Ghali's concept of peacebuilding in post-conflict societies, the institutionalization of peace also became a major concern in Guatemala. Institutionalization of peace can be understood as identifying and sustaining structures that tend to strengthen and solidify peace, with the purpose of preventing a recurrence of war.

In Guatemala, many institutional mechanisms were established both to promote broad participation in the development of new policies in relevant areas and for further consultation between the parties. The institutional framework designed around the Guatemalan accords in fact seemed ideal as a way to institutionalize peace.

The Follow-up Commission

First, there was the Follow-up Commission, *Comisión de Acompañamiento*, a top-level internal commission created in February 1997 to participate and be involved in compliance with the accords (Comisión de Acompañamiento, 2000: ii). This commission was later given a renewed mandate until 2004. The commission consists of two representatives from the parties (the government and the URNG), one from Congress, four representatives from different sectors of civil society and the head of MINUGUA (with a voice, but no vote). Its function has been to review bills drafted by the government to ensure their consistency with the peace accords, to use its good offices to overcome difficulties in the work of the commissions established under the accords and to reschedule commitments when necessary. The Follow-up Commission has been the main mechanism for consultation and negotiations between the parties to overcome difficulties and ensure that the peace process proceeds.

Although the Follow-up Commission played an important role as a driving force in the beginning of the implementation phase, its importance decreased over time. One plausible explanation for this is that the commission did not reflect the power balance in the post-settlement period. The parties to the accords were over-represented, and important segments of Guatemalan society were not represented at all. Perhaps by being more inclusive, the Follow-up Commission could be more able to commit other sectors to the peace accords and add new forces to the 'pro-peace coalition'. On the other hand, being more inclusive could imply the risk of becoming yet another forum for discussion that has too much internal disagreement to maintain a consistent policy. Anyway, it seems important now to reconsider the composition and role of the commission, and perhaps to suggest some changes in order to make it more efficient.

The Secretariat for Peace, SEPAZ

Second, a mechanism was set up to promote the institutionalization of peace, the peace secretariat at the president's office (SEPAZ). SEPAZ can be seen as a continuation of the work of the government's negotiating commission, COPAZ. But whereas COPAZ was a political commission, SEPAZ was reduced to a technical unit. SEPAZ was created by Legislative Decree 17/97 with the aim of assuring that plans and projects of the different units of the executive were always in accordance with the content of the peace accords (Comisión de Acompañamiento, 2000: ii). Its main responsibility is to advise, cooperate and promote compliance with the peace accords, while the execution of policies is the responsibility of the ministries, secretariats and funds of the executive. The only programme SEPAZ directs is the pilot programme for compensation. According to its former leader Rachel Zelaya (1997–2000), SEPAZ has not been able to really fulfil its role (Rachel Zelaya, FLACSO conference, 23 November 2001). One reason for this might be that SEPAZ, as a technical unit in the president's office, has little influence on actual policy formulation. Limited resources, both human and economic, and its dependence on political will in order to have influence are other factors. In May 2000, SEPAZ presented its 'Strategic Guidelines for the Implementation of the Peace Agreements, 2000–2004'. The strategy proposes a new structure which would play a more active role in coordinating the work of private and public entities involved in implementing the peace accord (UN, 2000b: §11).

Commissions and Regional Boards

Third, an important part in the effort to institutionalize the peace was to establish spaces for increased participation, dialogue and consensus. Several thematic commissions and regional boards were established. Part of their mandate was to initiate a series of multi-sector meetings permitting representatives of civil society organizations to dialogue with government representatives on different issues. Although the actual weight of the input from these consultations has varied from case to case, the establishment of such mechanisms – together with the *Comisiones Paritarias* on the different themes of the peace accords – has been important in expanding participation in a previously exclusionary system (Jonas, 2000:140).

There have, however, been indications that the present government circumvents the institutions created by the peace accords. In his fifth report on verification of the peace accords, issued in July 2000, the UN Secretary-General pointed to the observations made by MINUGUA on the government's tendency to create mechanisms that in some cases duplicated the institutions and participation mechanisms derived from the agreements (UN, 2000b: §12).

Institutional Mechanisms: Conclusion

One possible conclusion that can be drawn from the experience in Guatemala on forming a commission to follow up on the peace accords is that a commission defined by the conflicting parties may be important in the first phase of post-settlement, to supervise the immediate tasks of demobilization, reintegration and opening the political system for participation. When an implementation/verification task takes on the verification not only of short-term policies but also mid-

dle- to long-term policy goals, the composition of a follow-up commission should not be fixed and defined only by the parties of the armed conflict, but should comprise all the most important political forces and be linked to a project to form the state.

Some have suggested that, instead of the Follow-Up Commission, there should have been a steering commission with augmented powers (Juan Pablo Corlazzoli, FLACSO conference, 23 November, 2001).

Many participants at the FLACSO conference in Guatemala in November 2001 believed that the institutionality of peace should have been a project of the state to a larger extent. The strength of peace institutionality depends on the strength of the state institutions themselves, which in Guatemala's case remain weak.

Third-Party Involvement

It is assumed that external third parties can play a strong role after a settlement has been reached, especially in the monitoring and verification tasks that follow. The most important third party in Guatemala has without doubt been the United Nations.

The United Nations Verification Mission for Guatemala, MINUGUA²

The United Nations (UN) was actively involved as a mediator in the peace process in Guatemala from 1994 to 1996. Deployment of the human rights observer mission MINUGUA took place in 1994, before the signing of the final peace accords. The results were positive: human rights violations fell significantly (Amnesty International, 1997: 43). Following the signing of the peace accords, the UN observer mission expanded its mandate to include verification of the implementation of the accords. Jean Arnault, who had been the main moderator in the negotiations from 1994 to 1996, was in 1997 named as the Secretary-General's Special Representative in Guatemala and led MINUGUA in its new task of verification of the accords.

In the post-settlement period MINUGUA's mandate comprised four roles: verification, good offices between the parties, technical assistance and public information concerning the peace accords. The mission consisted of 560 persons between 1997 and 2000. This figure was reduced to 280 in 2001, and the mission is slowly being reduced in size before its mandate expires in 2003. With offices in 14 different locations and a number of mobile offices, MINUGUA is definitely the international organization that has made its presence most felt in the country.

Verification. In contrast to other post-settlement situations, where the main task has been to verify the disarming and reintegration of combatants, in the case of Guatemala the task was more comprehensive. Although the goals were defined and the timetable set, MINUGUA was left with the task of developing indicators by which to measure compliance of public policy performance. This was a much more innovative and extensive role for a verification mission and one on which little, if any, UN-developed instruments existed. Verification methods were established in cooperation with other UN agencies present in Guatemala, other members of the international community and in dialogue with the government. On this basis, MINUGUA has produced reports on the human rights situation (12 reports), on general compliance with the peace accords (6 reports) and on specific themes (13 reports).

Good offices between the parties The mediation effort by MINUGUA initiated in 1994 has continued also in the post-settlement period. The role was established particularly to mediate between the signatory parties if discrepancies occurred. Basically, MINUGUA was meant to provide international support to the Follow-Up Commission. This role corresponded to what was mentioned previously as particularly important: having mechanisms for continued dialogue and

² This section is based on input from UNDP Director Juan Pablo Corlazzoli during the Guatemala conference in Oslo, 4–5 December 2001. His paper is available at <http://www.prio.no/events/guatemalaconference/>.

consultation between the parties. MINUGUA, however, has not limited this role to supporting the Follow-Up Commission but has also mediated between different sectors of Guatemalan society. One example of this was the mediation effort with different sectors to push for constitutional reforms. The continued polarization, fragmentation and conflict in Guatemalan society have meant that MINUGUA has placed a lot of emphasis on this role.

Technical assistance Another of MINUGUA's roles has been to strengthen institutions both in the state and in civil society. Normally, this work has been developed in close cooperation with other UN organizations and members of the international community present in Guatemala. Concrete examples have been the participation in the reform of the judicial system, the establishment of the women's forum and participation in the different commissions related to the reform process.

Public information. It has also been MINUGUA's responsibility to provide information across the country on the peace accords. In this task, MINUGUA was limited by being the only official unit with resources to inform about the peace accords. (Neither the president's peace secretariat, SEPAZ, nor the Follow-Up Commission had funds for informing the public about the content of the accords.) However, MINUGUA's own funds for this purpose were limited, and this has definitely contributed to the low levels of knowledge about the peace accords among the population.

Dilemmas and Lessons Learned from the Role of MINUGUA in Guatemala

Any verification mission has to strike a balance between verification tasks on the one hand and good offices on the other. Any UN verification mission will always be dependent on the goodwill of the host government. Lack of cooperation with MINUGUA – especially on the part of military and state officials – has been a problem (Amnesty International, 1997) and has limited MINUGUA's capacity for carrying out its verification tasks.

There also seems to have been some reservations against MINUGUA among people more generally. Whether this was owing to national resentment against foreign involvement, the way in which this particular involvement was carried out, lack of knowledge of what MINUGUA is doing, or other reasons has not been clearly established.

Another weakness with MINUGUA, and perhaps with verification missions in general, is that there are no formal mechanisms for tackling the problem of non-compliance with the accords by the parties. While MINUGUA had full access to the media and disseminated its findings, it was not clear what steps national institutions, the UN Mission and other bodies of the UN could take when its recommendations were implemented only partially or not at all.

MINUGUA has been criticized for not pressuring for more compliance with the accords and for being too reluctant to denounce lack of compliance. There will always be a tension between working on institutional strengthening, requiring a collaborative relationship with individuals and ministries, and the need to maintain a critical, independent and public stance. This tension is inherent in all peace implementation work. The trade-offs are there and need to be accepted and managed as skilfully as possible.

In this regard, it has been discussed whether or not it was a mistake on the part of the UN to name the same person as negotiator and verifier. The main argument is that Jean Arnault, although a highly committed and qualified person, became so closely connected with the parties and their satisfaction with what had been achieved that his capacity for pressuring for compliance was weakened. On the other hand, one could argue that it was invaluable to have as a head of MINUGUA someone with a direct personal stake in the successful implementation of the accords.

The large MINUGUA mission stands in sharp contrast to the limited presence of other UN organizations in Guatemala. Whereas MINUGUA employed 500–600 persons between 1997 and 2000 (280 in 2001) and had offices across the country, the Food and Agriculture Organization and the International Labour Organization offices had only one person each (Juan Pablo Corlazzoli, Oslo Conference, 5 December 2001). This asymmetry negatively affected the potential for

essential cooperation on the substantial themes of the peace accords. The absence of a general strengthening of the UN system in general also limited the possibilities for supporting the state and the civil society in the construction of peace.

In an implementation process that only comprises tasks of demobilization and reintegration of ex-combatants, the presence of a UN verification mission can be quite limited in time. Where the verification tasks are as broad as they are in Guatemala – covering implementation of policies in fields like economic development and restructuring of the state – a verification mission has to be present for a much longer time. Moreover, the amount of patience and commitment from the international community with regard to such a long-time presence seems inversely proportional to the distance of the conflict area from the respective countries.

Other 'Third Parties' in Guatemala: International Post-Settlement Assistance

There are various dimensions of international assistance in a post-settlement situation that seem important in the implementation of peace accords. It can be useful at this point to distinguish between international financial support for the implementation of peace accords – what can be called *international implementation promotion* – and international aid used to pressure for compliance with peace accords – *international implementation pressure or peace conditionality*. I will mainly focus on the latter, since this can be assumed to have the largest impact on implementation.

The concept of *peace conditionality* can be understood as when international financial institutions place conditions related to compliance with particular clauses of given peace accords before they will grant international assistance. Such peace conditionality may include the need to raise tax revenue, particularly from the wealthy, and to reduce military and other non-essential expenditures (Boyce & Pastor, 1997: 299).

During the negotiation process in Guatemala, several groups played an important role. Of these, the Contadora group, the extended Contadora group and the countries in the Group of Friends (Mexico, Colombia, Venezuela, Spain, Norway and the United States) were perhaps the most important. Also of importance were other agencies and organizations of the UN and the Inter-American Development Bank. In the post-settlement period, it has been the joint forum of the donor community and the international financial institutions – the so-called Group of 12 – that has provided the most important international pressure for implementation of the peace accords.

An important lesson was learned from the implementation of the Salvadoran peace accords, where there was a huge inconsistency between the international financial institutions' demands for a structural adjustment policy on the one side and the pressure from the UN to prioritize peacebuilding measures on the other (de Soto & del Castillo, 1994: 71). In Guatemala, this problem was dealt with at an early stage, and there has been good coordination between the UN system and the donor community. A Consultative Group (CG) was formed even before the signing of the peace accords, comprising the most important international financial contributors, such as the World Bank, the Inter-American Development Bank and various donor countries and international organizations. The international donor community (25 countries and 22 international bodies) promised to find US\$ 1.9 billion for Guatemala's reconstruction efforts between 1997 and 2000, and the actual contributions made – US\$ 2.4 billion for the period 1996–99 – even exceeded their promises (Juan Pablo Corlazzoli, Oslo Conference, 5 December 2001).

In contrast with what happened in El Salvador, in Guatemala the donors formally stated conditionality for their assistance. When the CG met in January 1997 in Brussels, the participants made it clear that the money would only be disbursed if there were a substantial increase in Guatemala's fiscal revenues, from 8% to 12% of GDP by 2000 (CCAR, 1997).

Although peace conditionality has functioned only relatively well if we judge from Guatemala's conduct on increasing the tax base, it no doubt constitutes a pressure mechanism with regard to implementation of the peace accords. One example of this is the Congress's approval of 47 constitutional reforms in the middle of October 1998, just prior to a meeting of the CG, which had already postponed its meeting once owing to lack of progress with implementation. The threat of cuts in foreign assistance may have constituted sufficient pressure upon the Guatemalan government to ensure that the constitutional reforms were passed before the meeting.

On the other hand, a strict application of conditionality has not been feasible – or even desirable – from the perspective of the donors.

First, in order for it to be feasible and efficient, the donor community would have to be consistent and unified in its stance on basic conditions. This has proven difficult. For instance, the United States criticized Guatemala's refusal to carry out serious tax reform, but it did not back up its criticism by threatening to hold up any project funding (Jonas, 2000: 179). The Europeans, especially the Nordic countries, took a stronger line, at least in the beginning – signing virtually no loans at the September 1997 mini-CG meeting (*ibid.*).³ Threats to withdraw resources for non-compliance become less credible when the donors do not act in unison.

Second, especially when the accords have not been accepted by powerful sectors of society, peace conditionality can be challenged by those sectors as imposing external priorities, and the government may use such reactions to strengthen its own resistance or foot-dragging on compliance (Fuentes & Carothers, cited in Jonas, 2000: 188).

Third, there is the classic dilemma of pressuring the government without punishing the beneficiaries of social projects for the government's non-compliance. The World Bank consistently emphasized the need to increase Guatemala's domestic tax base and on occasion suggested that it would decrease its lending if the government failed to make progress on compliance with the Socio-Economic Accord. But, at the same time, in the face of delays and non-compliance by the government, World Bank representative gave assurances that peace-related projects would not be affected (Jonas, 2000:178).

The International Monetary Fund has now conditioned new loans of US\$ 350 million on reform of four financial laws. It may, however, prove difficult to secure a qualified majority in Congress for these measures (Paredes, 2001). Continuation of the discussion on this is planned for the CG meeting in February 2002. The international financial institutions seem to have become more determined to follow through on threats of holding back loans. The patience of the international community is running short, and peace-supporting actors within Guatemala are increasingly asking for a stricter application of peace conditionality.

Third Parties: Conclusion

MINUGUA has played an important role in the post-settlement period. It has, however, had to balance the different tasks assigned to it, and its good offices role has undermined its ability to apply pressure for implementation. In addition, it is with regard to institutional strengthening of state institutions that most remains to be done, and many are worried about what will happen when MINUGUA withdraws.

Peace conditionality is to be the most important mechanism of international pressure for compliance. The discussion on peace conditionality suggests some general lessons about using peace conditionality as a principle: International peace conditionality can be effective and efficient as long as the most important donors agree on the conditions; co-ordinated action is therefore extremely important.

The previous discussion further suggests that the principle of peace conditionality should be handled with care. Conditionality seems most effective and fruitful when it can function as a positive inducement for the government to accomplish policies that it already has decided it wants to accomplish. In such cases, conditionality can be useful in strengthening the government against resisters and can be the decisive factor among internal players (Jonas, 2000: 180). A final point is that it must be possible to comply with the conditions imposed. It goes without saying that donor pressure must not be so strong and demands so unreasonable that they incite strong negative reactions locally.

³ In more recent cases, the United States has been the one exercising the most efficient pressure for implementation of certain reforms, for instance to the labour code.

POLICY IMPLICATIONS

On the basis of the previous discussion of the implementation of the peace accords in Guatemala, it is now time to summarize the experiences, and perhaps draw some lessons, along the five axes indicated at the beginning of the study. The experiences are expected to have some relevance for the implementation of peace accords more generally.

A first consideration concerns *the content of peace accords*. The Guatemalan peace accords were very ambitious. The accords that addressed the root causes of the conflict – the socio-economic issues, demilitarization and indigenous rights especially – are also the ones that have been implemented to the least degree. The time-frame set for implementing the accords was too ambitious. Many commitments required long-term processes and could not be implemented within a four-year period. Why did the parties agree on such an unrealistic timetable for implementation? Did they actually believe that it would be possible to implement all of the accords within four years? Or was a tight time-schedule considered to be a pressure mechanism in itself for implementation? The unfortunate effect of the short time-frame has been that lack of compliance with the timetable has reduced the value of the peace accords in forming an agenda for change.

Would it have been better if the peace accords had been less ambitious and more similar to other peace accords? Not necessarily. In Guatemala, it would probably not have been possible to reach a peace settlement in the first place without provisions for extensive social reform, since that was the guerrilla movement's main goal in the negotiations.¹ It is important, however, to understand the problems created by the idealistic character of the accords in the implementation phase. Moreover, extensive accords create large expectations, and lack of implementation may have a boomerang effect on peace accords and actually create basis for new, armed conflicts. One comment must also be made on the Commission of Historical Clarification in Guatemala, since experiences with 'truth commissions' are mixed and hotly debated. Although its mandate was limited, and it could not attribute responsibility for human rights abuses to any individuals or have any judicial aim or effect, the Commission of Historical Clarification exceeded the expectations of most critics of the stalled peace process, and human rights activists and representatives of the victims warmly welcomed the Commission's report. Its description of the government's policy at the height of the war as a policy of genocide actually circumvented the limitations in the mandate by opening opportunities for judicial prosecution in some concrete cases. It is interesting to compare the Guatemalan truth commission to those of El Salvador and South Africa. In both of these countries, the mandate of the commissions was wider, and both attributed responsibility to individuals. In both cases, amnesty was granted to some perpetrators, making juridical prosecution impossible.² Whereas the commissions in El Salvador and South Africa to a larger extent addressed the 'right to truth', the Guatemalan commission's report paved the way for addressing the 'right to justice'. The Guatemalan experience may indicate that despite strong resistance from entrenched military circles, it may still be possible to address the sensitive issues of past atrocities and produce evidence that can later be used to promote justice.

¹ This is also the case for other left-wing guerrillas, for instance in the Philippines.

² In El Salvador, President Cristiani issued a general amnesty three days after the publication of the Truth Commission's report, whereas in South Africa amnesty was provided on an individual basis and under certain conditions. (For more details on South Africa, see Elling Tjønneland's paper at the Oslo conference, 5 December 2001, available at <http://www.prio.no/events/guatemalaconference>.)

Policy implications: When peace accords are as extensive in their aims as they were in Guatemala, including both peace and development concerns, it is essential to define priorities, differentiate between the various types of commitments, and be realistic about the time it takes to implement the various commitments. Strategies for implementation on each commitment should be developed. The Guatemalan experience should perhaps be brought to the attention of the parties to other similar conflicts and peace processes, such as in the Philippines, where the asymmetrical negotiations between the government and the exile leaders of the 'communist' guerrilla movement resemble the structure that has characterized the peace process in Guatemala.

A second consideration concerns the *political will and capacity* to implement the peace accords. The discussion in part III supported the assumption that the political will and capacity of the governing party, and of the president and his circle, are very important. In Guatemala, the lack of political vision among the dominant political actors was a significant impediment to implementation. It soon became clear that the internal pro-peace coalition in Guatemala was not strong enough to counter the pressures from the peace resisters in the implementation phase of the accords. Paradoxically, once the accords had been signed, the impetus was lost.

A possible *policy implication* is to focus more on the aspect of implementation in peace accords and to follow up on strategies for implementation. The experience in Guatemala also suggests that fundamental legal reforms should be passed as soon as possible after the signing of an accord, while there is still political momentum and international will to support the implementation of the new legislation.

A third set of considerations stems from the above discussion on *ownership of the peace process*. There seems to be an inherent contradiction between a peace process, in which certain results are agreed upon by two contending parties, and an open political process in democratic institutions, where policy results depend on elections and party politics and cannot be determined through bilateral negotiations. Central questions are then: How legitimate is it for the parties to an armed conflict to negotiate broader development issues when properly elected institutions exist to decide about such matters? And are the parties sufficiently representative to obtain the necessary political backing for implementing their agreements, once these have been signed? If the answer is that the parties are not sufficiently representative, then this might lead to the conclusion that a peace settlement should emphasize political freedoms, representation and empowerment rather than substantive economic or social reforms. A peace settlement might then pave the way for strengthening civil society and building up a political force for change. Moreover, the longer it takes for peace accords to be implemented, the more they become subject to normal day-to-day politics. Thus, it must be important for a demobilized guerrilla movement to prepare its own transformation into an effective political force.

Another observation on the Guatemalan experience concerns precisely the involvement of civil society. Civil society organizations were brought into the negotiation process in Guatemala through the Assembly of Civil Society and had a relatively large influence on the formulation of the accords. This contrasts with their lack of influence in the implementation phase. There were various reasons for this, as we saw in Part III. Would it have been possible to involve broader sectors of the population in the implementation of the accords? Could their role in implementation have been formalized to a larger extent? The experience from Guatemala shows that, where groups and organizations were brought together with government representatives to discuss issues of common concern, constructive and less confrontational attitudes towards each other developed. These good cooperative relations are important steps in the process of creating mutual trust and increased participation, in short creating the basis for reconciliation between state and society in the long run.

Policy implications: More actors should be involved in the implementation phase than just the signatory parties. The positive experience from the fiscal pact in Guatemala suggests that, in order to make progress in sensitive areas, it is necessary to make alliances with actors other than those present at the negotiations. Accords should be constructed in a way that allows the parties to involve additional actors in the implementation phase.

Moreover, in order to promote ownership of peace accords in multicultural contexts emphasis should be placed on translating peace accords into local languages and most important; making the translations contextually relevant. Communication experts, anthropologists and local com-

munity leaders should be used in communicating the content of peace accords to the general populace.

A fourth consideration concerns the *institutional mechanisms* for making peace sustainable. The institutional framework designed around the Guatemalan peace accords seemed ideal for institutionalizing peace: It included a top-level Follow-Up Commission for continued dialogue and consultation, a secretariat at the President's office (SEPAZ) and the establishment of a large number of commissions and departmental boards for increased participation, dialogue and consensus. The previous discussion suggested that these instruments were important for participation but could have been more efficient. The importance of the Follow-Up Commission decreased over time and SEPAZ was primarily limited by its mandate. An observation from Guatemala is that the strength in the institutionality of peace is highly correlated with the strength of the state as such. In Guatemala, the state remains weak, characterized by a clientelist political culture, lack of continuity in policy administration and low legitimacy because of its legacy of repression and its failure to deliver collective goods and project a common identity. The Guatemalan peace accords provided for a restructuring of the state, but the provisions agreed were designed for a strong state and thus did not correspond to the reality.

Policy implications: One implication of the Guatemalan experience may be that it is necessary to provide for the building of a strong civil service with increased professionalism. What it takes to create a rational bureaucratic culture should probably be an important theme for discussion at an early stage in a peace process involving a weak state. Current experiences in Afghanistan may provide us with a new salient experience in this domain. As will be evident in Afghanistan, quick fixes are not possible; rather it will be necessary to plan for long-term processes with the involvement of a range of social forces.

Another policy implication is that, when implementation of peace accords extends over time, the composition of a follow-up commission should not be static and defined only by the original parties to the agreement, but rather should be determined through a genuine political process in which all the most important political forces, as well as representatives of weak social groups, take part. Efforts should be made to empower such a commission, also through external support, so that it may efficiently promote accord implementation.

A fifth set of considerations concerns the role of *third parties*. It is widely recognized that the UN verification mission MINUGUA has played an important role in post-settlement Guatemala. However, it has had to balance its different tasks: verification, good offices, technical assistance and public information. This balancing of tasks may have weakened MINUGUA's ability to denounce non-compliance by the parties. In addition, it is important not to over-estimate the role that the UN can play in a post-settlement period. Its sanction force is limited. As Hampson reminds us, UN leverage over the actors in any peace process is a declining resource once the settlement has been signed by the parties (2001: 51). It is tempting to conclude along the lines of Cynthia Arnson that no international body can substitute for the political will of the parties involved (2001: 44).

When it comes to international funding for the peace accords, the Guatemalan experience constitutes an ideal model for coordinated action between the UN and the international financial community. Based on the lessons from the negative experiences in El Salvador, where lack of coordinated action between the UN and the international financial institutions was a major problem in the implementation phase, this situation was dealt with successfully in Guatemala. A Consultative Group, including the international donor community and international organizations, has been the main forum for coordinated action and common commitments for funding, and this group actually came up with more economic support than originally promised. When budgets have been a problem in implementing measures entailed in the peace accords, this has primarily been due to lack of a national counterpart to match the international contributions. Donors have formally stated peace conditionality as a principle for their assistance. Although a strict application of peace conditionality is not feasible or desirable, it is probably the most important mechanism of international pressure for compliance with peace accords.

One *policy implication* based on the experiences with MINUGUA in Guatemala is that verification of extensive peace accords requires a long-term commitment and presence. Continued inter-

national presence is still important in Guatemala. Increased focus on institution-strengthening is necessary.

There is a need for third-party pressure on an elite-dominated government to implement reforms that are in the interest of weak social groups and minorities. Rather than the UN, it is the international donor community that can enforce such pressure in a post-settlement situation. Interestingly, in Guatemala there seems to be a much broader understanding and support for international pressure among people now than before. Although withdrawal of economic loans and support may affect the weakest groups negatively, it is thought to be a legitimate and effective mechanism for improving the situation in the long run. This should suggest coordinated action and a common stance on conditionality by the international donor community as a follow-up to the Consultative Group meeting in February 2002.

Finally, one question remains: Why has there been no resumption of war in Guatemala when the peace accords have been implemented to such a limited extent? There are many reasons for this: The guerrilla combatants were effectively demobilized after the signing of the peace accords, and room for political participation was opened through the peace process, with the result that the guerrillas are now fighting with political means to achieve their goals. Besides, the guerrillas would have neither an internal nor an international support base for armed action. Although most people consider a resumption of war highly unlikely, lack of improvement in people's living conditions is already creating a lot of frustration and fosters crime and the organization of armed groups. The lack of will and capacity by the state to cope with the increased crime and discontent in the population may indeed give rise to new armed revolts. However, if armed conflict resumes in Guatemala, it will be a new armed conflict and not a resumption of the old one.

CHRONOLOGY OF EVENTS

- 1945: Reformist candidate Juan José Arévalo elected president.
- 1950: Jacobo Arbenz Guzmán elected president.
- 1954: CIA's 'Operation Success' topples Arbenz's government; Carlos Castillo Armas takes power.
- 1955: Castillo Armas confirmed as president.
- 1957: Castillo Armas assassinated; military takes control of government.
- 1958: Elections won by conservative Michael Ydigoras Fuentes.
- 1960: Armed conflict begins after the failure of a nationalist uprising by military officers.
- 1962: Formation of the M-13 and Rebel Armed Forces (FAR) guerrilla groups.
- 1963: Army removes Ydigoras and names Defence Minister Alfredo Enrique Peralta as president.
- 1966: Julio César Méndez Montenegro elected president.
- 1970: Carlos Arana Osorio elected president.
- 1971: Formation of the guerrilla movement 'Organization of People in Arms' (ORPA) .
- 1972: Formation of Guatemalan Army of the Poor (EGP).
- 1974: Rightwing candidate Kjell Laugerud García elected president.
- 1978: General Romeo Lucas García elected president.
- 1982: Formation of the Guatemalan National Revolutionary Unity (URNG) by the EGP, the ORPA, the FAR and a part of the Guatemalan Workers' Party (PGT); a junta of army officers seizes power; the junta is later disbanded and its leader, General Efraín Rios Montt, takes power.
- 1983: Military coup; Defence Minister General Oscar Humberto Mejía Víctores seizes power.
- 1983–85: Peace Initiative by the Contadora Group.
- 1985: Christian Democrat Marco Vinicio Cerezo Arévalo wins national election: transition to democracy initiated.
- 1986: New constitution promulgated.
- 1986–87: The 'Esquipulas Process': Central American heads of state agree on economic cooperation and a framework for peaceful conflict resolution; the 'Esquipulas II' accord is signed in Guatemala City by the five Central American presidents on 7 August 1987.
- 1987: A National Reconciliation Commission (CNR) is formed. First public contact is made between the URNG and government representatives in Madrid, but both sides impose prohibitive conditions for further talks.
- 1988: The URNG meets the CNR in Costa Rica for the first time.
- 1989: Frequent meetings between the CNR and the URNG with UN observation and moral and logistic support of the Catholic Church and the Lutheran World Federation.
- 1990: The URNG meets with members of the CNR in Oslo and signs 'The Basic Agreement on the Search for Peace by Political Means' (the so-called Oslo Accord); Catholic Bishop Rodolfo Quesada Toruño is invited to become official 'conciliator', and the UN Secretary-General is invited to observe the dialogue.
- 1991: Jorge Serrano Elías assumes presidency; the URNG and the government meet in México; the so-called Mexico accord is signed in April, reincorporating the substantive issues raised through the Oslo process; another meeting held in Mexico without consensus on human rights.
- 1992: Impasse on human rights and in the peace process in general. partial agreement on Civil Defence Patrols and on the terms of return of refugees from Mexico.
- 1993: Attempt at an executive coup by government and army hardliners; President Serrano is replaced by former human rights ombudsman Ramiro de León Carpio; the National Reconciliation Commission is

¹ Based on Barry, 1990: 158–163 and Accord, 1997: 81–85.

- dismantled, the position of Conciliator annulled, and a Government Peace Commission (COPAZ) installed.
- 1994: The United Nations brought in as mediator to the conflict; a framework Agreement is signed in January for the resumption of negotiations; the Group of Friends is established, consisting of Colombia, Mexico, Norway, Spain, the United States and Venezuela. The Civil Society Assembly (ASC) is formed under the provisions of the framework agreement.
- Further accords signed in 1994:*
- The Agreement on a Timetable for Negotiating a Firm and Lasting Peace in Guatemala (Mexico City, 29 March);
 - The Comprehensive Agreement on Human Rights (Mexico City, 29 March);
 - The Agreement on the Resettlement of Population Groups Uprooted by the Armed Conflict (Oslo, 17 June);
 - 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, 23 June).
- 1995: The Agreement on the Identity and Rights of Indigenous Peoples (Mexico, 31 March); President Alvaro Arzú Irigoyen from the Partido de Avanzado Nacioal (PAN) is elected president.
- 1996: President Alvaro Arzú names Gustavo Porras Castejón, one-time leader of the URNG-affiliated Guerrilla Army of the Poor (EGP) as new president of COPAZ. On 30 March, URNG announces an immediate, unilateral ceasefire. Several accords are signed:
- The Agreement on Socio-Economic Aspects and the Agrarian Situation (Mexico, 6 May);
 - The Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society (Mexico, 19 September);
 - The Agreement on a Definitive Ceasefire (Oslo, 4 December);
 - The Agreement on Constitutional Reforms and Electoral Regime (Stockholm, 7 December);
 - The Agreement on the Basis for the Legal Incorporation of the URNG (Madrid, 12 December);
 - The Law on National Reconciliation (18 December);
 - The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (Guatemala, 29 December);
 - The Agreement on a Firm and Lasting Peace (the final peace accord) is signed in Guatemala City on 29 December.
- 1999: A package of constitutional reforms is turned down at a referendum in May; the right-wing party Frente Revolucionario Guatemalteco (FRG) wins the elections in November.
- 2000: President Alfonso Portillo is sworn in as President.

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