

10 years without war... waiting for peace:



**The State of Compliance with the Peace Accord
on Strengthening Civilian Power and the Role of
the Armed Forces in a Democratic Society**

Guatemala, August 2007

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Foreword

Peace Brigades International (PBI) is a non-governmental organization registered with the United Nations. The organization maintains international observer/accompaniment teams in various countries around the world. The purpose of this international accompaniment is to protect the space in which human rights defenders work. PBI's main task is to provide an international presence to protect these activists as they work non-violently in defense of human rights.

PBI's history in Guatemala goes back to 1983. After receiving petitions from fledgling Guatemalan human rights organizations, PBI set up a team of international volunteers to provide protective accompaniment. The popular movement in Guatemala was struggling to survive. In accordance with its mandate, the Guatemala Project's objective was to protect the spaces opened by civil society organizations, and to inform the international community about the situation in Guatemala. Always adhering to the criteria of non-partisanship, non-violence and non-interference, PBI was one of the first international organizations in Guatemala to promote peace since the country's armed conflict began in 1960. During this period, PBI volunteers accompanied local human rights organizations, unions, as well as indigenous, peasant, refugee and church groups. In 1999, three years after the historic Peace Accords were signed, PBI decided to close the project after a long evaluation period in which it concluded that a political space had been opened and maintained in which civil society organizations could operate. However, PBI continued to monitor events through a Follow-up Committee. Despite initial progress, the situation began to deteriorate again, and PBI began receiving new petitions for accompaniment by mid-2000. A new evaluation was conducted throughout 2001, and by April 2002 PBI decided to reopen the project and resume its international observation and accompaniment work. In April 2003, a new team of volunteers was sent back to Guatemala.

In 2006, the Guatemala Project decided to follow up on a report prepared by PBI in 1998 examining the Peace Accord on Strengthening Civilian Power and the Role of the Armed Forces in a Democratic Society. One purpose of this follow-up report is to continue divulging information as part of our international accompaniment strategy. However, it also represents a continuation of our accompaniment of the peace process and compliance with the Peace Accords 10 years later. PBI continues to believe, as it did in 1998, that compliance with the accord examined in this report is key to expanding and maintaining the political space in which Guatemala's civil society works.

This accord has a particular impact on the country's democratization, and compliance with it is fundamental if the rule of law is really to prevail in Guatemala. This report does not attempt to cover all aspects of a process as complex as the transformation of the three state powers under the Peace Accords. It simply attempts to contribute to a process that PBI continues to accompany, and we hope that the aspirations of the Guatemalan people to live in a country in which the rule of law, justice and equality prevail, become reality.

Methodology

The following was the methodology used to prepare this report:

- a. Selection and study of documents dealing with the *Peace Accord on Strengthening Civilian Power and the Role of the Armed Forces in a Democratic Society*. We placed special emphasis on the following reports issued on the 10th anniversary of the signing of the accords:
 - *Diez Años de Acuerdos de Paz: Evaluación y Perspectivas 1996-2006*, ("Ten Years of Peace Accords: Analysis and Perspectives") Rigoberta Menchú Tum.
 - *Informe Situación Actual del Cumplimiento de los Acuerdos de Paz 2004-2006* ("Status Report on Compliance with the Peace Accords 2004-2005"), SEPAZ ("Peace Secretariat" of the Guatemalan Government).
 - *Proceso de Fortalecimiento del Sistema de Justicia: avances y debilidades, julio 2003-junio 2006*, ("Process to Strengthen the Justice System: progress and weaknesses") Research and Social Studies Association (ASIES).
 - *Seguridad y Justicia en Tiempos de Paz*, (Security and Justice in Times of Peace) Guatemalan Human Rights Ombudsman's Office (PDH), 2006.
- b. Press sources cited:
 - Prensa Libre
 - La Hora
 - Cerigua
 - El Periódico
 - Siglo Veintiuno
 - Inforpress Centroamericana
- c. Interviews:
 - Amílcar de Jesús Pop, president of the Association of Mayan Lawyers and Notaries of Guatemala (ANMAG)
 - Arnoldo Ortíz Moscoso, former member of the National Commission to Monitor and Support the Strengthening of the Justice System, (CNSAFJ)
 - Augusto Eleazar López, magistrate of the Supreme Court of Justice (CSJ)
 - Azucena Socoy, director of the social division of the Indigenous Women's Defense Committee (DEMI)
 - Cecil de León, member of the National Council on the Peace Accords and member of the Social Organizations Group (COS)
 - Enrique Álvarez, president of Impact on Democracy (IDEM)
 - Helen Mack, director of the Myrna Mack Foundation (FMM)
 - Iduvina Hernández, president of the Association for the Study and Promotion of Security in Democracy (SEDEM)
 - Juan Hernández Chávez, head of the National Civil Police (PNC)

- Juan Pablo Arce Gordillo, expert on human rights and constitutional law.
- Juan López-Dóriga Pérez, Spanish Ambassador to Guatemala
- Marco Antonio Canteo, director of the Research Department of the Institute for Comparative Studies in Criminal Science of Guatemala (ICCPG)
- Mario Chávez, Guatemalan congressional deputy with the New Nation Alliance Party (ANN)
- Mario Polanco, director of the Mutual Support Group for families of the disappeared (GAM)
- Miguel Ángel Albizures, president of the Association of Families of the Detained-Disappeared of Guatemala (FAMDEGUA)
- Myrna Caballeros, director of the Technical Division of the Criminal Public Defense Institute (IDPP)
- Guillermo Méndez, legal advisor with the Technical Division of the Criminal Public Defense Institute (IDPP)
- Norma Quixtán, Peace Secretary (SEPAZ)
- Otto Pérez Molina, General Secretary of the Patriot Party (PP)
- Raquel Zelaya, director of the Research and Social Studies Association (ASIES)
- Silvia Vásquez, former Vice-Minister of the Community Support Division of the Ministry of the Interior
- Verónica Godoy, director of the Multi-Party Committee in Support of Public Security (IMASP)

d. Analysis and discussion of the information collected. Elaboration of an initial draft document.

c. Feedback from people in our organization familiar with the subject.

c. Revision and elaboration of a second draft document to include all feedback.

c. Elaboration of the final document.

We faced some limitations throughout this process which should be taken into account as the report is read:

By contrast with PBI's first report in 1998, the second report benefits from the valuable analysis of the subject since then on both the national and international level. However, even as this report was completed, the socio-political scene was changing with new proposals for improving public security and the justice system, as well as for purging and reforming public institutions. Therefore, some of the details of this report may change in the near future.

We hope this report will help all organizations interested in Guatemala's future and in compliance with the Peace Accords, particularly those accords established to guarantee human rights, eliminate impunity and improve the security of the Guatemalan people.

Introduction

The first report by the PBI-Guatemala Project in 1998 on compliance with the Peace Accord on Strengthening Civilian Power and the Role of the Armed Forces in a Democratic Society included information on Phase I and part of Phase II of the Timetable for Implementation. At that time, only a year and half had passed since the Accords were signed and there were many expectations. We were all heavily involved in monitoring fulfillment of the Peace Accords and in promoting the spirit of the same. We knew that the challenge was a big one and that there were more than a few roadblocks.

Ten years after the Peace Accords were signed, this second report attempts to provide an overview of the current state of compliance. It deals with such important topics as voter defeat of the constitutional reforms in 1999, which made it necessary to seek other ways to implement the commitments under the accords. In this report, we analyze the implementation of the aforementioned accord, as well as some of the stalled processes and setbacks.

In 2005, the National Council for Compliance with the Peace Accords (CNAP) was established under the Framework Law on the Peace Accords (Decree 52-2005). The purpose of this body, consisting of members of the three branches of government, political parties and civil society, is to discuss, coordinate, reach a consensus on and promote and influence the legal reforms, policies, plans and legislative proposals that contribute to full compliance with the Peace Accords. The creation of the CNAP reflected the need to continue working on implementation of the obligations agreed to a decade ago between state institutions and civil society in order to achieve real democracy and rule of law.

With the Framework Law on the Peace Accords, the Government acknowledges that the implementation of the accords is a long and complex process that requires the will to comply with the obligations undertaken therein and the involvement of all branches of government, among other actors. Moreover, it affirms the need to renew and strengthen the process to institutionalize peace overall and preserve the spirit and the substance of the Peace Accords. It acknowledges that the Peace Accords are an obligation of the State and that the State must initiate the necessary changes to stimulate the process. Despite efforts to reactivate the process of complying with the Peace Accords, there are many commitments pending fulfillment 10 years later, as this report will show.

The international community has played an important role throughout the entire peace process in Guatemala. Now, it is more important than ever to resume this role of accompaniment of and support for compliance.

I. Legislative Branch

The Peace Accord on Strengthening Civilian Power and the Role of the Armed Forces in a Democratic Society recognizes the importance of increasing the legitimacy of the Legislative Branch of Government as one of the three state powers in order to best respond to the needs of Guatemalan society. For this purpose, the signatories to the Accord created a Multi-Party Commission (*Instancia Multipartidaria*) which, unfortunately, was dissolved shortly after it was established.¹ The Accord establishes various measures for modernizing the Legislative Branch, such as the amendment of the Internal Rules of Congress to speed up parliamentary procedures; the application of checks and balances over the Executive Branch; legal and constitutional reforms to improve the administration of justice; reinforcement of the work of the commissions, starting with expert advice, as well as the redefinition of the functions of the Human Rights Commission.

I.1. Constitutional Reforms: The 1999 Referendum

The Peace Accords proposed a series of constitutional reforms that would serve as “the substantive and fundamental basis for reconciliation in Guatemalan society.” In May 1999, the proposals for constitutional reform were submitted to a referendum and were rejected by voters. Voter participation in the referendum was very low with just 18% of eligible voters turning out. According to Luís Ramírez of the Institute of Comparative Studies in Criminal Science of Guatemala (ICCPG), the disappointing result was due to manipulation on the part of Guatemala’s traditional sectors and the overconfidence of the social democratic sectors that were pushing the reforms.² Param Kumaraswamy, UN Special Rapporteur on the Inde-

pendence of Judges and Lawyers, visited the country in 1999 and pointed out the lack of information and preparation of the population with respect to the reforms. He said the impact of the negative vote can be countered to some degree, since some of the Peace Accord proposals do not require constitutional amendments in order to be implemented.³ However, 10 years after the accords were signed, a report issued by Rigoberta Menchú as the Guatemalan Government’s Goodwill Ambassador for the Peace Accords, notes that the rejection of the constitutional reforms has resulted in non-fulfillment of the substantive aspects of the AFPC.⁴

I.2. The Modernization of Congress

At the time of this report, Congress had 158 members representing 17 political parties. These members were organized into 43 congressional committees.⁵ The Organic Law of Congress stipulates that representation of the political parties on these committees should reflect that of Congress as a whole. The legislature’s Technical Assistance Commission is responsible for following up on the institutionalization of the other Congressional commissions with the help of the Permanent Technical Advisory Unit (UPAT). This commission’s priorities are to review the Organic Law of Congress and facilitate the legislative process. In accordance with the Peace Accords, the Peace and Demining Commission was initially created by Decree 46-97 and modified by three subsequent decrees (106-97, 79-98 and 04-2001). Its agenda for 2006 included a campaign to promote awareness of the contents of the Peace Accords and their fulfillment, giving priority to the Accord on the Identity and Rights of Indigenous Peoples (AIDPI), the issue of compensation and the land problem.⁶

According to an analysis conducted by the Organization of American States (OAS) in 2006, the Guatemalan legislature did not implement any modernizing laws for four years (1999-2003). After the new legislature took over in 2004, and with the support of the OAS, Congress approved a Plan to Reinforce State Institutions and Increase Governability. A consortium consisting of five institutions is charged with executing this plan.⁷ Despite the efforts of this consortium, however, there is still no permanent advisory body in Congress as a whole.⁸

The AFPC also stipulates a review of the Internal Rules of Congress to facilitate parliamentary procedures and the process for drafting laws. In 2005, a project coordinated by the OAS drafted a new Organic Law for the Legislative Body, which is currently pending approval by the Technical Support Commission. The legislative process continues to be very slow, and the number of commissions does not necessarily facilitate this procedure. In March 2007, the Guatemalan daily newspaper *Prensa Libre* published statistics showing the contrast between the low productivity of legislative commissions and the high number of laws pending approval. Manfredo Marroquín of Citizen Action said this situation reflects “an inefficient system resulting from the high number of commissions, which were created to satisfy the needs of deputies.”⁹ Arnoldo Ortíz Moscoso, a former member of the National Commission to Monitor and Support the Strengthening of the Justice System, has a similar view. “Congress needs a procedure to facilitate interaction between legislative commissions, which are currently redoubts in which each party assigns Congressional deputies, not according to their skills and abilities but according to the posts they hold in their respective parties.”¹⁰ To increase the productivity of the commissions, Citizen Action recommends that Congress establish an administrative support team with a high level of expertise.¹¹

Another weakness of Congress, according to Citizen Action, is the inability of its members to obtain adequate information for legislative purposes. The current Organic Law does not establish mechanisms for legislators to take advantage of the opinions, auditing experience and capabilities of civil society.¹²

To address this problem, the Democratic Values and Political Management Program of the OAS (DVPMP-OAS) and the Danish Cooperation Agency (PRODECA) jointly prepared a Manual for Relations with Civil Society. They also provided training for legislative political parties in these matters, and issued a proposal for administrative and regulatory reform to institutionalize consultation mechanisms and legislative transparency.¹³



Façade of the Guatemala Congressional Building. PBI photo.

Regarding the exercise of constitutional controls over the Executive Branch, as stipulated in the AFPC, the PVDGP-OEA initiated the creation of manuals, guides and oversight records, as well as training for administrative personnel and Congressional deputies on budget analysis. Moreover, the Legislative Branch continues to make use of formal hearings for the questioning of Executive Branch officials, as in the case of Interior Minister Carlos Vielmann, who was replaced in March 2007 after a vote of no-confidence in Congress. However, Citizen Action notes that this procedure is rarely used to solve problems and is frequently characterized by a low level of expertise and the lack of prior research by Congressional deputies.¹⁴

Regarding interaction between Congress and Guatemalan society, the Citizen Services Office and the Department of Social Communication were opened in 2005 with financing from the Swiss Cooperation Agency. In addition, a system that opens specific Congressional sessions to the public has been established, and a Communication Program for state institutions was initiated. In addition, a new Web site was designed for Congress.¹⁵ However, Congressional deputy Mario Chávez of the New Nation Alliance Party (ANN in Spanish), says that relationships between the Legislature and the public continue to be difficult, especially since the parties in power oppose the intervention of civil society representatives in Congress.¹⁶ Moreover, since 2001, security measures in Congress have reached such a degree that access to the building is very restricted.¹⁷

Furthermore, there have been various scandals involving Congressional deputies which have received a great deal of attention in the national press. For example, it was revealed in November 2006 that three congressional deputies of the ruling party (GAN) forged an invitation letter to finance a trip to Paris with Congressional funds.¹⁸ In May 2006, Congressional Deputy Héctor Loaiza Gramajo was accused of stealing 8,000 gal-

lons of gasoline, which was allegedly brought to his personal gasoline station on his property.¹⁹ Another situation that affects Congress is the high number of so-called “turncoats.” The Guatemalan daily *Prensa Libre* has reported that 65 congressional deputies in the current legislature have abandoned the party with which they were elected in 2004, “and all indications are that the main objective has been to get reelected.”²⁰

Despite efforts to modernize Congress, Guatemala’s Peace Secretariat (SEPAZ in Spanish) has noted in the past that there have not been any substantive or structural changes so far.²¹ The report by Rigoberta Menchú concludes that there have been no visible results in Congress other than that legislative information is presented and filed in a more accessible manner than before.²²

1 See: Peace Brigadas International. *Hacia la Paz. Informe sobre el AFPC*, 1998.
 2 Luís Ramírez García. *Reforma Judicial en Guatemala*, in: *Justicia Penal y Sociedad, Revista Centroamericana*, No. 20, Jan.-June 2004, ICCPG.
 3 Report of UN Special Rapporteur on the Independence of Judges and Lawyers Param Cumaraswamy on the mission in Guatemala, submitted in compliance with resolution 1999/31 of the Commission. (E/CN.4/2000/61/Add.1) 6 January 2000.

4 Rigoberta Menchú Tum. *Diez Años de Paz: Evaluación y Perspectivas 1996-2006*, 2006.
 5 In 2004, the number of Congressional deputies was increased from 113 to 158 to make it more proportional to the number of citizens, as established in the Guatemalan Constitution.
 6 Op. cit. Rigoberta Menchú Tum.
 7 The institutions that make up this consortium are: The Dutch Institute for Multi-Party Democracy (DIMD), The Project in Support of Legal Reform (PROLEY), Citizen Action, the Project to Support Social Organizations on Security Issues (FOSS), the Association for Legislative Progress and Democracy (LEGIS), and the Democratic Values and Political Management Program of the OAS (DVPMP-OAS).
 8 Jorge Calderón Suárez. *Balace de la Modernización Legislativa en Centroamérica y República Dominicana*, 2006.
 9 Siglo Veintiuno, 10 March 2007.
 10 Interview with Arnoldo Ortiz Moscoso, 28 March 2007.
 11 Citizen Action. *Función Legislativa*, 2004, p.20.
 12 *Ibidem*, p.22.
 13 Op. cit. Jorge Calderón Suárez, 2006.
 14 Citizen Action. *Estudio sobre el Sistema Nacional de Integridad de Guatemala*, 2006.
 15 *Ibidem*.
 16 Interview with Mario Chávez, 12 April 2007.
 17 Op. cit. Citizen Action, 2004, p.22.
 18 Cerigua, 13 November 2006.
 19 www.telediario.com.gt, 27 March 2007.
 20 *Prensa Libre*, 21 April 2007.
 21 Peace Secretariat. *Los compromisos de paz. Sinopsis de su cumplimiento*, 2003.
 22 Op cit. Rigoberta Menchú.



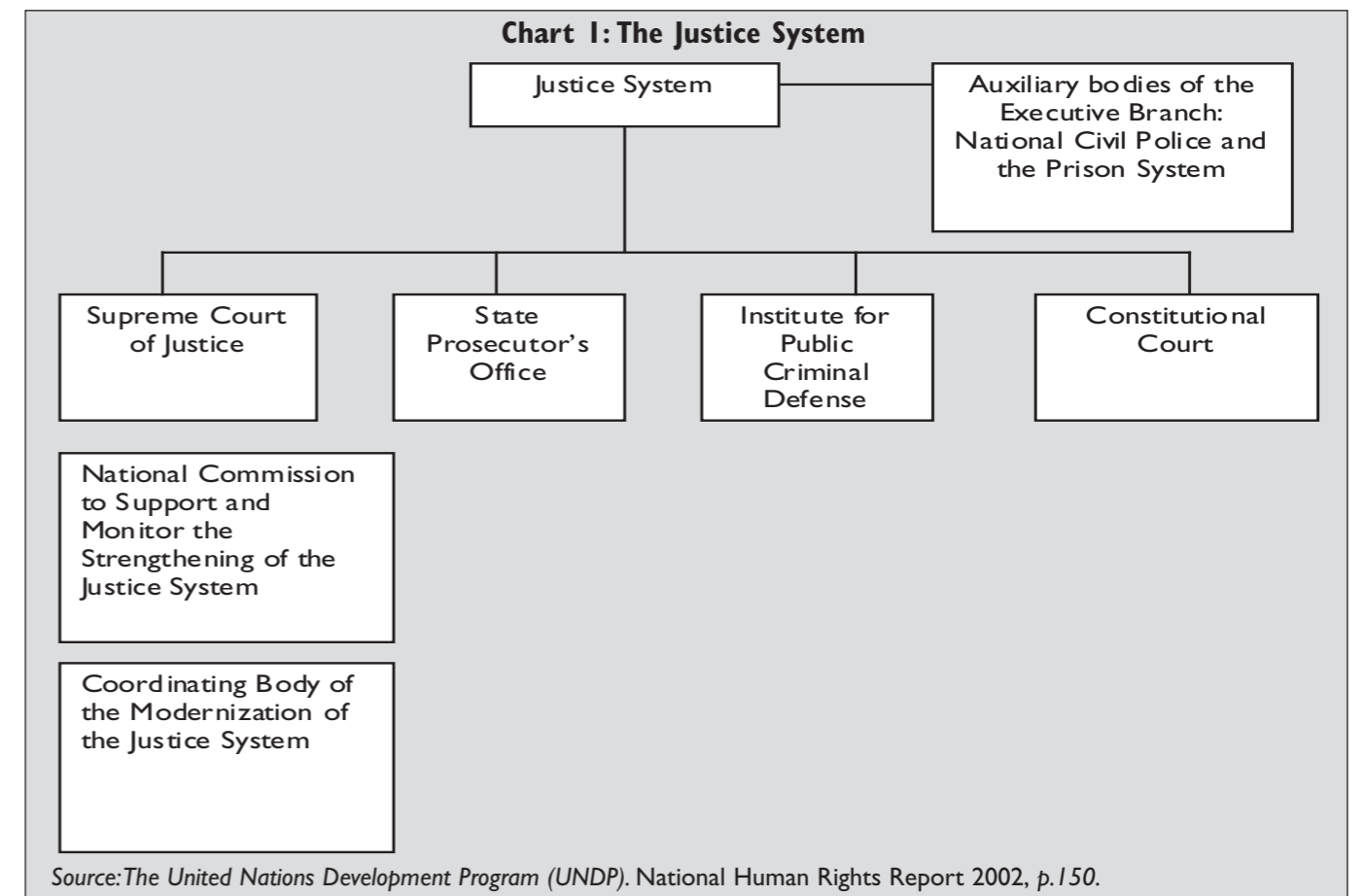
Murals in the interior of the Guatemalan Congressional Building. PBI photo.

2. Judicial Branch

According to the Historical Clarification Commission (HCC) created after the Peace Accords were signed, during the Guatemalan civil war (1960-1996), the justice system was part of an authoritarian culture that excluded the majority of the population. In this regard, the HCC concluded the following in its report: “Whether by act or omission, the judicial branch has contributed to the worsening of social conflicts at various times in Guatemala’s history. Impunity spread to

the point of taking over the State apparatus itself and became both a means and an end.”²³

Along the same lines, the Accord on Strengthening Civilian Power and the Role of the Army in a Democratic Society (AFPC) acknowledges “that one of the great structural weaknesses of the Guatemalan State lies in the system of dispensing justice.” The text of the accord lists a series of problems with the system which have



only been partially addressed so far. Among these problems is the “obsolescence of legal processes, procedural delays, the absence of modern systems for the administration of offices and the lack of control over court officials and employees” who “promote corruption and inefficiency.”

2. 1. Modernization and Strengthening of the Legal System

Guatemala's judicial branch has a pyramidal structure in which the Supreme Court of Justice is the highest authority over both the legal and administrative functions of the courts. At the same time, the Public Prosecutor's Office (MP in Spanish) is responsible for criminal prosecution, while the Institute for Criminal Public Defense (IDPP in Spanish) guarantees the right to a defense, and the Constitutional Court (CC) decides issues of constitutionality.

To begin modernizing the justice system in accordance with the AFPC, CONAJUS, or the Commission for Strengthening the Justice System, was created by Government Resolution No. 221-97 in 1997. In its 1998 report, “New Justice for Peace 1998-2004,” the commission explained the problems with the administration of justice and the basic reform measures required to correct them. The commission emphasized a new vision for the administration of justice to eliminate the current inquisitorial and repressive approach, and a new vision for the group of institutions responsible for justice in the country. The report proposed such measures as the separation of administrative and legal functions within the courts, professional excellence, access to justice, streamlining of legal procedures, and legal pluralism. To implement the measures proposed by the commission in a period of two years, the National Commission to Monitor and Support the Strengthening of the Justice System (CNSAFJ in Spanish) was created by Government Resolution 310-2000. This commission was still active in 2007 and is composed of members of state legal institutions and civil society.

After it was weakened in part by a change in coordinators in 2006 and difficulties in arranging meetings, the commission was reactivated in April 2007 with the public presentation of its strategy for that year. Part of its mandate is to prepare a report on the justice system, follow up and support the recommendations of the “New Justice for Peace” report and those of the UN Special Rapporteur on the Independence of Judges and Lawyers, steer international cooperation aid to the justice system, as well as provide advice and services to the state institutions and agencies who need it. The commission's mandate covers four issues: 1) transparency and

fighting corruption, 2) establishing the rule of law and confidence in the legal system, 3) citizen involvement in election year campaigns, and 4) improving security and fighting impunity and organized crime.²⁴

2.1.a. Progress and Set-Backs

After an analysis was conducted in 1997, the Judicial Branch had an internal Modernization Plan drawn up by the Judicial Branch Modernization Unit (UMOJ in Spanish). This plan addresses five problems found in the aforementioned analysis: the malfunctioning of the courts; limited access to justice; corruption; shortcomings in institutional management, and the public's poor image and mistrust of the Judicial Branch. Magistrates appointed for the period 1999-2004 continued with a modernization plan for the Supreme Court of Justice for the period of 2004 to 2009, and created a Modernization Commission made up of four justices working together with the UMOJ to address the aforementioned problems. International cooperation agencies formed a committee which meets periodically with the Modernization Commission to coordinate and avoid the duplication of efforts, a problem that has occurred in the past. Represented on this committee are the Spanish Cooperation Agency, the European Union, the World Bank and U.S. AID. The Judicial Branch's new Five-Year Plan (2006-2010) is primarily based on five themes: access to justice; streamlining of procedures; common law; professional excellence and modernization²⁵.

2.1.b. Legal Reforms

The Judicial Career Act

The AFPC stipulates the creation of the Judicial Career Act to define the rights and responsibilities of judges, a system of appointment and promotion, the right and obligation to training and professional improvement while serving, and a disciplinary system. In 1999, to fulfill this part of the accord, the Guatemalan Congress passed the Judicial Career Act based on Decree No. 41-99. In 2000, this new law led to the creation of the Judicial Career Council, the School of Legal Studies (now called the Institutional Training Unit) and the Judicial Discipline Council. The Legal Profession Council facilitates the horizontal organization of the judicial branch and is responsible for arranging the appointment of judges. The Training Unit is responsible for the training and evaluation of potential judges. The Disciplinary Council, made up of judges, has the power to issue administrative sanctions. The Judicial Career Act was supplemented by the Civil Service Act of the Judicial Branch (Decree 48-99), which regulates labor rela-



Poster, National Day to Protest Forced Disappearances. PBI photo.

tions between the Judicial Branch and its employees and officials, including judges and magistrates.

The Human Rights Ombudsman's Office says approval of the Judicial Career Act represents significant progress for the selection and appointment of judges. However, the ombudsman's office pointed out the continued difficulties in the procedure to appoint judges to the Appeals Court and the Supreme Court of Justice.²⁶ The appointment of these judges continues to depend on the will of Congress, which has a nomination commission for this purpose. The risk involved in this selection procedure is the influence exercised by special interest groups and political parties over the members of the commission. However, Citizen Action says there has been much progress in the enforcement of judicial qualifications, especially regarding the selection and training process, the transparency of appointments and the use of objective evaluation criteria.²⁷

In his visit to Guatemala in 1999, the UN Special Rapporteur on the Independence of Judges and Lawyers said that the term limit of five years for judges was an obstacle to their full independence. The Special Rapporteur recommended that this term be increased to 10 years, which would require an amendment to the constitution.²⁸

After a visit to the country in 2003, the Inter-American Human Rights Commission (IHRIC), noted discrepancies between theory and practice, since the Supreme Court of Justice continued to receive appointments without necessarily taking into account evaluations of training and qualifications performed by the Institutional Training Unit.²⁹ Another weakness of the judicial qualification system can be seen in the performance evaluation of the appointed judges, says Marco Antonio Canteo of the ICCPG. “The judges see the evaluation more as punishment than as a process to gauge efficiency and guarantee stability in the post.”³⁰

Regarding the training of court employees, eligible candidates must take a six-month course conducted by the Training Unit in accordance with the Judicial Career Act, and those who pass the course are appointed by the Supreme Court of Justice. Beyond this initial training, the Training Unit also provides ongoing training and specialized courses.

With respect to the training of judges, Raquel Zelaya of the Research and Social Studies Association (ASIES), says the difference is evident. “Those who pass this training course perform their duties in a very different way than those who do not.”³¹ A 2000 report by the United Nations Verification Commission in Guatemala (MINUGUA in Spanish) on the jus-

tice system stated that the competitive system of judicial appointments produced new and positive attributes in the judges who came through the system as opposed to those appointed by the traditional methods. Some of the substantial differences detected by the mission between judges had to do with conscientiousness regarding judicial independence, concern about the professionalism of court employees, a sense of commitment to their posts and more clarity and precision in their rulings.³² However, Arnoldo Ortiz Moscoso, ex-member of the National Commission to Monitor and Support the Strengthening of the Justice System, says that the ethical training of lawyers continues to have serious shortcomings, and that court employees continue to be inflexible in their view of the law.³³

With respect to the Judicial Disciplinary Board, ASIES notes a lack of regulations to adequately apply disciplinary measures. New members are appointed each year, and each new disciplinary board applies its own criteria and therefore different procedures.³⁴ The makeup of this board also makes it difficult to apply sanctions against judges, as Yolanda Pérez of the Bar Association, points out.

“The disciplinary board is composed of judges who are colleagues of the infringers, so there has to be greater transparency in these cases to avoid favoritism between colleagues,” Pérez said. The board only ordered 11 administrative dismissals for the 1,210 complaints received between 1 June and 30 June 2006.³⁵ According to Marco Antonio Canteo, one of the greatest obstacles to disciplinary control is the concentration of general oversight in the capital. Moreover, Canteo cites a series of situations that the board should be monitoring, such as delays in cases, public assistance, and the delegation of the judge’s functions to administrative officials.³⁶

Public Criminal Defense Office

In 1997, to fulfill the AFPC, the Public Criminal Defense Institute (IDPP) was created (Decree 129-97). This office began operating in July 1998 with one public defender in each of the country’s 22 departments. The IDPP is the body responsible for the free public defense of people with limited means. Just as the AFPC stipulates, the Institute operates autonomously, is independent of the three state powers and has the same chain of command as the State Prosecutor’s Office. The IDPP has 283 public defenders, of which 72 are staff lawyers, 42 trainees, 7 indigenous lawyers, 14 public defenders for juveniles, and 148 professional lawyers who offer their services in exchange for fees paid with the support of the European Union.³⁷

The IDPP covers all departmental capitals and some municipalities (12 in 2006). It has a presence in the five Justice Administration Centers, and in the rotating courts in the capital city and in the town of Villa Nueva, which provide services 24 hours a day. The public defenders are only involved in criminal cases. However, a bill was presented to Congress in October 2006 to extend free legal services to civil, employment and property cases, as well as cases involving children. According to the IHRC, the public defenders office has been unable to overcome the obstacles blocking access to the legal system, since many people of limited economic means still do not have legal representation.³⁸ In this respect, the public defenders office has been unable to achieve “effective coverage nationwide” as stipulated by the AFPC, as it has been faced with inadequate economic resources over the years. This situation is reflected in the backlog of cases. Each public defender receives between 20 and 30 cases a month, which are added to the long list of other cases which have been pending for months and years.³⁹

In spite of its limits, however, the IDPP is the institute of the justice system that enjoys the greatest social acceptance.⁴⁰

When she assumed the post in 2004, the new director, Blanca Aída Stalling Dávila, conducted an analysis of the institution to determine needs. A strategic plan for 2005-2009 was drawn up on the basis of that analysis. This plan addresses three general objectives: the set-up of a functional organizational structure, the specialized qualification of public defenders and the status of the IDPP in the justice system. The plan emphasizes gender and ethnic rights, as well as the rights of other vulnerable groups, and transparency. A special defense unit dealing with gender-related matters has been closed.⁴¹

In an evaluation of the justice system, MINUGUA noted the passiveness of defense attorneys throughout the legal process. “The main problem seems to be a lack of clarity about their role, and this leads to insufficient or inappropriate criteria for professional performance.⁴²” Guillermo Méndez of the institute’s Professional Technical Division, said professional training cannot currently be expanded due to a limited budget, and so criminal defense matters, as well as the defense of the rights of women and indigenous people, are only part of the general systematic training program.⁴³ The institute’s director has been pushing measures to institutionalize the professional qualification of public defenders while the relevant legislation is pending. In 2005, a three-stage curriculum was defined: initial education, training, and improvement and specialization.⁴⁴

In 2005, the IDPP had 10 offices for the defense of indigenous rights in the country, and in 2006 it began setting up three new offices. In 2001 and 2002, these defense offices were operated with financing from the Spanish and Norwegian cooperation agencies. In 2003, the IDPP began operating on its own budget.⁴⁵ The Human Rights Ombudsman’s Office considers the IDPP to be the office within the justice system that has most consistently confronted the indigenous problem.⁴⁶ For example, since it was created, the Institute has initiated a scholarship program for law students who speak one of Guatemala’s indigenous languages, and a bilingual education program for lawyers throughout the country, preparing glossaries of legal terms in 22 Mayan languages and conducting cultural research. The IDPP has attempted to deal with a multicultural society by transforming institutions.⁴⁷

Previously, the Institute had defense lawyers in police stations to cover the municipalities of Guatemala City, Villa Nueva and Mixco in the Department of Guatemala. This presence was expanded in 2005 to include the magistrate courts of rotation in the municipalities of the Department of Guatemala. Due to the presence of a public defender’s office in these courts of rotation, the services in the police station were discontinued and needs at a national level are still not being covered.⁴⁸ However, there continues to be a public defender for children and adolescents in matters of criminal law in departments and municipalities in which there are juvenile courts.⁴⁹

Penal Code

Article 13c of the AFPC stipulates that Guatemala should “reform the Penal Code to give priority to the criminal prosecution of crimes that cause significant social injury, taking into account the country’s cultural differences and customs, fully guarantee human rights, classify threats and coercion against judicial authorities, and bribery and corruption as particularly grievous crimes with severe penalties. The report issued by Rigoberta Menchú concludes that the most significant reform of the Penal Code is the classification of discrimination as a crime on the basis of Decree 57-2002. Under this reform, the Penal Code defines discrimination as any distinction, exclusion, restriction or preference based on sex, race, ethnicity, language, age, religion, economic status, illness, handicap, marital status or any other reason.⁵⁰ However, Menchú says this definition is not precise enough, which makes it difficult to enforce.⁵¹ Moreover, the Human Rights Ombudsman’s Office says that there were still court employees in 2005 who were unaware that discrimination was a crime under the Penal Code.⁵²

Helen Mack of the Myrna Mack Foundation (MMF) says the current Penal Code should be completely reformed. “It does not reflect the spirit nor is it oriented on the model of justice we want, and there are many crimes that it does not even consider.”⁵³ The current proposal for a new Penal Code is pending in Congress. Several members of both the Commission for the Reform of the Justice System and the Commission on Legislation and Constitutional Matters agree that, given the large number of proposals for amendments, it would be better to redraft the Penal Code completely.⁵⁴

2.1.c. Separation of Legal and Administrative Functions

To separate legal and administrative functions currently combined in the Supreme Court of Justice, a Management System was put into place in the Judicial Branch between 1999 and 2004. However, there continue to be large gaps in these efforts. For example, the separation of the functions of the Judicial Branch president, who simultaneously heads the Supreme Court of Justice and the Judicial Qualifications Board, is very ambiguous. “To have one official with three positions requires clarification that currently does not exist and this has negative effects on modernization of the Supreme Court of Justice,” said Augusto Pérez, Third Justice of the Supreme Court.⁵⁵ Marco Antonio Canteo, director of the Research Department of the Institute for Comparative Studies in Criminal Science of Guatemala said the lack of separation between legal and administrative functions means that the Supreme Court has too much administrative power. Canteo said this model is based in large part on the constitution. “And it allows judges and lawyers who are trained to conduct legal proceedings to be occupied with matters other than resolving cases,” he said.⁵⁶

2.2 The Public Prosecutor’s Office

The Public Prosecutor’s Office (“Ministerio Público” or “MP”) is an auxiliary body for the administration of justice. It is autonomous and is responsible for criminal investigation and prosecution. Beginning with budget increases, the AFPC addresses various issues related to the strengthening of this institution. This includes the expansion of geographic coverage, the separation of legal and administrative functions, translation into the various national languages, witness protection and the strengthening of the Training Unit.

Author Luís Ramírez writes that in 1994 the new Criminal Trial Code enlarged the role of the MP in criminal proceedings. Ramírez considers the organizational growth and the territorial expansion of the institution

to be positive as it increases access to justice. However, these measures have lacked planning with regard to new duties, have been marred by political interference in organizational control, and there has been a lack of focus in the different efforts at reorganization.⁵⁷

The Platform for Inter-Sectorial Research and Dialogue (POLSEC in Spanish) notes that reforms to the process in 1994 did not achieve a change in structure from an inquisitional to an accusatory procedure as stipulated by the new Code, since this change would require a change to the very criminal trial culture in Guatemala.⁵⁸

The UNDP's 2002 National Human Development Report points to two structural factors that have hindered fulfillment of the MP's objectives since its new operational structure was established: 1) the overwhelming rise of crime in the country, and 2) the internal structure in which 67% of the staff is occupied with administrative tasks and just 33% are responsible for investigation.⁵⁹ This situation is reflected at the level of the Judicial Branch as well. According to statistics from ASIES, between 2002 and 2006 the number of judges and magistrates increased by 6%, while the number of administrative staff increased by 78%.⁶⁰

When Juan Luis Florido Solís took over in 2004 as Attorney General of the Republic and head of the MP, he took steps to strengthen the institution, starting with a restructuring plan and a new criminal prosecution policy, both presented in 2005. The former involved administrative reorganization, while the latter concerned a conceptual and philosophical framework for policy, as well as an operational plan. The Human Rights Ombudsman's Office considers the new criminal prosecution policy to be a significant step forward. The new policy is implemented by means of general instructions for prosecutors and assistant prosecutors for the elaboration of technical criteria for their practical application in cases.⁶¹

In 2003, the IHCR received information that the MP had a presence in just 10% of the country, with one prosecutor for every 75,000 residents. To address this situation, due in part to a lack of financial resources, the MP has been working to expand its services, both quantitatively and qualitatively, and in 2006 it had 57 prosecutor's offices (in 22 departments and 35 municipalities). However, the lack of qualified staff continues to be a problem, as the MP only had 100 investigators in the entire country in the same year.⁶²

In 2006, the MP set up a prosecutor's office in the headquarters of the rotational Criminal Court in the capital and at the Special Auxiliary Office of the

Department of Criminal Investigations (DICRI). In previous years it had reorganized the Metropolitan Prosecutor's Office, set up the Victim Assistance and Permanent Public Assistance Office, as well as divisional prosecution offices, of which there were 15 in 2006.⁶³ In 2005, the Human Rights Prosecutor's Office was created with four special units investigating crimes against human rights activists, crimes against court staff, crimes against journalists and union activists, as well as another unit investigating special cases and past human rights violations. Prosecution offices planned years ago for the rights of indigenous peoples are still not operating, despite funds allocated for this reason and the creation of a management office to set them up. In addition, the creation of a special division to prosecute crimes of discrimination is planned. The Myrna Mack Foundation notes that none of the divisional prosecution offices have established specific rules of operation and the possibility of combining them into one office has not been considered, despite the fact that this would increase efficiency, according to the Foundation.⁶⁴

In 2006, the prosecutor's office handling cases of women's rights received the most criminal complaints, 9,616 of a total of 25,040, after the Organized Crime Prosecutor's Office with 6,106, and Crimes Against Life with 3,687. However, about 40% of the cases filed at the divisional prosecution offices are shelved and therefore the crimes go unpunished.⁶⁵ Cases involving crimes against judges, lawyers and other court employees filed with the MP are increasing (see table 2).⁶⁶ "The

| Chart 2: Complaints Received at the Crime Unit against Court Employees from the Human Rights Prosecutor's Office of the MP | |
|---|-------------------|
| Year | Complaints |
| 2001 | 100 |
| 2002 | 98 |
| 2003 | 108 |
| 2004 | 99 |
| 2005 | 128 |
| 2006 | 128 |

Source: Prepared by PBI with information from the Myrna Mack Foundation and reports on the activities of the MP.

problem of attacks on the justice system have never been adequately addressed, and the authorities have not acted with the responsibility and conviction required to get at the roots of this phenomenon," writes the Mack Foundation.⁶⁶ Another important factor adding to the problem is corruption, according to the foundation's president Helen Mack. She said court employees are afraid to report the theft of money for fear of being killed.⁶⁷

There are victim assistance offices in the Guatemala City prosecutor's office as well as in some offices in the country's interior. These offices provide information to victims on criminal acts, and offer medical, legal, psychological care and social services when necessary. The Human Rights Ombudsman's office warns that the State is unable to adequately attend to victims and it is concerned about secondary victimization that adds to the marginalization of victims. The ombudsman's office also points out the inability to protect witnesses and other trial participants. "Victims and witnesses collaborating with the courts are exposed to reprisals, as this is the main cause and effect of impunity."⁶⁸

2.2.a. Prosecutor Career Law

By contrast with the Judicial Branch, which is governed by the Judicial Career Act, the MP is not regulated by any prosecutor career law, which prevents the MP from being fully modernized. The MP Council is responsible for the implementation of a career qualification system for prosecutors, and for the general supervision of MP activities. The council also advises the Attorney General. In its report, MINUGUA pointed out deficiencies in the training of prosecutors and the fact that the MP's Training Unit places more emphasis on practical experience for prosecutors than on academic training. In its 2000 report, MINUGUA recommended that the MP's administrative restructuring policy include improvements in the selection, training and supervision of prosecutors, as well as the removal of officials who do not meet the minimum requirements. All of this requires the approval of a Career Prosecutor Law to regulate the selection, appointment, evaluation and discipline of the prosecution staff. According to the Mack Foundation, the lack of a performance evaluation means that the supervision of prosecutors is limited to individual inquiries when a complaint is filed against an official of the institution.⁶⁹ Other problems for lack of a career prosecutor law include the absence of regulations regarding transfers and promotions, the conversion of the MP Council into a mere procedural body, weaknesses in the composition of the civil service examination boards, the lack of analyses to determine training needs, and the fact that the experts in the Criminal

Investigation Office and administrative staff are not included in the MP's prosecution career system, which allows influence trafficking in the MP by high-level authorities.⁷⁰

The National Commission to Monitor and Support the Strengthening of the Justice System presented the MP with a bill for a Career Prosecutor Law, but it has not been submitted to Congress by the institution.⁷¹

Regarding the separation of administrative and technical duties, the MP has a system of managers and secretaries, and the prosecutor's offices have administrative support staff. However, according to the Human Rights Ombudsman's Office, performance and management evaluation systems are necessary as well.⁷²

2.3. Coordination Between Institutions

In early 1998, the Coordinating Body for Modernization of the Justice System (ICMSJ in Spanish) was created with a loan from the Inter-American Development Bank (IADB). The IADB defines the programs objective as follows: "To strengthen the democratic rule of law by supporting the institutions of the justice system at the level of each institution and coordinate these institutions to improve access to and the quality of the services."⁷³

La ICMSJ is composed of top authorities from the Judicial Branch, the MP, the Public Criminal Defense Institute and the Interior Ministry, and has an Executive Secretary. The projects financed by the IADB and carried out by the ICMSJ before mid-2006 when the loan matured concerned the computer support system of the courts and justice administration centers, and continuous training of all court personnel. The ICMSJ has also received financing from the Spanish International Cooperation Agency and the European Union.⁷⁴

The ICMSJ has been criticized on many occasions for failing to demonstrate results in the modernization of the justice system in accordance with the millions of dollars it has received in financing. Ortíz Moscoso said the ICMSJ should do more than just make use of the IADB loan, and should also develop national policies on justice and security. "They have not done this, or if they have, it has been on a very small scale, very little considering the funds that have been invested."⁷⁵

ASIES pointed out the importance of monitoring and evaluating the different projects carried out with international financing to adequately take advantage of the funds.

2.3.a Criminal Investigation

A lack of coordination between the different bodies of the justice system, which is acknowledged in the MP's Criminal Prosecution Policy Proposal (CPPP), is particularly noticeable in criminal investigations with respect to the duties of the MP and those corresponding to the National Civil Police (PNC). The CPPP acknowledges a lack of functional management for MP prosecutors and notes that there is an enormous lack of coordination between the police and the MP from the investigation of the crime scene to the conclusion of the case.⁷⁶ In 2004, the two institutions signed an agreement to improve cooperation in criminal investigations, using a loan granted by the IADB for the justice system. This agreement established three main points: 1) *The need to implement rules for effective operational management of prosecutors in criminal investigations*; 2) *The need to coordinate investigations from the crime scene and the creation of liaison groups to allow human resources to be combined, and to coordinate the investigations required by the MP in the Criminal Investigation Service headquarters*; 3) *The need for high-level authorities from both institutions to monitor fulfillment of the agreement.*⁷⁷

Philip Alston, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, who visited the country in 2006, said there continue to be serious problems despite the agreement signed between the MP and the PNC. "The degree of coordination and cooperation is not normally very satisfactory, and therefore many investigations are inefficient and often fruitless from the point of view of an efficient prosecution," Alston wrote. "As much of a disappointment as it is, the failure of a system in which a single function is divided between two institutions with inevitably competing interests is not surprising, and therefore deeper reforms must be considered."⁷⁸

Chart 3:

Cases Handled According to Branches of Law

In Judicial Branch records, criminal offenses make up 73% of the cases, while family courts hear 16%, followed by civil cases, which most often involve disputes between private parties and companies, or which concern debts, law suits and contracts⁸¹. Due to the high number of cases, Luís Ramírez says legal reforms in Guatemala have focused on criminal offenses, while land and employment cases, voluntary jurisdiction, family law, administrative-contentious proceedings and civil cases have been neglected⁸².

According to ASIES, aside from the lack of coordination, other problems apparent in criminal investigations include the weak professional and operational skills both in the MP and the PNC, and the limited budget to address the lack of infrastructure, as well as basic equipment to fulfill the assigned tasks.⁷⁹ Supreme Court President Eliú Higueros says delays in the justice system can be attributed to the consequences of deficient criminal investigations. "If the evidence presented is so little and of such poor quality, there is not much we can do. We analyze the situation, and the criminal courts have very little work, which means that there are unjustified arrests in addition to trials with no foundation."⁸⁰

To improve the quality of forensic investigations and therefore reduce the high level of impunity in the country, CNSAFJ proposed the creation of the Guatemala National Institute of Forensic Science (INACIF in Spanish), which Congress approved in August 2006 (Decree 32-2006). Under this legislation, INACIF is an autonomous legal entity with its own budget to support the administration of justice. It has jurisdiction nationwide and is responsible for providing scientific expertise in the investigation of cases. Representatives of the Supreme Court of Justice, the Interior Ministry, the MP, the IDPP, the Association of Physicians and Surgeons, the Association of Chemists and Pharmacists and the Bar Association serve on the INACIF's Executive Board. However, the INACIF is still not operating for lack of a budget. Therefore, in January 2007, the Supreme Court president, along with the Executive Board's Coordinator Rubén Higueros, sought Congress's authorization to open INACIF in July of the same year. Higueros said the institute requires a budget of 150 million quetzals (approx. USD20 million) to begin operating.⁸³ The Office of the UN High Commissioner for Human Rights (OHCHR) in Guatemala considers the creation of INACIF to be an important step in improving criminal investigations by making better use of scientific evidence.⁸⁴

Ramírez said there are other weaknesses in criminal investigation, such as the inability of state institutions to reduce the influence of clandestine security organizations in the system and the failure to pursue criminal charges when powerful military, political and business interests are involved.⁸⁵ The Global Accord on Human Rights obliges the government to fight any type of illegal and/or clandestine security organization. In response to the problem of impunity, several human rights organizations decided in 2002 to create the Commission to Investigate Illegal and Clandestine Security Organizations (CICIACS in Spanish). In 2004, the United Nations and the Guatemalan Government signed an agreement to establish CICIACS, which was

to function as an international mission. However, a Congressional committee rejected the proposal. Later, a commission of experts was formed by representatives of the Executive Branch, the Human Rights Ombudsman's Office and human rights organizations to seek an opinion from the Constitutional Court (CC) on the matter. The CC declared the accord unconstitutional.⁸⁶

In 2006, the Government drafted a new proposal to deal with this problem. This proposal contained some changes, and would establish the International Commission Against Impunity in Guatemala (CICIGS) to replace CICIACS. The respective accord with the UN was signed on 12 December of the same year. The main difference between CICIG and CICIACS, according to Vice President Eduardo Stein Barillas, is that the latter does not violate the constitution. CICIG would have no power to prosecute crimes, as was proposed for CICIACS, since this power is reserved for the MP. CICIG would only be involved in prosecutions as a joint plaintiff.⁸⁷ Despite these restrictions, the new commission may investigate the activities of illegal groups and organized crime, and support administrative action against public employees accused of belonging to these groups.⁸⁸ Helen Mack said the commission may not be the solution to the problem, but it is a step in the right direction. "I think the fact that someone will be watching, or that court employees and authorities who obstruct justice and form part of the structure of impunity will not be able to obtain public jobs in the future, is progress and will lead to prosecutions," Mack said.⁸⁹

In March 2007, the CICIG proposal reached Congress, which submitted it to the Constitutional Court for review. The CC justices issued a ruling on 16 May declaring that there was no violation of the constitution in establishing the commission as it did not undermining the authority of the MP, and that it could be approved by a majority in Congress. Later, Congress established a period of eight days in which the Foreign Relations Committee would issue an opinion on the legal framework of CICIG.

Both the proposals to create CICIACS and CICIGS have been consistently opposed by the Guatemalan Republic Front (FRG), which argued that the CC ruling was ambiguous and that CICIG was a breach of the nation's sovereignty.⁹⁰

Regarding technological improvements, the ICMSJ used a loan from the IADB to install a new computer system for electronic management of cases in all institutions of the justice system. However, ASIES notes that the objective has still not been met. A sub-computer system

called SICOMP installed in the MP's offices has had more success in monitoring and registering cases. However, there is still resistance among prosecutors to change from the old system to the new.

2.4. Access to Justice

Despite numerous efforts, the Guatemalan justice system still faces many obstacles in guaranteeing that the majority have access to its services. People of limited economic means have the least access to the justice system and SEPAZ acknowledges in its 2004-2006 report that "the public urgently needs a prompt and trustworthy system of justice." The SEPAZ report noted that any justice system must offer specific access and assistance to women, children and adolescents, as well as indigenous and marginalized peoples.⁹¹ Since the Peace Accords were signed, the Judicial Branch has increased the number of facilities for the administration of justice to facilitate access. These facilities include magistrate's courts, centers for the administration of justice, high-level courts, mobile courts, juvenile courts and mediation centers. However, Supreme Court President Eliú Higueros said there continued to be a shortage of judges in 2007 with only 4 for every 100,000 residents.⁹²

To address the problem of access for indigenous people, the Judicial Branch created an Indigenous Affairs Commission in 2007 made up of two Supreme Court justices to follow up on its Five-Year Plan for 2006-2010 with respect to the primary issue of common law.

The AFPC stipulates that the Accord on the Identity and Rights of Indigenous Peoples (AIDPI in Spanish) should be followed up regarding the acknowledgement and application of common law and access to justice. According to the Maya Defense Council, indigenous law refers to a set of systems, rules, principles, laws and authorities that govern and regulate family, community and village life to maintain the balance, harmony and equity of relationships in all areas.⁹³ There continues to be very little effort on the part of the legislature and other institutions to promote the enforcement of Maya law due to a lack of political will to recognize the indigenous justice system and the rights of indigenous peoples in general. This is reflected in the official legal system in the lack of policies to make the Judicial Branch's services more accessible to non-Spanish speakers. The National Languages Law, approved in 2003 (Decree 19-2003), establishes the obligation to provide certain state services such as legal assistance in indigenous languages. In practice, this law is not applied and in 2006 there was just one bilingual Mayan for every 749 employees.⁹⁴ In the entire country, there

are 67 interpreters who cover 9 of the 22 Mayan languages. In the MP and the IDPP there is also a shortage of interpreters.⁹⁵ “Although the decision may have been taken to hire people who speak the languages of the region, this has not been the practice, and while this continues, access to justice is still a long way off, and not just because of language but because of the evil culture of discrimination in the way indigenous peoples are treated.”⁹⁶

On the international level, Guatemala ratified ILO Convention 168 on Indigenous Peoples and Tribes in Independent Countries, thus recognizing indigenous rights. Raquel Yrigoyen writes that one of the more urgent tasks stipulated by this convention is the drafting of a regulation that establishes a referendum system to consult indigenous peoples before approving any legislative or administrative measures that affect them directly.⁹⁷ Currently, any referendums conducted among indigenous peoples, such as those on issues of metal mining or the construction of hydroelectric plants, have been organized by local authorities and/or with the support of non-governmental organizations. However, according to the Ecumenical Forum for Peace and Reconciliation (FEPAZ in Spanish), the government has not shown a willingness to recognize the results of such referendums. To the contrary, the business sectors and political circles affected by the referendums have tried to de-legitimize, discredit and legally derail them.⁹⁸

The current debate of the indigenous question and justice is focused on issues as fundamental as legal recognition of indigenous law; coordination between the indigenous and the official system, and the application of legal pluralism. Strictly speaking, however, there is no agreement on the validity and effectiveness of the Mayan legal system in relation to the system of state law.⁹⁹ “The institutions of justice believe that the indigenous legal system and indigenous rights only refer to alternative mechanisms for conflict resolution, as a second option in a hierarchy,” said Amílcar Pop of the Association of Mayan Lawyers.¹⁰⁰

2.4.a. Justice Administration Centers

Starting in 2002, five Justice Administration Centers were established in Ixchiguán, San Marcos, Santiago Atitlán, Sololá, Playa Grande, Quiché, Santa Eulalia, Huehuetenango and Nebaj, Quiché. These centers are made up of different institutions of the justice system run by the MP and the Judicial Branch with a magistrate’s court and court of first instance. The Interior Ministry also operates there with a PNC station, the IDPP, a public law office, as well as mediation and coordination offices. The objective of these centers is to

provide access to justice, especially for indigenous peoples, in the country’s interior. The multi-million dollar facilities of these justice centers, funded in part by an IADB loan, have received criticism from different sectors of society for being out of touch with the reality of the country and not really favoring access to justice. Amílcar Pop says the high walls built around these centers are symbolic of the walls maintained between state institutions and society at large.¹⁰¹ The aforementioned problems associated with these justice centers are blamed on a lack of coordination between state institutions, the absence of indigenous people who understand the language and culture of the region, and the lack of proper equipment.¹⁰²

2.4.b. Community Magistrate Courts

In 1997, the establishment of five community magistrate courts in Sta. María Chiquimula, Totonicapán, San Rafael Petzal, Huehuetenango, San Luis, Petén, San Miguel Ixtahuacán, San Marcos y San Andrés Semetabaj, Sololá, was approved. These courts represent an attempt to establish a link between official and indigenous justice systems. In 1999, a Supreme Court evaluation approved of these local courts despite criticism about the selection of judges and the lack of consultation with indigenous communities about the function of these tribunals. After the evaluation of the first magistrate courts, the law that established them (Decree 79-97, 552 Bis) stipulated that they be established in all communities currently without magistrate courts. However, the Judicial Branch never opened new courts. Nevertheless, in a report on the justice system, MINUGUA said that there has been progress away from “formal legal practices associated with the traditional state justice system toward another that favors oral communication, listening and consensus.”¹⁰³ Over the years, both indigenous leaders and the Judicial Branch have continued to criticize how the five magistrate courts are operated. Amílcar Pop considers these courts an aberration and said they do not respond to the real needs and requirements of indigenous law. Supreme Court Justice Augusto Pérez said these community courts have not been able to overcome the separation between the official and indigenous justice systems, since the state imposes an official body of regulations that prevents indigenous communities from applying justice according to its cosmic vision.¹⁰⁴

2.4.c. Mediation Centers

In 1999, the president of the Judicial Branch approved the creation of a mediation system to be operated by the Judicial System Modernization Unit with the support of USAID’s justice program to promote a culture of dialog, facilitate direct access to resolve conflicts



Supreme Court of Justice. PBI photo.

and reduce the burden of the courts and the cost of litigation.¹⁰⁵ Thus, the government met a condition of the AFPC regarding the streamlining of the justice system. In 2001, the Unit for Alternative Conflict Resolution to coordinate the mediation centers and the justice administration centers, was created. Mediation centers have been established at an increasingly faster rate in recent years. By mid-2006, 60 of these centers had been established in magistrate courts, justice administration centers and departmental justice facilities.¹⁰⁶ These centers handle primarily civil, criminal and family conflicts, but also employment and commercial cases. ASIES and the Myrna Mack Foundation have pointed out the lack of precise regulations regarding the legal validation of mediated conflict resolutions. This means that courts of first instance are responsible for validating agreements reached in mediation.¹⁰⁷ Amílcar Pop said that a strength of these mediation centers is that they foster analysis, discussion and debate in the context of indigenous and official justice.¹⁰⁸

2.4.d. The Indigenous Women’s Defense Council

Under Government Resolution 525-99 in 1999, the government fulfilled one of its commitments under the Accord on the Identity and Rights of the Indigenous Peoples to increase access to the justice system for indigenous women, who suffer dual discrimination. The Indigenous Women’s Defense Council (DEMI), which is governed by the Presidential Human Rights Commission (COPREDEH), has its headquarters in the capital, and since 2007 has regional offices in Alta Verapaz, Huehuetenango, Quetzaltenango, Quiché, Petén and Suchitupéquez. The objective of the institution is to defend and promote the exercise of the full rights of indigenous women, providing assistance, advice and legal, social and psychological services to women who have suffered any type of violation of their rights. “From the moment in which they file a complaint, they may request protection measures and accompaniment to gather their belongings and identity documents, recover their children, and receive assistance with court hearings ... until the problem is resolved,” said Azucena Socoy, director of DEMI’s social unit.¹⁰⁹

An analysis by DEMI identified three main obstacles that prevent indigenous women from accessing the justice system. The first involves structural problems such as the inability to meet deadlines and the lack of interpreters. The second involves cultural patterns such as discrimination and the cultural and gender stereotypes held by court employees, and the third involves procedural problems such as formality requirements and the lack of standard criteria. In a sampling of 192 cases, 95 involved structural, 46 cultural and 32 procedural problems.¹¹⁰ DEMI itself acknowledges that budget limits are another obstacle to including indigenous women in its services and that support from international cooperation agencies has been important for strengthening the institution.

2.5. Oral Hearings in Legal Proceedings

Regarding alternative mechanisms for resolving conflicts, the AFPC stipulates the gradual introduction of a system of oral hearings in legal proceedings to streamline the justice system. According to Rigoberta Menchú's report, the purpose of establishing a public oral hearing system is to give citizens some control over the way in which the state administers justice.¹¹¹ However, traveling distance to the courts often keeps people from attending oral hearings, and there continues to be a culture of professionalism which gives greater importance to written procedures than oral ones.

One possibility for a system of oral hearings in legal proceedings is a model in which the case is managed by hearings. This model has been applied recently in the criminal courts of the City of Quetzaltenango and allow the judge's work to be organized around hearings. Judge Pérez believes that this model is adequate to substitute the culture of formal written proceedings with one of oral proceedings in which the judge is responsible for the cases that arise.¹¹²

2.6. Financing

The AFPC points out the need to provide greater financial resources to the Judicial Branch and the Public Prosecutor so that they may modernize and expand their coverage. It also stipulates the need for a multilingual system and the introduction of a plan to protect witnesses, prosecutors, and collaborators with the justice system. For this reason, the Peace Accords stipulate that no less than 0.3% of Gross Domestic Product should be earmarked for the Judicial Branch and the Constitutional Court, and no less than 0.2% for the

Public Prosecutor's Office. Although the total figures published by the Ministry of Finance show that the state has met these percentage requirements in recent years, the Human Rights Ombudsman's Office says financial resources in 2006 were insufficient to meet operational needs and to strengthen and modernize the justice system, and that priority must be given to assisting victims and providing security for justice system employees.¹¹³

International cooperation agencies have played an important role in promoting fulfillment of the Peace Accords by financing judicial reform projects in Guatemala. The main cooperation agencies in the justice sector have been those of Spain, the Netherlands, Sweden, Norway and the United States, as well as the European Union. The World Bank and the IADB have also made important contributions. MINUGUA and the UNDP have been the main conduits for funds contributed by the European Union. In fact, a study of European cooperation since the Peace Accords were signed showed that the UNDP was the most influential external actor in the process of legal reform in Guatemala. The same study concluded that a number of broadly diverse and short-term projects executed by MINUGUA and the UNDP has made it difficult to achieve the desired results in the initially scheduled time.¹¹⁴

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Mural in San Juan Comalapa, Chimaltenango. PBI photo.

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3. Executive Branch

3.1. National Security System

3.1.a. Security Advisory Council

The AFPC recommends the creation of a Security Advisory Council (CAS) to support the Executive Branch in implementing an integral security system and designing a Security Agenda. The idea behind the council, according to Enrique Álvarez, Coordinator of the Security Advisory Council, is to “strengthen the potential for civil society to have an impact on and contribute to dismantling the authoritative model of the National Security Doctrine of the U.S., on which all institutions of the security forces are based, and which makes the democratic security model work.”¹¹⁵

The first phase for implementing CAS began in February 2003 with the creation of the CAS’s Preliminary Commission by means of Government Resolution 48-2003. Later, in early 2004, when Óscar Berger took power, the council was made permanent by Government Resolution 115-2004.

The CAS has since faced great difficulties. “The CAS has not proven to be the mechanism of convergence and exchange it was envisaged to be for the state or society. Its creation has simply constituted the formal compliance with one of the (state’s) commitments,” MINUGUA wrote.¹¹⁶

After the crisis brought on in February 2007 by the murder of three Salvadoran members of the Central American Parliament (PARLACEN) and their driver, and the subsequent murder of four police officers accused in the case, Adela Camacho de Torrebiarte took over as Minister of the Interior. The new minister, a member of the CAS until that time, had publicly

expressed her concern for what she called “social cleansing”¹¹⁷ and said she intended to give the CAS the role it was originally intended to have. According to the AFPC, this role is “to study and present strategies of broad consensus to address the main risks that the country faces and make the corresponding recommendations to the President of the Republic. One of CAS’s objectives is to shore up strategic decisions for the future of a state administration.”¹¹⁸

However, Claudia Samayoa of the National Movement for Human Rights (MNDH in Spanish), told the press that “change will be difficult if the same structures accused of illegal acts continue to exist,” in reference to Víctor Rivera.¹¹⁹ “This is why an external commission should be appointed to support the Ministry of the Interior in the purge.”¹²⁰



National Palace in Guatemala City. PBI photo.

3.1.b. Follow-Up and the Current Situation

In February 2007, debate began in Congress on a General Law for a National Security System. Congressional proponents said the law was drafted to establish a public security policy and noted that this was a unique political opportunity to define the role and the impact of the Permanent Forum of Political Parties to design, build, develop and strengthen state policies. The purpose of the new law, according to the Forum, "is to provide the Guatemalan State with the tools necessary to ensure compliance with national objectives as expressed in the Political Constitution of the Republic on security matters."¹²¹

In early April 2007, Guatemalan President Óscar Berger, accompanied by Vice-President Eduardo Stein and members of the CAS, announced that the National Security System would be enacted by Governmental Resolution 79-2007. As part of this reorganization process, the intention is to create a Ministry of Security, leaving the Interior Ministry with mere administrative functions, and defining responsibilities for security matters.¹²² The new National Security Council (CNS in Spanish) will be responsible for managing the ministry. The CNS would now be the governing body of the security system and the advisor to the President in his capacity as Chief of State for decisions on matters of security with the objective of defining the relevant policies and strategies. The council's members will be the president, vice-president, the ministers of the Interior, Foreign Relations and Defense, as well as the Secretary of Strategic Analysis, the Attorney General, as well as special guests according to circumstances.¹²³

In mid-April 2007, CNS met for the first time, announcing measures to set up the National Security System. This meeting addressed the need to take urgent steps to purge the National Civil Police (PNC), the need to follow up on security laws stalled in Congress, the reorganization of the intelligence system and strengthening of civilian intelligence.¹²⁴

Helen Mack warns of the need to provide funds for these new structures. "It is completely pointless to approve a new law if you are not going to approve a budget for it," Mack said. "Structural reform cannot exist without fiscal and tax reform."¹²⁵

3.2 Ministry of the Interior

3.2.a. National Civil Police. Progress and Setbacks.

One of the objectives of the AFPC was to combine the different police forces (National Police, Treasury Police,

and Mobile Military Police) into one unit called the National Civil Police (PNC in Spanish) under the supervision of the Ministry of the Interior. The Accord emphasizes the civilian character of this new police force. To strengthen the PNC, a series of legislative and constitutional reforms were proposed. The constitutional reforms were rejected by voters in the 1999 referendum. The main legislative reform to be approved was the National Civil Police Law, enacted by Decree 11-97.

The duties that the aforementioned decree grants to the PNC are broader than those recommended by the Accord and are aimed at the protection and guarantee of rights and liberties, and include powers for preventing, investigating and fighting crime, maintaining order and internal security. However, there have been many problems since the PNC was founded. According to the report by Rigoberta Menchú on compliance with the Peace Accords, the PNC has "demonstrated a very limited capacity to fulfill its duties, control crime and guarantee public security."¹²⁶

The creation of the PNC was considered a success for the Peace Accords, although the goal of 20,000 officers for 1999 was not reached until 2003. Former Vice-Minister of Community Support Silvia Vásquez said the quantitative goal was a strategic error: "The quantity of personnel took precedence over quality"¹²⁷ and officers from the old police forces were allowed to join (the PNC)¹²⁸ in breach of the requirement to recruit officers with no past human rights violations¹²⁹. The current weaknesses are a result of this poor policy planning.¹³⁰

And, although the numerical objective was achieved, it is currently considered insufficient to cover the entire country.¹³¹ Moreover, there are only 14,000 offices on the street, with the rest involved in investigation, specialized administrative duties, and guarding prisoners and jails. "This leaves an average of one officer for every 3,600 residents," said PNC Chief Julio Hernández Chávez.¹³² The ideal average for counties with high crime rates such as Guatemala is four officers for every 1,000 residents. "This means that 44,000 officers are required for public security in Guatemala," wrote ASIES.¹³³

The AFPC emphasizes that the PNC must have a multiethnic character. The new police force has made an effort to represent all ethnic groups, and, according to Silvia Vásquez, it is currently the only institution in the country in which at least 14% of its staff is made up of persons of different ethnic groups.¹³⁴



Police evicting the peasant population of the La Paz community in Panzos, Alta Verapaz, January 2007. Photo by James Rodriguez.

The Ministry of the Interior is studying a proposal for a new personnel reassignment plan according to ethnic group to improve service to the community.¹³⁵ The PNC is also making efforts to increase the participation of women. The number of women on the force has increased in recent years. Most of them are single mothers. The Ministry of the Interior has said it will revise employment conditions to adapt them to this situation.¹³⁶ Moreover, the Multicultural and Gender Equality divisions work with the community to prevent crime.

According to the SEPAZ report in 2003, an attempt has been made in all cities and towns to improve relations with the community for crime prevention and to support municipal police departments. Regarding the commitment of municipal governments to recruit police candidates, just 52 cities and towns are participating so far, but the effort continues.¹³⁷

According to SEPAZ, a 50% increase in spending on public security planned for the year 2000 did not occur due to budget limits.¹³⁸ In addition, the police are transferring funds to the military budget to reimburse expenses incurred during joint patrols with the PNC.¹³⁹

Another stipulation of the AFPC was the approval of a new Public Order Law to adapt the previous one to

democratic principles and strengthen civilian power. A group called Social Organizations Specializing in Security Matters (OSS in Spanish) drafted a proposal for reform, which was presented to Congress by 20 members of different political parties (Initiative 3172). This initiative was passed to the Commission on Legislation and Constitutional Matters and a resolution is still pending.¹⁴⁰

Police Career Requirements

The AFPC stipulates the need to establish a police career law. This law must regulate recruitment and personnel management policies, particularly with regard to length of service, salary levels and adequate health and pension benefits. Art. 4 of the National Civil Police Law lays out the police career qualifications. "The Police Career Requirements shall be based on criteria of professionalism and efficiency, and therefore the State shall create the conditions most favorable for adequate human, social and professional promotion of the members of the National Civil Police in accordance with principles of objectivity, equal opportunity, length of services, merits and skill."¹⁴¹

The chain of command, rank and promotions are covered in the PNC Law of 1997, while the Organizational Regulations passed by Government Resolution 662-2005 establish the duties of the General Directorate

and the various deputy general directorates. The General Directorate of Personnel is in charge of recruitment and hiring, coordination of basic training and specialization courses, as well as everything related to the Police Career System.¹⁴²

According to the UNDP, the redrafting of the Police Career Law, the creation of new management bodies and the increase of requirements for becoming a career police officer continue to be priorities.¹⁴³ The Organization to Monitor and Support Public Security (IMASP in Spanish) has said technical and not political goals must be established, and the Police Academy must be strengthened to forge future authorities who

earn the job by meeting police career qualification requirements, so that, in the future, situations such as the involvement of anti-crime police in the assassination of Salvadoran Central American Parliament members can be prevented.¹⁴⁴

The AFPC mentions that members of the PNC should receive dignified salaries in accordance with their duties, as well as appropriate employment benefits. On 1 May 2007, a 7 percent salary increase was approved for police. The increase was enacted by means of Government Resolution 138-2007. According to this resolution, the increase is intended to create technical conditions that facilitate a police and administrative career

to guarantee quality service and transparency in the performance of duties. The Interior Ministry has stated that from now on police officers salaries will be determined by their length of service, merits, rank and skill.¹⁴⁵ Carmen Rosa de León, a member of the Security Advisory Council (CAS), does not consider the increase to be sufficient, and said police career requirements should ensure that anyone hired by the PNC is doing so to make a career of being a police officer and not just to earn money.¹⁴⁶

The AFPC stipulates that all members of the new PNC must attend the National Civil Police Academy, where they receive professional training, respect for human rights, for democracy and a culture of peace, as well as obedience to the law. The creation of the Academy was an important step in strengthening Guatemala's institutions. The Academy is currently the responsibility of the Deputy General Directorate of Studies.

The criteria for acceptance into the academy are covered by the PNC Educational System Regulations (Government Resolution Number 587-97), which establish minimum entry requirements. The competitive examination system as well as aptitude for the job should be the determining factors, according to the AFPC. To promote the inclusion of ethnic groups in the selection of personnel, the National Civil Police Academy places announcements with various media and has created the Multicultural Unit. However, there are many shortcomings in the system, according to Rigoberta Menchú.

Currently, about 1,400 police cadets graduate each year. This figure should be 2,400, according to experts.¹⁴⁷ Silvia Vásquez said it is difficult to recruit candidates for the academy. "No one wants to join the PNC unless they have no other job options, since the institution is disparaged, and the profession extremely risky and very demanding."¹⁴⁸ According to ASIES, a higher level of education is required in order to increase professionalism, and the basic training course now lasts 10 months. These factors also make recruiting more difficult.

ASIES notes in its report that there continue to be many problems at the Police Academy, such as insufficient funding, the lack of permanent teaching staff, and a need to restructure the entire curriculum and make it more coherent. The selection process is hindered by a lack of funds and poor training, ASIES reports.¹⁴⁹ To strengthen the academy, the UNDP recommends the establishment of an "Academic Board with the task of instructing and re-qualifying all personnel, and proposing new courses for 2008."¹⁵⁰

The PNC has been receiving support from international cooperation agencies since its creation. Responsibility for police training was initially assumed by the European Union and carried out by the Spanish Civil Guard (GCE in Spanish). Instruction and training in human rights was the responsibility of MINUGUA's program for strengthening the PNC. The UNDP will continue to provide support until 2008 with its Police Reinforcement Program (FORPOL). There continues to be bilateral cooperation with Spain, the Netherlands, Canada, Taiwan, Japan and Germany, but the main donor is the United States. In its report, ASIES notes that the academy could not operate with out international cooperation. The report cited the reform of the curriculum by the Netherlands as an example.¹⁵¹

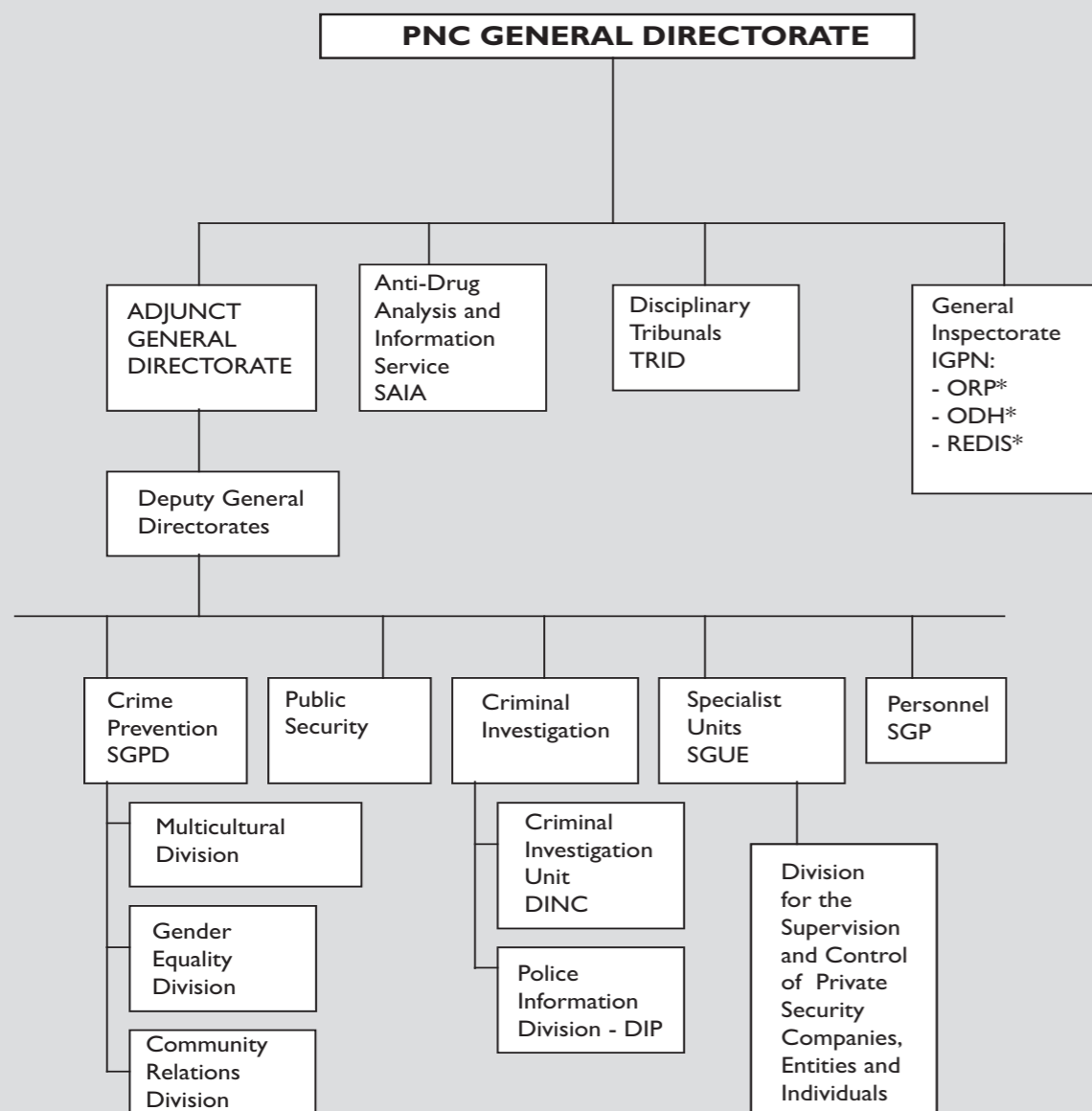
The United States has implemented various programs to fight drug trafficking and investigate crime. During the initial stage of the PNC, the U.S. facilitated the creation of the Criminal Investigation Service (SIC in Spanish). With the help of the (DEA)¹⁵² and the Narcotics Affairs Section (NAS), the Antidrug Operations Department (DOAN in Spanish) was created but later abolished because of corruption¹⁵³ and replaced by the Antidrug Information and Analysis Service (SAIA in Spanish). Julio Roberto Hernández Chávez, the current General Director of the National Civil Police, said the SAIA continues to depend on the DEA. Cooperation between the U.S. and Guatemala continues to be questioned by various civil society organizations. These organizations argue that the interests of the United States – fighting terrorism and illegal immigration – are not necessarily those of Guatemala.

Despite all of this support from the international community, the budget allotted to the National Civil Police Academy was reduced for the 2001/2002 period, triggering a major crisis and a debate on whether to close it, according to ASIES.¹⁵⁴ According to the Human Rights Ombudsman's Office, "it never recovered from this collapse, and its weaknesses continue to be structural and deep, making it a vulnerable target for organized crime and corruption."¹⁵⁵

Internal Control Mechanisms

Amnesty International notes that there are human rights abuses by police in every country, even in strong democracies. The main problem, it says, is one of control. In the introduction to its "Ten Basic Human Rights Rules for Law Enforcement Officials (Index AI: POL 30/04/98/s), Amnesty International says that all governments must take the necessary steps to train these civil servants under the provisions of national laws and the UN Code of Conduct for Law Enforcement Officials and other basic international human rights rules

Table 4. Current Structure of the PNC. Organizational Regulations AG. 662-05 (all abbreviations in Spanish).



Source: Chart elaborated by PBI showing only the deputy directorates and divisions relevant to this report.
 *: ORP = Office of Professional Responsibility for the PNC; ODH = Human Rights Office; REDIS = Disciplinary Regime Office PNC Academy

applying to such civil servants during their basic training or any other subsequent course or further training.

In a report on the mechanisms for controlling the National Civil Police, the Institute of Comparative Studies in Criminal Science of Guatemala (ICCPG) notes that the State is not only responsible for opposing human rights violations by the security forces, but for creating efficient control mechanisms to eliminate such violations.¹⁵⁶

When the PNC was created, an internal control system was established by the National Civil Police Disciplinary Regulations (Government Resolution No. 584-97). A series of bodies were created for internal control. These bodies answer to the General Inspectorate (IGPNC), which is responsible to the General Directorate of the PNC, which is controlled by superior officers. Under Article 2 of the Organizational Regulations (AG 662-05), the following bodies were established: The Office of Professional Responsibility (ORP), the Human Rights Office (ODH), and the Disciplinary Regimen Office, which handles infractions committed by police officers.

On the same hierarchical level with the IGPNC are the Disciplinary Tribunals (TRID), which are responsible for issuing disciplinary sanctions against police officers who commit infractions. There are currently three tribunals for the entire country. The second member of each of these tribunals is nominated by the Urban and Rural Development Board. This allows civil society to have a part in the purging of the police ranks.

The ORP follows up on criminal complaints against police officers. However, ASIES notes that this body suffers from staff shortages. There are only 26 investigators for the entire country working under restrictive conditions and lacking logistics equipment, "permitting impunity and hindering the purge" of the police department.¹⁵⁷

According to statistics gathered by IMASP up to December 2006, the ORP had a list of 2,271 complaints of which only 587 had been reviewed. According to ORP, the complaints include forced disappearances, kidnappings, rapes, theft and bribery. The most frequent crime is theft, followed by bribery. There has been a dangerous increase in forced disappearances and illegal detention. Moreover, mid-level PNC supervisors have been involved in crimes.¹⁵⁸

According to IMASP, the 587 cases reviewed did not lead to the removal of any of those involved because of legal action brought against the PNC.¹⁵⁹ These legal

appeals are part of procedure designed to protect employees in disputes, but IMASP Director Verónica Godoy says it is a legal measure that is abused. "The entire administrative process is a mockery, and nothing can be done to fire them."¹⁶⁰

Moreover, there may be many more cases of abuse than is apparent. According to a study conducted by the UNDP in June 2006, about 77% of the victims of criminal acts prefer to keep quiet and not report them.¹⁶¹

According to Silvia Vásquez, the problem is also with the Public Prosecutor's Office. "The MP has also been partly responsible for the poor performance of the ORG since its support has been very weak, and all cases involving police officers continue to be stalled in the MP's Administrative Crime Division."¹⁶²

A report prepared by the Spanish Civil Guard and submitted to the Ministry of the Interior in May 2006 recommends "strengthening the ORG, improving the installations and increasing economic incentives."¹⁶³ It also recommends that the ORP be decentralized.¹⁶⁴

Purging

Civil society organizations have continuously demanded that the police be purged. Miguel Angel Albizures says the assassination of the Central American Parliament members, their driver, and later the four police officers arrested in the case, was only the latest example of the problem. "It was the straw that broke the camel's back, demonstrating the internal corruption of the PNC and the infiltration of organized crime."¹⁶⁵

On 19 February 2007, three Salvadoran members of the Central American Parliament (PARLACEN) and their driver were assassinated by an elite group of the PNC's criminal investigation unit. They were killed as they were headed to a session of Parliament to be held in Guatemala City. The four policemen accused of killing them, including the head of the organized crime investigation unit, were immediately arrested. However, before they could be interrogated, they were assassinated three days later inside the maximum security prison where they were being held. After the murders, the Guatemalan Minister of the Interior, the Director of the PNC and the Director of Prisons were forced to resign.

The scandal has led many to believe that death squads exist within the Ministry of the Interior and the PNC. Frank La Rue, chairman of Guatemala's Presidential Human Rights Commission (COPREDEH), said the assassinations show the strength of illegal security groups and weakness of the PNC, the MP and the jus-



Procession on 1 May 2007. PBI photo.

tice and prison systems. He said these problems cannot be resolved without international support because organized crime goes beyond Guatemala's borders.¹⁶⁶

Since the murders, the Guatemalan Government has drafted several proposals to facilitate a purge of the police force. These proposals include the option of militarizing the PNC. However, Vice-President Stein said he prefers the approval of a measure that would permit a purging process to begin. This proposal was approved shortly after the PARLACEN murders.¹⁶⁷ However, one of the obstacles to initiating the purge is the filing of the aforementioned appeals with the Ministry of the Interior. By April 2007, there was one legal appeal left to resolve. Moreover, the Constitutional Court (CC) issued a ruling around the same time to suspend a provision of Article 4 of the Law Regulating Strikes by State Workers. The provision in question prohibited the State from dismissing public employees, even with just cause. The CC ruled that dismissals were appropriate in the case of the PNC. Prior to that, the police officers involved had filed appeals in the courts and might have had their jobs restored.

In addition, the Security Advisory Council (CAS) has drafted a proposal for strengthening police institutions to facilitate a purge of the ranks and increase internal control and supervision. The CAS proposal emphasizes the need to establish controls in the areas most corrupted and infiltrated by organized crime, giving priority to investigative bodies and raising the standards for the selection of personnel.¹⁶⁸

Cardinal Quezada Toruño, Archbishop of Guatemala City, Human Rights Ombudsman Sergio Morales and University of San Carlos President Estuardo Gálvez, have also proposed an initiative to reform, purge and reestablish the PNC. This initiative includes the creation of a High-Level Commission for Police Reform which would work together with the CAS and the political parties. This commission would be composed of a recognized international expert in the field nominated by the "Dialog Group." At the time of this report, however, this proposal had still not been considered by the government. Enrique Álvarez said that law enforcement should be based on a model of prevention, and that this should be a priority of the State.¹⁶⁹

In late April 2007, Julio Hernández Chávez, who was appointed General Director of the PNC to replace Erwin Sperisen, announced progress in the reorganization of the PNC. He reported that 561 officers had been removed from the institution after an analysis of more than a thousand cases with grounds for dismissal. A total of 1,500 to 2,000 police officers faced disciplinary tribunals, and the dismissals reached all levels of authority.¹⁷⁰

The Ministry of the Interior reported that 1,078 officers were purged between 2004 and the first half of 2007. The majority of these officers had committed crimes of kidnapping, extrajudicial execution, conducting illegal raids, theft and rape, among others.¹⁷¹

International Cooperation

As part of international cooperation efforts to consolidate the peace process, Joao Melo de Sampaio, the European Union Business Attaché in Guatemala until mid-2007, announced in December 2006 that Guatemala was to receive a disbursement of 145 million quetzals (approx. USD 19 million).¹⁷²

However, the assassination of the three Salvadoran members of PARLACEN and other events caused the EU to reevaluate its financial support to Guatemala in security matters.¹⁷³ Since then, meetings between the Guatemalan Government and the international community have become more frequent. In these meetings, the international community has expressed its concern about the escalating violence in the country. The



A caricature titled "Results of the Purge" published in the 25 April 2007 issue of *Prensa Libre*. "Now what are we going to do for a living?" asks one police officer who has been dismissed. "The same thing, but without the uniform," replies the other.

Fuente: *Prensa Libre*, 25 de abril de 2007.

UN pointed out that the cost of that violence surpassed Q17 billion (approx. USD 2.3 billion) in 2005, which is more than the budgets of the Ministries of the Interior, Education and Health combined (Q7.9 billion or approx. USD 1 billion).¹⁷⁴

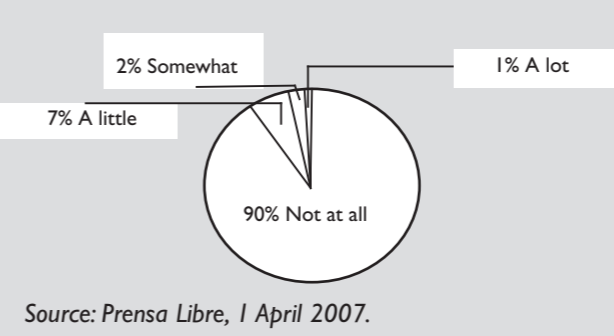
Vice-President Stein has met with the diplomatic corps on several occasions to discuss areas that require international support, such as the purging of the PNC, civilian intelligence training and monitoring of the National Security System.¹⁷⁵ The Group of Friends, which is composed of the main donors, is waiting for the government to submit a reform plan.¹⁷⁶

Meanwhile, distrust of the PNC by Guatemalans is growing. According to Special Rapporteur Philip Alston, police officers are involved in corruption, extrajudicial executions and are carrying out a policy of "social cleansing" against young people in marginalized areas.¹⁷⁷ Moreover, the U.S. State Department's annual report on international anti-drug efforts cites Guatemalan in particular for the lack of drug seizures and arrests, and concludes that drug traffickers have infiltrated state institutions, especially the PNC.¹⁷⁸ Mario Polanco of the Mutual Support Group for families of the disappeared (GAM in Spanish) said the PNC is not capable of guaranteeing the security of Guatemalans.¹⁷⁹

3.2 b. Private Security Companies

Regulation of private security companies goes back to the 1970s with the Private Police Law (1970) and the Law on Security Organizations of Banking, State and Private Institutions (1979). Current regulations consist of provisions governing private companies and security guards, and were passed prior to the adoption of the State Constitution of 1985, although some provisions were amended after the PNC Law was passed, and there have been several efforts to update it. Congress is still considering a proposal from 2005 that would oblige the State to regulate and oversee the operation of these services, reduce the level of permissiveness they enjoy, and set up a supervisory body to control them, and sanction companies that fail to meet legal requirements.

Chart 5: *Prensa Libre* Survey: Do you trust PNC officer?



By signing the AFPC, the Government undertook to regulate the operation of private security companies and declare the PNC to be the institution charged with their supervision and control. The PNC took over this function when it was created. The most recent Organizational Regulations stipulate the creation of the Division of Supervision and Control of Private Security Companies, Institutions and Individuals (SCEPSP in Spanish). However, Rigoberta Menchú said SCEPSP has been ineffective. "It does not have the logistical capacity, staff and resources necessary to exercise the necessary control," she wrote.¹⁸⁰

After the Peace Accords were signed, the number of these companies tripled, their ranks filled by former police officers and soldiers who became the principal managers.¹⁸¹ According to the latest figures from the Association of Security Companies, between 50,000 and 60,000 people work for security companies. However, *Inforpress* reports that the figure could be as high as 150,000 if illegal security companies are included.¹⁸² This number is much higher than the 20,000 members of the police force and 15,000 members of the Armed Forces. In 2005, the Ministry of the Interior put the number of registered security companies at 127, with 99 more seeking authorization. The Ministry put the number of clandestine organizations at 31.¹⁸³

The current reorganization of public security and the debate about the new General Law on the National System of Security have led to the introduction of new proposals. Meanwhile, to defend the interests of the existing security companies, the Guatemalan Chamber of Security Companies (CSG in Spanish) was established to replace the former Association of Security Companies. The objective of the Chamber is to legitimize these types of services and to study the proposals for a Weapons and Munitions Law and a Law on Private Security Companies.¹⁸⁴

The annual budget of these companies, according to the Association, is Q1.2 billion (about USD 160 million). The budget allocated to the Ministry of the Interior for 2007 is Q1.75 million (about USD 233 million). According to the UNDP, the combined household and business expense for private security in 2006 was Q4,307 million (about USD 576 million), or 1.8% of GDP. Meanwhile, the cost of public security represented 0.8% of GDP.¹⁸⁵

MINUGUA had already warned in 2002 that these companies were involved in organized crime, since they have easy access to weapons and there is no supervision or training of personnel. Therefore, the mission sought the creation of a General Directorate in the Ministry of the Interior.¹⁸⁶ Five years later, the situation has not improved. Iduvina Hernández, president of the Association for the Study and Promotion of Security in Democracy (SEDEM), these companies represent a very powerful armed economic power that may increase if the proposals being considered in Congress are approved.¹⁸⁷

According to Silvia Vásquez, the debate over the Law on Private Security Companies is one of that requires more time. "It affects entrenched interests that are not allowing it to advance in Congress," she said.¹⁸⁸ "Congress is infiltrated by economic interests that convert security into a business," said Verónica Godoy.¹⁸⁹ Otto Pérez Molina¹⁹⁰ said Congress is not likely to act on the law anytime soon. "It has very little time left and we are in an electoral campaign. It will clearly be the responsibility of the next legislature, and not just this one, but the Weapons and Munitions Law,"¹⁹¹ he said.

3.2.c. The Possession and Carrying of Weapons

Guatemala is the only Central American country with a Constitution that recognizes the right to own and bear firearms. One part of this constitutional provision refers to the right to possess firearms, while the other refers to the right to carry them from one location to another.¹⁹² With the AFPC, the Government assumed the obligation to reform the Weapons and Munitions Law to restrict and fight their proliferation, purchase and use, and to give the Ministry of the Interior authority over the matter.

According to a study conducted by the Educational Institute for Sustainable Development (IEPADES), ten years after the Peace Accords were signed more Guatemalans die violent deaths than during the Civil War.¹⁹³ According to the same now study, based on information from Central American police departments, Guatemala is the country with the highest number of illegal weapons, some 800,000.

Chart 6: Comparison of the rates of homicides committed with firearms in Central America.

| Percentage of homicides committed with firearms | | | | | |
|---|-----------|-------------|----------|-----------|------------|
| Country | Guatemala | El Salvador | Honduras | Nicaragua | Costa Rica |
| Rate | 81% | 76% | 76% | 56% | 58% |

Source: IEPADES, 2006. *Small Arms and Development in Post-War Societies*.

The current debate on the reform of this law is developing in much the same way as with the aforementioned law on private security companies. The current law (Decree 39-89) has been amended several times. The last time was prior to the Peace Accords to increase the minimum age for bearing weapons to 25 years (Decree 36-96). There were numerous attempts to amend it later. The most controversial issues are the aforementioned age requirement, the number of permits granted and the number of weapons per person, an increase in fines and criminal penalties, the obligation to register the firearms of State security forces, and the transfer of firearms and munitions registers from the Ministry of Defense to the Ministry of the Interior.

A bill was presented to Congress in 2005 for a law to regulate the ownership, possession, import, export, manufacture, sale, storage and removal from storage, transport, as well as all services related to firearms and munitions. According to the National Commission to Monitor and Support the Strengthening of the Justice System (CNSAFJ) the purpose of the law is to "make the ownership and bearing of arms easier, and it omits the international and regional conventions and treaties signed by Guatemala, contradicting the spirit of the Peace Accords."¹⁹⁴ In April 2007, the bill was still under consideration in Congress.

Another of the obligations assumed by the Government in the AFPC was the transfer of arms and munitions registers from the Ministry of Defense to the

Ministry of the Interior. The Department of Weapons and Munitions Control (DECAM in Spanish) is part of the Ministry of Defense. "It is a registration unit. It issues licenses but it does not perform any other function regarding any illegal aspects of owning and bearing arms."¹⁹⁵

According to SEPAZ, this transfer was to have been completed at the end of 1997. The Human Rights Ombudsman's Office said the failure to fulfill this obligation is attributable to a lack of political will.¹⁹⁶ Idivina Hernández does not believe the Armed Forces will permit the transfer and will find ways to avoid it.¹⁹⁷

3.3. The Armed Forces

The AFPC obliges Guatemala to reform its defense policy in the context of democratic security concepts. This concept is part of an overall structure that includes public security and intelligence. According to FLACSO, the measures proposed in the Accord are in harmony with the mission of the Armed Forces, which is "to defend the sovereignty of the country and the integrity of its territory." An objective of the Accord, according to FLACSO, is to adapt "the doctrine, means, resources and deployment of its functions and the country's development priorities." The Accord includes a series of constitutional reforms, but these were rejected by voters in the 1999 referendum. Because of the rejection of these reforms, "changes have been rather slim, focusing on the basic structure of the Ministry and

Chart 7: Comparison of legal and illegal weapons held in Central American countries.

| Number of legal and illegal arms | | | | | |
|--|------------|-------------|-----------|-----------|------------|
| Country | Guatemala | El Salvador | Honduras | Nicaragua | Costa Rica |
| No. of inhabitants (approx. information from 2005) | 12,699,780 | 6,874,926 | 7,346,532 | 5,483,447 | 4,221,108 |
| Registered weapons | 253,514 | 149,719 | 151,003 | 90,133 | 148,000 |
| Nº. of gun permits | 34,200 | 149,719 | 151,003 | 83,035 | 43,241 |

Sources: IEPADES, 2006. *Small Arms and Development in Post-War Societies*, and *Central American Population Centers*, National Statistics and Census Institution.

the training programs, ignoring important issues such as civil leadership of the Ministry and the functions of the Armed Forces, which continues to maintain the role of maintaining order and public safety."¹⁹⁸

The report of the Historical Clarification Commission (HCC) considered it essential for the military to be subordinated to civilian power, for its regulations to be amended and for it to fulfill its constitutional mandate to respect human rights. The HCC also considered it necessary for military discipline to be adapted to the law, for the Armed Forces to be politically neutral and for their duties to be limited to the security of Guatemala's borders. These recommendations are the result of the serious human rights violations attributed to the Armed Forces during the civil war.¹⁹⁹

3.3.a. The Role of the Armed Forces in a Democratic Society

The Accords oblige the State to make the Armed Forces responsible only for external security (the defense of the country's sovereignty and its territory). Because of the aforementioned rejection of constitutional reforms in 1999, the Ministry of Defense continues to be responsible for both internal and external security.

The current policy approved by the government of Oscar Berger in 2004 and called "The Modernization of the Guatemalan Armed Forces for its Role in a Democratic Society during Peace Time" stipulates changes in the structure and force of the army, reducing its personnel by 50% and also reducing its budget. It also includes the continuation of reforms in military education and the creation of civic alliances, which is defined as cooperation with civil society.²⁰⁰

However, with the constant increase in violence and the crime rate, the government is under pressure from the public to find a solution, and the Armed Forces continue to work jointly with the PNC on public safety. "The joint forces are the result of political pressure under which the authorities find themselves to respond to (public) insecurity," said Silvia Vásquez.²⁰¹

Others have also criticized the government's continued reliance on the Armed Forces for policing the country. "Even though their temporary participation is permitted, this Government has permanently placed the Armed Forces in the role providing public safety," said Sandino Asturias, Director of Research Center of Guatemala (CEG in Spanish).²⁰² The Berger Government has used the Law for the Support of the Armed Forces in Civilian Security (Decree No. 40-2000) to justify seeking the help of the Armed Forces. Article 4



The Escuela Politécnica is protected by the Army during a march protesting the ratification of the Central America Free Trade Agreement in March 2005. PBI photo.

of this Law defines the army's role as follows: "Without restriction, assistance and cooperation in the control and fight against the manufacture, use, carrying, trafficking and sale of drugs; crimes of kidnapping and abduction, smuggling and fraud; the plundering of forests; the conservation of cultural heritage, trafficking of weapons and other events deemed appropriate which require the support of the Armed Forces of Guatemala due to their importance and seriousness."

In April 2006, the Citizen Security Brigades were created. Months later, for purposes of combating drug trafficking in four of the country's departments, a series of operations of these forces began, when "states of precaution" were declared.²⁰³ The government justified this state citing the "constant climate of social conflict, acts that disturb the peace and security of the State and ultimately the people living in the municipalities." However, the OHCHR said these are not the exceptional circumstances foreseen in the International Agreement on Civil and Political Rights and the American Convention on Human Rights ("Pacto de San José").²⁰⁴

This type of combination of forces sparks strong public debates. The army's permanent support of the PNC is a sign for various social organizations of the re-militarization of public security.²⁰⁵ Several organizations accuse the joint security forces of committing human rights violations during the aforementioned military operations. The Human Rights Ombudsman issued a report on such violations after the surprise military-police operation on 21 August 2006 in the community of returned refugees Ixtahuacán Chiquito in Ixcán, Quiché. The report, titled "Reopening Wounds in Peace Time," concludes that the Armed Forces committed

Chart 8: Budget for Defense and Security in Relation to GDP

| Years | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|------------|------|------|------|------|------|------|------|
| % Defense | 0,62 | 0,81 | 0,93 | 0,67 | 0,71 | 0,40 | 0,41 |
| % Interior | 0,80 | 0,77 | 0,84 | 0,74 | 0,85 | 0,78 | 0,74 |

Source: FLACSO, quoting Aguilera, Gabriel, *La reforma al sector seguridad en Guatemala: logros y desafíos* ("Reform of the Security Sector in Guatemala: achievements and challenges), with information from the Bank of Guatemala and the Ministry of Public Finance. 2005.

acts of terror on a peaceful community in peace time. Human Rights Ombudsman Sergio Morales (PDH) said these situations occur "because the military forces are not accustomed to dealing with the civilian population" in times of peace.²⁰⁶ Moreover, sustaining this new force means increasing the military budget.²⁰⁷ "Under the new anti-terrorist policy (begun by the U.S. after the September 11 attacks) popular demonstrations, the social movement, organized development of indigenous populations and the struggle against the Free Trade Agreement are being criminalized," wrote Inforpress.²⁰⁸ According to Inforpress, the reform of the army after the Peace Accords has been thwarted by the "supranational" U.S. security agency of the U.S., as the anti-terrorism and anti-drug fight turns the army's attention to internal security, hardening the PNC's strategy at the same time.²⁰⁹

According to press reports, after a year in which 2,300 soldiers have patrolled the streets to help the PNC, the results have been minimal. Insecurity persists and the crime rate continues to rise.²¹⁰ "This help is weakening the PNC, since it uses up resources that will never be invested in the Police, and is a palliative that only exists in the minds of the people," said Verónica Godoy.²¹¹

The CAS has also criticized the joint forces, noting the different training and purpose of the two organizations and concluding that the joint forces and the presence of the military on the streets only creates a false sense of security.²¹²

According to organizations involved with the issue of democratic security, there are three obstacles to transforming the Armed Forces so that they may fulfil their new role under a democratic government. These obstacles are the absence of a modernization plan, the politicization of promotions, and the high level of corruption in the Armed Forces in the post-war period.²¹³

3.3.b. Legal Framework and the New Military Doctrine

After the constitutional reforms were rejected, some of the AFPC obligations were fulfilled by other legal mechanisms. One example of this is the replacement of the Military Code, which dated to the early twentieth century, with a more modern one.

Regarding the administration of justice, according to a report by the International Commission of Jurists (ICJ) after a mission to Guatemala in 2005, both the Human Rights Commission and the Inter-American Human Rights Commission and Court have insisted that military tribunals only have jurisdiction to try members of the Armed Forces for strictly military crimes, and should not be authorized to try civilians, as this is a violation of the principals of jurisdiction and due process.²¹⁴

Moreover, there are various bills being considered by Congress concerning military penal regulations, military criminal trial regulations and the military penitentiary system.²¹⁵ One such bill would allow the Armed Forces to try soldiers for crimes that are not strictly military crimes: "Military courts and tribunals shall have jurisdiction in criminal matters concerning: 1. crimes included under Military Criminal Law; 2. crimes and infractions included under ordinary criminal legislation when these are committed by military personnel in accordance with Article 5 of the Military Criminal Law." Approval of this law would be a serious setback in human rights and in the struggle against impunity, according to the ICJ, since, contrary to the principles established by international jurisprudence and doctrine, it would remove military personnel accused of human rights violations from the jurisdiction of ordinary courts, and there would be a serious risk that such crimes will go unpunished.²¹⁶

The Myrna Mack Foundation (MMF) has said that such legislative proposals to change Military Criminal Law encourage a drastic expansion of military jurisdiction



Mural in San Juan Comalapa, Chimaltenango. PBI photo.

and diminish the independence of the civilian judicial system. According to the MMF, such legislation would allow ordinary crimes under the Penal Code to be tried in military courts if those accused of committing the crimes are military personnel. The foundation also warned that, if passed, the law would violate the principle of equal treatment before the law under Guatemala's Constitution.²¹⁷

Meanwhile, other initiatives more in line with the spirit of the Peace Accords have been proposed, such as the reform of the Law Incorporating the Armed Forces, which dates back only to 1990, and the redrafting of the Military Doctrine so that it respects and incorporates international human rights conventions ratified by Guatemala, and emphasizes the defense of sovereignty and national territory and independence in accordance with the Peace Accords.

The new Law Incorporating the Armed Forces has been under consideration in Congress since late 2006 after the National Defense Commission gave it a favorable vote. However, the MMF argues that the proposed law is "inappropriate, since it does not help institution-

alize the Ministry of National Defense in accordance with the Rule of Law, and its purpose is isolated reforms without considering the need for a structural and integral reform process with the final objective of transforming the army.²¹⁸

The redrafting of the Military Doctrine also remains pending. Under the AFPC, the new doctrine must be oriented toward respect for the Constitution, for human rights, for the international conventions on military matters ratified by Guatemala, for the defense of national sovereignty and independence, territorial integrity, and the spirit of the Peace Accords. According to Gabriel Aguilera Peralta, the Ministry of Defense developed several proposals for an "Army Doctrine" between 1999 and 2002, but MINUGUA objected since there was no consultation of civil society.²¹⁹

Finally, in 2004, the President was presented with a proposal that had been debated and approved by a special commission for a dialog between civil society and the Armed Forces on defense policy (*Mesa Intersectorial de Diálogo sobre Política de Defensa*).²²⁰ The proposal covers the new functions of the Armed

| Current Regulation | Proposed Reform |
|---|---|
| Title V Structure and organization of the State Chapter V Army | Title IV Government Power Chapter III Executive Branch- Section Three Army |
| <p>Article 244. Integration, organization and purpose of the Armed Forces.</p> <p>The purpose of Guatemala's military is to maintain the independence, sovereignty and honor of Guatemala, its territorial integrity, peace and internal and external security. It is singular and indivisible, and necessarily professional, apolitical, obedient and non-deliberating.</p> <p>The military is made up of an army, air force and navy. It has a hierarchical organization and is based on the principals of discipline and obedience.</p> | <p>Article 202 "A". Integration, organization and purpose of the Armed Forces.</p> <p>Guatemala's military is an indivisible, and necessarily professional, apolitical, obedient and non-deliberating institution. Its ordinary functions are to maintain the sovereignty of the country in the face of military threats, defend its territorial integrity, and the external security of the State.</p> <p>The military is made up of an army, air force and navy. It has a hierarchical organization and is based on the principals of discipline and obedience.</p> |
| <p>Article 246. Duties and powers of the president in the Armed Forces.</p> <p>The President of the Republic is the Commander in Chief of the Armed Forces and shall convey his orders through the general or colonel or equivalent in the War Navy who performs the duties of Ministry of the National Defense.</p> <p>In this respect, he has the powers assigned to him by the law, particularly the following:</p> <p>a) To order mobilization and demobilization; and b) Grant promotions to officers of the Armed Forces of Guatemala in peace time and war, and award decorations and military honors in the cases and in the manner established by the Law Incorporating the Armed Forces and other military regulation laws. The president may also grant extraordinary pensions.</p> | <p>Article 202 "B". Duties and powers of the president in the Armed Forces.</p> <p>The President of the Republic is the Commander in Chief of the Armed Forces and shall convey his orders through the Ministry of Security.</p> <p>In this respect, he has the powers assigned to him by the law, particularly the following:</p> <p>a) To order mobilization and demobilization; and b) Grant promotions to officers of the Armed Forces of Guatemala in peace time and war, and award decorations and military honors in the cases and in the manner established by the Organic Law of the Armed Forces and other military regulation laws.</p> |
| <p>Article 249. Cooperation of the Armed Forces.</p> <p>The Armed Forces shall cooperate in situations of emergency or public disaster:</p> | <p>Article 202 "C". Cooperation of the Armed Forces.</p> <p>The President of the Republic, through the Ministry of Security, may only use the Armed Forces to carry out cooperation tasks to maintain internal security in legally declared states of public disaster, siege and war under the provisions of the Constitution and the Constitutional Law on Public Order.</p> <p>The functions the armed forces carried out under these circumstances must be regulated by the Constitutional Law on Public Order:</p> |

Forces and the rights and obligations of citizens to perform a Civic Service under the Civic Service Law (Decree No. 20-03). MINUGUA has described the creation of the aforementioned dialog commission with the support of international cooperation agencies as positive. The commission achieved an important level of mutual trust necessary for such a dialog, reported MINUGUA.

The aforementioned commission was later renamed the Defense Community (*Comunidad de Defensa*).²²¹ Other noted achievements of the commission were the National Defense White Book (2003), the proposal for a National Defense Law (2004), and the foundations of a defense policy (2005). However, the Human Rights Ombudsman's Office has noted some problems with these proposals. "In a legal context, there are some contradictions with the Peace Accords."²²²

3.3.c. Military Educational System

The AFPC stipulates that the military educational system must be appropriately adapted in its basic philosophy to the Constitution and laws of Guatemala, and be developed in accordance with a culture of peace and democratic coexistence, respect for human rights, etc.²²³ After the Accord was signed, various sectors requested the modification of the current military educational system which, according to MINUGUA, gave priority to counterinsurgency training and was based on concepts associated with the U.S. National Security Doctrine.²²⁴ Since then, there have been many proposals to transform the military educational system, but no significant changes resulted. According to MINUGUA, this was due to dispersed efforts, a lack of coordination and consistency, continuous changes in the military hierarchy, and various interpretations of directives issued in this regard.²²⁵

There have been two bodies responsible for modifying military education programs. The first was called the Education and Doctrine Command (CEDOC in Spanish), created by Government Resolution No. 431-98. The purpose of this command, according to FLACSO, is to modernize and update military education, incorporating the provisions of the Peace Accords. According to Gabriel Aguilera, the reforms initiated by CEDOC are too dispersed and lack consistency. This is due in part, he says, to the brief periods served by the successive ministers of defense.²²⁶ The second body, which replaced CEDOC, was the Command for the Higher Education of the Armed Forces (Government Resolution No. 240-04). The purpose of this command was to update the Armed Forces Doctrine and improve the educational level, with the participation of the universities.²²⁷



Member of CONAVIGUA in Comalapa, Chimaltenango. PBI photo.

One of the proposals on which several national and international organizations focused was the reform of the courses given at the Kaibil Training and Special Operations Center (CAYOEK in Spanish). The Kaibil is an elite group accused of many of the human rights violations during counterinsurgency campaigns. MINUGUA later reported that it was only able to confirm two changes to the institution. One was a change to the Kaibil motto: "A Kaibil is a killing machine when foreign forces or doctrines attack the Country or the Army." This was changed to: "A Kaibil is an elite Guatemalan soldier when foreign forces attack the Country." The second change was the introduction of the International Humanitarian and Human Rights Law as part of the curriculum.²²⁸

In its 2006 report, SEPAZ continued to stress the need to continue reforming the military's educational and training system, adapting the current contents of that system which were a result of the armed conflict, to make them more consistent with the new philosophical framework with respect to the Constitution, the dignity of participants, the observance of human rights, gender equality, the multi- and intercultural makeup of the armed forces, and the vocation of public service.²²⁹

3.3.d. Size of the Armed Forces

Section 39 of the AFPC stipulates the need to adjust the size and budget of the Armed Forces according to needs and economic means. SEPAZ insists that the reduction in size of the armed forces has gone beyond the requirements of the Accord, since in 1977 it was reduced by 33%, in 2003 by 9%, and in 2004 by 25%. The armed forces currently have 15,500 troops, 67% less than in 1996.²³⁰

However, an OHCHR report notes that since 2006 the effective size of the Armed Forces has increased, especially since the creation in March of that year of the Special Reserves Unit for Citizen Security (CERSC in Spanish). This new unit is composed of approximately 3,000 former soldiers, and its creation represents a real increase of 20% in the size of the military.²³¹

It must be taken into account that the Accord did not stipulate that corresponding reductions be made at the various levels of the military hierarchy. Thus, according to the Human Rights Ombudsman, "it has not affected high ranking officers."²³²

In April 2007, there was one officer for every three or four soldiers. "A normal army has an average of 20 soldiers per officer," said Mario Polanco. "These officers absorb the greater part of the Army's budget, since 85% goes to salaries, and just 15% to operations. In addition, they have some income – Q20 million (USD 2.7 million) from the military industry, and Q50 million (USD 6.7 million) from peace missions." Polanco said.²³³

3.3.e. Budget

In addition to the reduction of troops, the AFPC also stipulates a decrease in the military budget. Specifically, section 63.c of the Accord stipulates that the application and distribution of the budget should be adjusted to the new functions of the military, reducing the 1995 expense by 33% by 1999. According to the AFPC, the funds freed up by this reduction should be applied to the education, health and citizen security budgets.

In 1997 and 1998, the budget was progressively reduced, by percentages that were even lower than those agreed to. But, in 1999, the total amount of the

budget increased, reaching 0.68% of GDP, slightly higher than the percentage stipulated by the Accord.²³⁴

In the two following years, the expenditure reached 0.83% and 0.96% of GDP respectively, figures similar to those of the civil war period, according to MINUGUA.²³⁵ In 2004, the Berger Government established a defense budget limit of 0.33% of GDP.²³⁶

In 2005, as part of the Executive Branch modernization plan, the military budget was reduced to Q750 million (USD96 million), with Q250 million (USD32 million) budgeted for the purchase of equipment over four years. However, the Human Rights Ombudsman's Office notes that Congress approved an additional Q1,000,793 million (USD 128,509) for 2005, and that figure was increased for 2006 to Q1,107,904 (USD142,263) partly for internal and external State security.²³⁷

Therefore, the Human Rights Ombudsman said that the reduction in the armed forces has not translated into a reduction in the budget earmarked for the Defense Ministry.²³⁸

3.3.f. Transformation and the Reorganization of Troop Deployment

Regarding transformation of the military, the AFPC stipulates that educational, financial, health facilities and offices, etc., must operate like other similar institutions without profit. According to SEPAZ's 2006 report, the military made a great effort to fulfill this obligation, handing over its television transmission facilities to the government, and transferring control of the Military Geographical Institute to the Ministry of Communication.²³⁹

The Human Rights Ombudsman notes, however, that some areas of this obligation have not been fulfilled. "The military continues to hold a significant share of power over these institutions with no real subordination to civilian power."²⁴⁰

With respect to the reorganization of troop deployment in accordance with the new functions of the Armed Forces, under section 63.a. of the AFPC, the Government undertook to initiate a deployment pro-

Chart 10: Defense Budget: Breakdown of expenditures (2006)

| | Payment of personnel services | Goods and services | Equipment and military structures | Indirect taxes | Ordinary transfers | Capital expenses (purchase of equipment) |
|---|-------------------------------|--------------------|-----------------------------------|----------------|--------------------|--|
| % | 56.0 | 30.6 | 12.1 | 0.1 | 0.9 | 0.3 |

Source: Flacso-Chile. Report on the Security Sector in Latin America and the Caribbean. 2006. p. 39.

Chart 11: Defense and Security Budget in Relation to GDP

| Year | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|------------|------|------|------|------|------|------|------|
| % Defense | 0.62 | 0.81 | 0.93 | 0.67 | 0.71 | 0.40 | 0.41 |
| % Interior | 0.80 | 0.77 | 0.84 | 0.74 | 0.85 | 0.78 | 0.74 |

Source: FLACSO, quoting Aguilera, Gabriel, *La reforma al sector seguridad en Guatemala: logros y desafíos* ("Reform of the Security Sector in Guatemala: achievements and challenges), with information from the Bank of Guatemala and the Ministry of Public Finance. 2005.

cedure for the armed forces oriented toward national defense, guarding the borders and protecting maritime, territorial and air space.

In 2002, MINUGUA stated that military deployment was still oriented toward counterinsurgency. Although dozens of military outposts have been removed, some units of no use to external defense have been maintained. Moreover, these units intimidate the victims of the armed conflict. One example, is the outpost in Rabinal (Baja Verapaz) or those in the Ixil area.²⁴¹

According to the Human Rights Ombudsman, in 2006 the military deployment situation was more in line with a peace time arrangement.²⁴² However, while quantitative adjustments have been made, qualitative adjustments are still pending.²⁴³

115 Interview with Enrique Álvarez, 29 March 2007.

116 MINUGUA. Supplement to the Ninth Report of the General Secretary, 8 Closing Reports of the Regional Offices and the Report on the Timetable Progress. 2004.

117 Arcadio de la Torre. "¿Podrá Adela Torrebiarte controlar los demonios?" *Este País*. Año II, n° 10. Guatemala, April 2007.

118 Interview with Juan Pablo Arce Gordillo, 10 April 2007.

119 According to *Inforpress Centroamericana*, Edition No. 1698, Víctor Rivera, a Guatemalan/Venezuelan researcher, has been an advisor to the Ministry of the Interior since 1997 when he was hired to resolve the kidnapping cases of business leaders and people from wealthy families. *Madres Angustiadas* ("Anguished Mothers"), of which Adela de Torrebiarte is a member, was founded as a result of these crimes. It should be noted that *Madres Angustiadas* has supported the "parallel structure" of kidnapping investigations that the Ministry of the Interior built during the Government of Alvaro Arzú and placed in the hands of Rivera, and which continues to operate today. *Madres Angustiadas* publicly defended Rivera in 1997 when he was accused of raiding different organizations and of being in possession of information that he had not passed on to the Ministry. Rivera has been at the heart of the storm as the person responsible for investigating the murder of the parliamentarians (See *Inforpress* n° 1694).

120 El Periódico, 8 April 2007.

121 *Foro Permanente de Partidos Políticos. Sistema Nacional de Seguridad*. At http://www.gerenciapolitica-oea.org/gerenciapolitica/pdf/sistema_nacional_seguridad.pdf

122 *Diario de Centroamérica*, 7 March 2007.

123 Op cit, *Foro Permanente*.

124 El Periódico, 17 Abril 2007.

125 Interview with Helen Mack, 16 April 2007.

126 Op. cit. Rigoberta Menchú Tum.

127 Interview with Silvia Vásquez, 29 March 2007.

128 According to the Human Rights Ombudsman, these represent 35% of the actual force, taking into account that almost 60% of former police officers have been purged. Op. cit. Human Rights Ombudsman's Office, p. 29.

129 FIDH. *Guatemala, Violación flagrante al derecho a la justicia, 2004*, p. 20.

130 Interview with Mario Polanco, 20 April 2007.

131 Op. cit. Rigoberta Menchú Tum.

132 Interview with Julio Hernández Chávez, 19 April 2007.

133 Op. cit. ASIES, 2006.

134 Cit. Interview with S.Vásquez.

135 *Ibidem*

136 *Ibidem*.

137 Op. cit. SEPAZ, p. 118.

138 *Ibidem*.

139 FLACSO. *Reporte Seguridad en América Latina y El Caribe. Informe Nacional Guatemala, 2006*.

140 Op. cit. Human Rights Ombudsman's Office, p.32.

141 National Civil Police Law (Decree No. 11-97) Chapter IV, Section I. Art. 14.

142 Government Resolution 662-2005. Article 15-16.

143 UNDP. *Guatemala, an Agenda for Human Development, 2003*, p. 93.

144 www.sigloxxi.com

145 The salaries approved under this Decree involve a real increase for entry-level police officers from Q2,917 (USD390) to Q3,071 (USD410) a month, while sub-inspectors will receive Q3,815 (USD509). The raises affect all ranks up to the General Director, whose salary is increased from Q16,835 (USD2,245) to Q17,490 (USD2,332). Source: <http://www.elperiodico.com.gt/es/20070501/actualidad/39180/>

146 El Periódico, 1 May 2007.

147 Cit. Interview with Hernández Chávez.

148 Cit. Interview with S.Vásquez.

149 Op. cit. ASIES.

150 Op. cit. PNUD.

151 Cit. Interview with Enrique Álvarez.

152 U.S. Drug Enforcement Administration.

153 In March 2002, 1,604 kilograms of stolen cocaine were found in DOAN's storerooms.

154 Op. cit. ASIES.

155 Op. cit. PDH, p. 45-46.

156 García Morales, Manuel. *ICCPG. Mecanismos de control sobre la Policía Nacional Civil*. Guatemala. Guatemala, 2001, p.31.

157 Op. cit. ASIES.

158 Siglo XXI, 5 March 2007.

159 These injunctions were issued as the result of legal appeals to prevent dismissals of the employees.

160 Cit. Interview with Verónica Godoy.

161 Prensa Libre, 1 April 2007.

- 162 Cit. Interview with Silvia Vásquez.
- 163 Inforpress, Issue 1696. *Proponen cambios a organismos de seguridad*. March 2007.
- 164 Acción Ciudadana. *Estudio sobre el Sistema Nacional de Integridad de Guatemala*, 2006.
- 165 Interview with Miguel Ángel Albizures, 27 March 2007.
- 166 Inforpress, Issue 1694. *Asesinatos develan estructura parapolicial ilegal*. March 2007.
- 167 Governmental Resolution 74-2007, published on 6 March 2007, stipulates a purging of the PNC and the amendment of Law 420-2003. It also obliges the Ministry of the Interior to draft and submit a plan for legal reforms and changes to disciplinary regulations.
- 168 Cit. Interview with Enrique Álvarez.
- 169 *Ibidem*.
- 170 www.mingob.gob.gt
- 171 Siglo XXI, 9 March 2007
- 172 Prensa Libre, 30 December 2006.
- 173 El Periódico, 3 March 2007.
- 174 Prensa Libre, 10 March 2007.
- 175 Prensa Libre, 9 March 2007.
- 176 Interview with Juan López-Dóriga, Spanish Ambassador to Guatemala, 16 April 2007.
- 177 Op. Cit. UN. Report of Special Rapporteur Philip Alston.
- 178 Inforpress Centroamericana. Issue No. 1695. *Toma fuerza presunción de existencia de escuadrones de la muerte*. Marzo 2007.
- 179 Interview with Mario Polanco, GAM, 20 April 2007.
- 180 *Ibidem*, p. 38.
- 181 Op. cit. Inforpress, March 2007.
- 182 Inforpress. *Empresas de seguridad proliferan en tiempos de paz*. Issue 1698, March 2007.
- 183 *Ibidem*.
- 184 Siglo XXI, 27 March 2007.
- 185 UNDP. *The Cost of Violence in Guatemala*, 2006.
- 186 MINUGUA. *Private Security in Guatemala. Study on Control and Legal Regulation*, May 2002.
- 187 Cit. Interview with Iduvina Hernández.
- 188 Cit. Interview with Silvia Vásquez.
- 189 Cit. Interview with Verónica Godoy.
- 190 According to a report in Inforpress Centroamericana, Issue No. 1694, Pérez Molina headed the Military Intelligence Office (known as the D2) between 1992 and 1993 and was implicated in several cases of human rights violations when he was head of the Presidential Joint Chiefs of Staff (EMP in Spanish) during the administration of Ramiro de León Carpio. He was also in charge of a "reeducation" campaign of the so-called "model villages" during the civil war. There is also evidence linking the EMP with the 1994 murder of Judge Edgar Ramiro Elías Ogalde while Molina was in charge of the organization. (Sources: "Hidden Powers". Washington Office on Latin America (WOLA) 2004. *The Nation*, 17 April 1995).
- 191 Cit. Interview with Otto Pérez Molina.
- 192 IEPADES. *Análisis de la Reforma de la Ley de Armas*. Guatemala, 2005, p. 1.
- 193 IEPADES. *Armas pequeñas y desarrollo en sociedades post-conflicto*. Guatemala, 2006, p. 13.
- 194 Op. cit. CNSAFJ.
- 195 Op. cit. Mapa Centroamericano de Instituciones de Seguridad.
- 196 Op. cit. Human Rights Ombudsman's Office, p. 38.
- 197 Cit. Interview with Iduvina Hernández
- 198 Op. cit. FLACSO, p. 16.
- 199 Op. cit. HCC.
- 200 Op. cit. FLACSO, p. 6.
- 201 Cit. Interview with Silvia Vásquez.
- 202 La Hora, 26 February 2007.
- 203 "States of Prevention" are a kind of "State of Exception" and are regulated by Articles 138 and 139 of the Constitution, Restriction of Constitutional Rights and the Law on Public Order and States of Exception.
- 204 Op. cit. OHCHR.
- 205 Resdal. *Calidad, eficiencia y transparencia del presupuesto de Defensa. El caso de Guatemala*. 2005
- 206 Inforpress Centroamericana. Issue No. 1681. *Democratización de fuerzas de seguridad con magros resultados*. November 2006.
- 207 The Minister of Defense reported that the cost of maintaining these Brigades in 2006 was nearly Q127 million (about USD17 million). The Armed Forces has spent about Q36 million (USD4.6 million) without a competitive bidding process. Prensa Libre, 13 April 2007.
- 208 Cit. Interview with Miguel Ángel Albizures.
- 209 Op. cit. Inforpress.
- 210 Prensa Libre, 16 April 2007.
- 211 Cit. Interview with Verónica Godoy.
- 212 Cit. Interview with Enrique Álvarez.
- 213 Inforpress Centroamericana. Issue 1627. September 2005
- 214 ICJ. *Justice in Guatemala: the long road ahead*. Geneva, 2005, p.39
- 215 *Ibidem*, p. 13.
- 216 Op. cit. CIJ, p. 43
- 217 MMF. *Síntesis analítica respecto al Proyecto de Código Militar*. Guatemala, September 2005, p. 8.
- 218 MMF. *Análisis de las Reformas a la Ley Constitutiva del Ejército de Guatemala, Decreto 72-90, planteadas en la iniciativa 3539*, p.9.
- 219 Gabriel Aguilera Peralta. *Guatemala. Democratización y reforma del sector seguridad*. Guatemala, 2006, p.10.
- 220 The *Mesas Intersectoriales de Diálogo* were created under a mandate presented to the UN and the OAS by the Consultative Group for Guatemala in Washington, D.C. in February 2002.
- 221 Op. cit. Aguilera Peralta, p. 10.
- 222 Op. cit. Human Rights Ombudsman's Office, p. 44.
- 223 AFPC, Num. 40.
- 224 Op. cit. MINUGUA, p. 20.
- 225 *Ibidem*,
- 226 Op. cit. Gabriel Aguilera, p. 11.
- 227 Op. cit. FLACSO, p. 16.
- 228 *Ibidem*.
- 229 Op. cit. SEPAZ, p. 21.
- 230 *Ibidem*.
- 231 Op. cit. OHCHR. Item 21.
- 232 Op. cit. Human Rights Ombudsman, p. 43.
- 233 Cit. Interview with Mario Polanco.
- 234 MINUGUA. *Situación de los compromisos relativos al Ejército en los Acuerdos de Paz, 2002*, p. 15.
- 235 *Ibidem*.
- 236 Op. cit. FLACSO, p.13.
- 237 Op. cit. Human Rights Ombudsman, p. 42
- 238 *Ibidem*, p. 42
- 239 Op. cit. SEPAZ.
- 240 Op. cit. Human Rights Ombudsman.
- 241 Op. cit. MINUGUA.
- 242 Op. cit. Human Rights Ombudsman, p. 43.
- 243 MINUGUA. *Balance 1999*.

4. Information and Intelligence

The AFPC stipulates the need to dismantle and transform the old intelligence apparatus and create a National System of Intelligence, composed of an Intelligence Directorate (D-2) of the Military High Command, a Department of Civil Intelligence and Information Analysis (DICAL in Spanish) of the Ministry of the Interior, and the Office Strategic Analysis (SAE in Spanish) of the Presidency. Moreover, the Accord expressly stipulates that each of the various structures must strictly observe the separation of intelligence and information functions from the operations that these may trigger:

The HCC report concludes that military intelligence structures were the hub of the State's policy and took advantage of the conflict to control the population, the State and the armed forces themselves. This policy was carried out using mechanisms that ignored the Constitution and the Law, and violated human rights.²⁴⁴ The HCC concluded that the control exercised by military intelligence depended on a broad network of informants infiltrating social organizations, communities and the various state institutions.

Both the HCC's report and the Recuperation of Historical Memory (REMHI) report, drafted and published by the Catholic Church, conclude that these Guatemalan intelligence organizations were responsible for human rights violations during the civil war, and detail the impact that these violations had on the civilian population. REMHI reports that military intelligence played a key role in executing military operations that included massacres, extrajudicial executions, forced disappearances and torture. Officers and NCOs were those most involved in systematic human rights violations throughout the long war. Juan Pablo Arce said the

fear of these intelligence organizations remains. "In a society like Guatemala, the issue continues to cause pain and is very taboo," he said.²⁴⁵

4.1. Military Intelligence

Military intelligence should only be responsible for learning the strengths and weaknesses of enemies, studying the terrain (in times of war), meteorological conditions, and gather information about technologies and their impact on the armed forces.²⁴⁶ According to Spadaro, the armed forces should not intervene in internal security matters of the State. Today, military intelligence continues to have a role in internal security, as the creation of a Special Response Unit shows. This unit is made up of 500 police officers and 500 soldiers and receives information from military intelligence.²⁴⁷ According to MINUGUA, in 2002, police officers were still being trained at the Army Intelligence School, and there are cases in which the military conducts parallel investigations.²⁴⁸

The HCC recommended limiting the authority of the D2, adapting it to the new functions of the army. Moreover, the HCC called for the approval of a new law to supervise state intelligence organs, and a law to regulate access to information on military and diplomatic affairs relative to national security.²⁴⁹

In the absence of clearly defined regulations, private intelligence networks and companies have proliferated. "Even these companies are selling intelligence to the State, and this can be dangerous, since the information is sold to anyone who pays. These are mercenaries of intelligence."²⁵⁰ In Article 51 of the AFPC, the Government undertakes to stop this practice.

According to Iduvina Hernández of SEDEM, military intelligence has not been adapted to the model stipulated by the AFPC, and it currently has control over army archives relating to human rights violations during the war: "This is one of the parties which is most responsible for the weakness of the security forces, since they have continuously contributed to weakening state institutions."²⁵¹

4.1.a. Substitution of the Presidential Joint Chiefs of Staff (EMP) with the Office of Administrative and Security Affairs (SAAS)

According to Amnesty International, the Presidential Joint Chiefs of Staff (EMP in Spanish) was the most important information and intelligence service of Guatemala for many years. Since its establishment, this body had been implicated in many of the most widely publicized cases of human rights violations in the country.²⁵² The AFPC stipulated the need to dismantle the EMP. According to the Washington Office on Latin America (WOLA), the EMP had enormous political power, provided information and analysis of intelligence to the President, and provided bodyguards for the president and vice-president. The EMP also conducted surveillance of individuals and organizations considered "enemies of the State."²⁵³ According to Amnesty International, despite its official role, there is extensive evidence that the EMP had intimidated key leaders of the human rights movement, and engaged in acts of violence, including assassinations.²⁵⁴

Secretary of Administrative and Security Affairs (SAAS)

The SAAS was created by Government Resolution 32-2000. The law governing the SAAS (Decree 50-2003) defines its character and function, which is to guarantee the security of the president, vice-president and their family members, and provide logistics support for activities carried out by the president. However, the EMP continued to exist for some time after the SAAS was established to replace it. "The dismantling of the EMP was delayed until 2003, when the Decree establishing (the SAAS) was issued obliging the EMP to be dismantled,"²⁵⁵ wrote WOLA.

Some organizations warned that the SAAS would not have the civilian nature required by the Peace Accords if a law was approved allowing the transfer of former EMP members to its ranks and permitting military support for logistics matters. According to the 2006 Human Rights Report "Security and Justice in Peace Time," about "15% of the 450 security agents working in the SAAS belonged to the EMP."²⁵⁶ "The SAAS receives support from the Army (Presidential Guard) in the movements of presidential officials over the country's roads and by air, since it does not have a sufficient budget."²⁵⁷

Iduvina Hernández said the SAAS's dependency on the Presidential Guard is not just financial "but we are talking about structural dependence and joint operations. The Presidential Guard is beginning to provide intelligence and analysis to the SAAS. After three years of operating in this way, the SAAS has now been penetrated by military personnel, and the operational part of presidential security is reuniting with the intelligence part, which once again comes from military intelligence."²⁵⁸

According to Helen Mack, Director of the Myrna Mack Foundation, there was an attempt during the previous government of Alfonso Portillo to strengthen the SAAS, but it was inadequate. "For lack of an institutional vision, it was dissolved and all efforts were lost with the arrival of the new government,"²⁵⁹

Some social organizations argue that it was in 2004, with the arrival of Berger to the presidency, that the SAAS suffered its most serious setback. Iduvina Hernández said established mechanisms of selection and training were thrown out. "Without real justification, he dismissed half of the level-entry employees, and later continued to dismiss a high percentage of these, until the original number of SAAS employees was reduced to a minimum."²⁶⁰

These steps taken by the new Government with respect to the SAAS met harsh criticism at the international level as well. "More than 15 countries and international organizations have supported its creation and consolidation with financial resources, technical assistance, infrastructure and equipment."²⁶¹ It is estimated that each SAAS agent cost the international community USD56,000.²⁶² However, despite this funding, WOLA says the SAAS was receiving help from other sources. "Using the argument of a limited budget, the SAAS was being provided with personnel from the Israeli Security Service (ISS), a private security service owned by a friend of the President."²⁶³

In September 2006, complaints were filed against the SAAS and the Presidential Guard by civil society organizations for conducting surveillance of human rights activists and journalists. According to Ruth del Valle of the MNDH, the information included in the complaint was about the activities of the SAAS and the Presidential Guard, but later a list was made public by an anonymous source of 800 people under death threat.²⁶⁴

Later, a large number of social organizations issued a press release stating that there was an attempt to divert attention to the Office of Strategic Analysis (SAE in Spanish) as the author of the list. The Human Rights

Ombudsman's Office has opened an investigation into the matter.²⁶⁵

The head of the SAE, Jorge Sequén, declared that the SAE was not involved in these types of activities and its main responsibility was to provide information to the President from public sources, such as interviews.²⁶⁶

Many organizations fear the return of the EMP. "The operational part and the intelligence part are once again working together and having a very significant impact. With a low public political profile, but with a high level of political impact and influence, it is once again influencing political decision-making",²⁶⁷ said Iduvina Hernández.

The Human Rights Ombudsman's Office, and other organizations, recommend the strengthening of the SAAS, and the establishment of democratic internal and external controls to guarantee its operation.²⁶⁸

4.1.b. Archives

Under Article 31 of the Constitution, all individuals have the right to access information kept about them in archives, files or any other type of state register, and to know the purpose of such information. Registers and archives of political affiliation are prohibited.

The AFPC demands fulfillment of this constitutional article and recommends that the Government classify the possession of illegal registers and archives with political information on citizens of Guatemala as a crime.

There have been several attempts to regulate the keeping of registers and archives. Since 2000, various proposals have been made. In 2004, the OSS (Social Organizations Specializing in Security Matters) drafted a proposal to combine the Information Access Law and the State Information Classification and Declassification Law, and to make the possession of illegal archives a crime. But this bill has been stalled in the congressional Commission on Legislative and Constitutional Matters.

The regulation of archives is a key issue, considering the use of such archives during the civil war. In July 2005, the archives of the former National Police, which was abolished in 1999, were discovered by accident. These archives, according to various human rights organizations, may provide information on the activities of the state security and intelligence apparatus during the conflict and on the fate of thousands of people who disappeared, were tortured or persecuted.²⁶⁹

The Human Rights Ombudsman is currently responsible for storing and digitalizing the information from these archives, since it is one of the institutions with a constitutional mandate to investigate all information related to potential human rights violations against Guatemalan citizens. The police archive includes documents dating from 1905 to the last years of the department's existence, and concerns all types of crimes.

The AFPC also stipulates the transfer of archives with state information related to internal security to the Ministry of the Interior; and those related to the defense of sovereignty and territorial integrity to the Ministry of Defense. This was supposed to take place after the constitutional reforms proposed by the Accord, but was abandoned after these reforms were rejected in 1999.

In March 2007, the Guatemalan press reported the existence of a secret military document that came into the hands of the MP and that provides evidence of massacres committed by the army. The report concerned a classified army document called the "Sofia Plan" which directly links the army high command and its leader Efraín Ríos Montt to massacres conducted mostly in the country's western part in 1982 and 1983.²⁷⁰ The existence of the document was known to authorities for some time, and to check its validity, the judge overseeing the case, Roberto Peñate, issued an order in January 2007 to have the Ministry of Defense present the original "Sofia Plan" together with another called the "Victory 82 Plan," at a public hearing, since the former was derived from the latter. In response a month later, Minister of Defense Ronaldo Leiva sent a letter to the judge expressing his disagreement with the judicial ruling because it "violated Article 30 of the Constitution" which protects the confidentiality of military affairs. The Minister denied that the two plans were related as reported by the Guatemalan daily *Prensa Libre*, which had access to part of the document and stated that the "Sofia Plan" was an offshoot of "Victory Plan 82."²⁷¹

Nineth Montenegro, a congressional deputy with the *Encuentro por Guatemala* party, noted that this was not the first time the armed forces have stonewalled on legal issues. "They also hid behind military secrecy when we were investigating the misappropriation of funds in the Army, but the Constitutional Court ruled against them."

In fact, in March 2005, the Constitutional Court ruled that the disclosure exception only applied to two areas: military or diplomatic national security affairs, and information provided by private persons under a guarantee

of confidentiality. According to Montenegro, military secrecy only applies to military plans that have not been executed yet, not those that already have.²⁷²

4.2. Civil Intelligence

The gathering of intelligence for internal security is included within the framework of protecting the constitutional and democratic order and associated with the processing of information relating to individuals, groups or organizations involved in crimes, within the limits of the rule of law. Police intelligence is supposed to support criminal investigations as a tool against common and organized crime.²⁷³

Article 48 of the AFPC emphasizes the creation of a department specializing in intelligence and the gathering of information to fight common and organized crime. It proposes the creation of a Department of Civil Intelligence and Information Analysis (DICA in Spanish).

4.2.a. Department of Civil Intelligence and Information Analysis (DICA)

In section 48, the AFPC recommends the creation of a Department of Civil Intelligence and Information Analysis (DICA) under the Ministry of the Interior. This department would be responsible for gathering information to combat organized and common crime, and its civilian nature must be established from the start.

Since it was established, it has faced obstacles. In late 2003, its duties were expanded and it was elevated from a ministry department to the status of Directorate General of Civil Intelligence (DIGICI in Spanish).

The Law on the Directorate General of Civil Intelligence (Decree 71-2005), introduces new functions introduces such as providing intelligence to the various offices of the Ministry of the Interior and centralizing the information coming from each of them.²⁷⁴ "This directorate was established as a coordinating body between the different police intelligence services. If one of them needs to wiretap telephones, it is the DIGICI's job to do it, with court authorization," said Mario Polanco.²⁷⁵

In April 2007, the DIGICI had still not begun operating for lack of a budget.²⁷⁶ Moreover, various social organizations demanded that its mandate be clearly defined and that the necessary democratic controls be established.²⁷⁷ Despite these setbacks, progress has been made in the establishment of civil intelligence. "At least

there is now a law, and they have still been unable to pull this office toward the military," Polanco said.²⁷⁸

Various newspapers have called for the DIGICI to be strengthened, and for responsibilities to be separated so that it is exclusively responsible for intelligence work and that investigation be the responsibility of the police Criminal Investigation Division (DINC), and operational response in the hands of the PNC.²⁷⁹

4.2.b. Office of Strategic Analysis (SAE)

The reorganization of state intelligence agencies as stipulated in the Accords includes the creation of an Office of Strategic Analysis (SAE). Its function, as defined in section 49 of the AFPC is to inform and advise the president to help the latter anticipate, prevent and resolve situations of risk or threat to the state. The SAE cannot be involved in intelligence, but receives information from the D2 and the DIGICI.

Iduvina Hernández says the SAE has suffered several setbacks in its consolidation. "For example, with the Government of (Alvaro) Arzú (1996 to 1999), several military members were able to enter this office. Moreover, it was created with the objective of monitoring organized sectors of society and political opponents."²⁸⁰

When Alfonso Portillo took power (2000-2004), he attempted to reorganize the SAE. SAE offices were created throughout the country. In addition, a training and professional qualification system was established within the SAE. However, once again, a change of government brought a change of personnel, and Berger dismissed the majority of trained personnel.²⁸¹ "It was then that the military penetrated the SAE, which wound up isolated, discredited and involved in practices contrary to its own regulations established for its training."²⁸²

The Human Rights Ombudsman points out that the SAE is not operating effectively due to the absence of a solid legal framework and functional, administrative and financial instability.²⁸³

"The SAE was created with very good intentions, but now it is of no consequence. Its disappearance was intentional to demonstrate that only the military has the capacity to gather intelligence," said Miguel Ángel Albizures.²⁸⁴

Due to the reorganization of the Security System in 2007, the SAE was replaced by the State Office of Strategic Intelligence (SIEE in Spanish). This new office would have the function of coordinating the D-2 and

the DIGICI.²⁸⁵ The nature of the matters handled by this office was supposed to be different, but the most significant change would be the creation of counterintelligence offices.

The Myrna Mack Foundation said this change must make clear that the new institution will be responsible for intelligence work in different areas than those concerning the D-2 and the Civil Intelligence Directorate.²⁸⁶

4.3. Pending Legislation

The AFPC stipulates the need to establish democratic controls to guarantee the proper operation of intelligence agencies. These controls are internal and external. Internal controls refer to the criteria for selection, training and professional qualification, and presidential powers to direct, coordinate and control intelligence policy. External controls, which we address below, are exercised by Congress, the courts and civil society.

Under the AFPC, the Government undertook to promote various laws in Congress for the oversight and democratization of the intelligence system. Several organizations and institutions are urging the Government to move quickly and establish an adequate legal framework, and are pushing Congress to establish control mechanisms.²⁸⁷ A number of bills were pending in Congress at the time this report was prepared.

4.3.a. Intelligence Framework Law

There are two bills in Congress pending approval by the Interior Affairs Commission.

In April 2007, a bill to establish an Intelligence Framework Law as a component of the National Security System Framework Law was proposed. The purpose is to coordinate all efforts in this area, internally and externally, including strategic intelligence.

One of the most important tasks is strengthening democratic controls.²⁸⁸ The creation of a specific Congressional commission has been proposed as part of the Accord to supervise state intelligence bodies. This issue was also pending at the time of this report. FLACSO notes that the supervision of intelligence bodies is not just the exclusive domain of the legislature, or any of the three state powers, but involves a complex oversight scheme.²⁸⁹

4.3.b. The Law Regulating Access to Information on National Security Military or Diplomatic Affairs, and Classification and Declassification Procedures

To avoid the abuse of power and ensure respect for liberties and rights, the AFPC obliges the Government to promote a law to regulate access to information on national security military or diplomatic affairs, and establish procedures for classification and declassification of materials in accordance with the Constitution.²⁹⁰

In recent years, many proposals have been submitted to regulate the transparency of information and access thereto under a legal concept known as *habeas data*.²⁹¹ The OSS's proposal would unify the three recommendations of the AFPC, create an Information Access Law and a Law for the Classification and Declassification of State Information, and classify the possession of illegal archives as illegal. This proposal was still pending before the congressional Commission on Legislation and Constitutional Matters in April 2007.²⁹²

Later, two other bills were proposed. One to regulate the Classification and Declassification Law of military or diplomatic information that is confidential or related to national security, and another to regulate free access to information. These proposals differed from those of the OSS and the AFPC. The congressional Commission on National Defense recommended against the Classification and Declassification Law on 12 January 2006.

Both of these legislative proposals include a "confidential information" category, expanding the range of information that can be deemed classified and obstructing the right of citizens to access information that is public under the Constitution. According to the Human Rights Ombudsman, both of these proposals endanger the right to free access to public information and violate the principles of the Peace Accords. The current legislature has not shown interest in the debate, according to the ombudsman's office.²⁹³

Nevertheless, there has been important progress in making national security affairs more transparent and accessible to the public. For example, the Constitutional Court ruled in 2005 that the "military budget is not a matter of national security and therefore cannot be considered a state secret."²⁹⁴

Under the Constitution, only military or diplomatic matters concerning national security can be considered state secrets. However, Helen Mack notes that national security continues to be invoked by the mili-

tary, even for administrative matters and the rendering of accounts.²⁹⁵

Various sectors are pushing for rapid approval of the Information Access Law and *habeas data* for all military matters, and the Law for Classification and Declassification of State Information.

244 Op. cit. HCC report, p. 178.

245 Interview with Juan Pablo Arce Gordillo, 4 April 2007.

246 Commander in Chief of the Argentine Gendarmerie. Lawyer: Professor of Political Law at the Universidad de Salta, Argentina. Member of the Public Security Studies Center (CESEP). Former Sub-Director of Intelligence of the Argentine Gendarmerie. Dismissed by the Ministry of the Interior in November 1997 after publicly declaring his opposition to the president's decision to have the armed forces participate in anti-drug operations in Argentina.

247 Prensa Libre, 8 March 2005.

248 Op. cit. MINUGUA. *Informe de Verificación de los compromisos relativos a la situación del Ejército*, p. 23.

249 Op. Cit. HCC. Recommendation 59.

250 Cit. Interview with Mario Polanco.

251 Cit. Interview with Iduvina Hernández.

252 Amnesty International. Guatemala "Replacing the EMP" (Index AI: AMR 34/031/2003/s). October 2003.

253 WOLA. *Rocky Road. Progress and Setbacks in Intelligence Reform in Guatemala*, 2005, p. 8.

254 Op. cit. AI.

255 Op. cit. WOLA.

256 Op. cit. Human Rights Ombudsman, p. 49.

257 Op. cit. Rigoberta Menchú Tum, p. 41.

258 Cit. Interview with Iduvina Hernández.

259 Cit. Interview with Helen Mack.

260 Cit. Interview with Iduvina Hernández.

261 Op. cit. Human Rights Ombudsman, p. 50.

262 Cit. Interview with I. Hernández.

263 Op. cit. WOLA.

264 Cerigua, 28 September 2006.

265 Press Release "Ante la información vertida sobre la existencia de listas de amenazados de muerte en manos de instituciones de seguridad del Estado," 27 September 2006.

266 Prensa Libre, 26 September 2006.

267 Cit. Interview with I. Hernández.

268 Op. cit. Human Rights Ombudsman, p. 51.

269 PBI Guatemala. Bulletin No. 8.

270 Prensa libre, 18 March 2007.

271 En http://www.acnur.org/index.php?id_pag=6179

272 www.prensalibre.com

273 Eduardo E. Estévez. *Modelos de inteligencia, Estructuras y su aplicación en policías en proceso de reforma*. July 1999, p.7

274 Decree 71-05. Ley General de Inteligencia Civil. Consensuada por la Comisión de Alto Nivel de Gobernación y las Organizaciones de la Sociedad Civil especializadas en Seguridad.

275 Cit. Interview with Mario Polanco.

276 Op. cit. Human Rights Ombudsman.

277 Mapa Centroamericano de Instituciones de Seguridad. *Tendencias Actuales, 2005*.

278 Cit. Interview with Mario Polanco.

279 El Periódico, 28 March 2007.

280 Cit. Interview with Iduvina Hernández.

281 Op. cit. Human Rights Ombudsman, p. 52.

282 Cit. Interview with I. Hernández.

283 Op. cit. Human Rights Ombudsman, p. 51-52.

284 Cit. Interview with Miguel Ángel Albizures.

285 Siglo Veintiuno, 10 April 2007.

286 MMF press release 24 April 2007.

287 Op. cit. HCC. Recommendation 59.

288 Cit. Interview with Otto Pérez Molina.

289 Op. cit. Vela. FLACSO, p. 7.

290 Article 30 of the Guatemalan Constitution. Publicity of administrative proceedings. All administrative proceedings are public. Any interested party who requests it has the right at any time to obtain reports, copies, duplicates and certificates unless these involve military or diplomatic affairs concerning national security or information provided by private parties under guarantee of confidentiality.

291 *Habeas Data* is the constitutional or legal right of any person whose name appears in a register or database to have access to such register or database, and to demand the correction of this information if errors causes such persons harm.

292 Op. cit. Human Rights Ombudsman, p. 56.

293 *Ibidem*, p. 58.

294 On 8 March 2005, the CC ruled that administrative proceedings relating to purchasing and contracting by the armed forces cannot be considered military secrets.

295 Cit. Interview a Helen Mack.

5. Social Participation

The Accord particularly emphasizes the importance of decentralizing public administrations as a way of strengthening community participation. It specifically mentions the improvement of democratic practices by local authorities and better relations between the latter and the central government. It also stipulates the establishment of local development councils made up of various social actors such as the so-called "pro-improvement committees" and indigenous institutions, and the creation of a set of conditions so that local organizations representing the population can develop.

To fulfill obligations regarding the increase of social participation, in 2002 three complementary laws were created: the new Development Councils Law (Decree No. 11-2002), the new Municipal Code (Decree No. 12-2002) and the State Decentralization Law (Decree

No. 14-2002). The first promotes the participation of both the indigenous and non-indigenous population, taking into account the multicultural and multi-lingual characteristics of the country, and regulates the tasks of the development councils. The Municipal Code establishes areas of responsibility and the regulation of municipalities. The Decentralization Law obliges the State to decentralize the Executive Branch at the economic and administrative level to promote the development of municipalities and other local institutions, starting with citizen participation. Verónica Godoy considers the creation of the development councils to be a step in the right direction but said it will require time.²⁹⁶

296 Cit. Interview.

6. The Participation of Women in Strengthening Civilian Power



Voting during the referendum in San Antonio Huista, Huehuetenango, 12 Mayo 2007. PBI photo.

The Accord includes a series of commitments to strengthen opportunities for women to participate in the exercise of civilian power. By signing the Accord, the Government undertook to initiate informational and educational campaigns to promote the participation of women in the process of strengthening civilian power. This includes promoting the participation of women in political and social organizations and supporting the institutionalization of women's organizations and guaranteeing opportunities for women.

The new law also promotes the participation of women on the development councils. The reform of the Penal Code (Decree No. 52-2002) also represents progress, as it classifies gender discrimination and other forms of exclusion as crimes. However, domestic violence and sexual harassment have still not been classified as crimes, and legislation is still pending on the rights of domestic servants.

After the Peace Accords were signed, several institutions were established to promote women's rights, such as the National Women's Forum in 1997, The Indigenous Women's Defense Council (DEMI in Spanish) in 1999,²⁹⁷ and the Presidential Office for Women (SEPREM in Spanish) in 2000.

SEPAZ noted that the National Women's Forum has collaborated on reports about progress and limits in the area of gender equality, and helped systemize the promotion of women's rights.

Based on an evaluation of the role of women in society, an Action Plan for the Full Participation of Women 1001-2014 was drafted. Enrique Álvarez says the National Women's Forum represents an important step in the peace process in terms of the social expression of women. What has been lacking, according to Álvarez, is a social base on which women can assert their rights and be active participants.²⁹⁸ SEPREM has begun initiatives for the socio-political training of women and their participation on the urban and rural development councils, among others.²⁹⁹

Despite all of these efforts, the political participation of women in Guatemala continues to be low. For example, just 14 of the 158 legislatures are women, and eight of the 224 mayors across the country are women.³⁰⁰

"The most significant impact of the Peace Accords on women's organizations is that they have served as a path to discovery of feminist ideas, which provided us with the status we want to achieve: citizenry, defined as acknowledgement and full exercise of our rights, our identity and our autonomy over our bodies, ideas and thoughts, said Lidia Morales of the Women's Sector (Sec-

tor de Mujeres). The Women's Sector continues to see great challenges ahead for strengthening the participation of women in Guatemala, and greater efforts will be required on the part of women's organizations and the social movement in general to oblige the State to put the agenda of the Peace Accords into practice.³⁰¹

297 See 4.4. above.

298 Cit. interview.

299 SEPAZ, 2006, p.27.

300 SEPAZ, 2006, p.28.

301 Op. cit. Sector de Mujeres, p.6.

Conclusions

In the ten years since the Peace Accords were signed, the State had made progress in the formal implementation of its obligations under them with regard to the strengthening of the three state powers. However, a few years after the accords were signed, the dissolution of the Multi-Party Commission (*Instancia Multipartidaria*) and the rejection of the constitutional reforms presented great obstacles to achieving a true democratic state and the rule of law. As many of the sources of this document affirm, progress toward the strengthening of civilian power has not had a significant impact on the reality of life in Guatemalan society today. The independence of the three powers remains weak, impunity continues to prevail, corruption in state institutions persists, the army continues to patrol the streets with the police, and civilian intelligence has not been institutionalized. These weaknesses continue to exist in part because of the difficulty of changing the structure of the institutions responsible for justice and security in a country still reeling from a 36-year civil war and subject to the changing will of successive government administrations.

Legislative Branch

The various sources cited in this document also affirm that the Guatemalan Congress has made very little progress in easing the legislative process for the passage of new laws. This branch is scorned by many Guatemalans for its lack of diligence in the approval of new laws that benefit the people, and for the partisan and personal interests that prevail over the interests of all citizens on many occasions. On the eve of the 2007 general elections, many important issues remained unresolved in Congress, such as the approval of the International Commission against Impunity in

Guatemala (CICIG in Spanish) which has been approved by the Constitutional Court, the Framework Law of the National Security System, the Weapons and Munitions Law, the Law on Private Security Companies, the Prosecutor Career Law, the drafting of a new Penal Code and a review of the Law on the Internal Rules of Congress.

Judicial Branch

On the basis of the AFPC, progress has been made with the establishment of the Commission for the Strengthening of the Judicial Branch and its report "New Justice for Peace, the implementation the release of the Judicial Career Law, the opening of the Public Criminal Defense Institute, the geographical expansion of the justice system and the creation of the Guatemala National Forensic Science Institute (INACIF in Spanish). Despite these achievements, however, access to justice continues to be hindered by various obstacles, and the quality of public assistance is also low. Some of the problems are the delays in the process, the lack of translators for indigenous languages, deficient criminal investigations for lack of adequate coordination between prosecutors and police, and the existence of illegal clandestine security organizations that continue to operate with impunity. Problems with judicial independence, the lack of acknowledgement of indigenous law, and poor protection for victims and witnesses also persist.

Executive Branch

In a formal way, many of the obligations assumed under the Peace Accords have been met in the area of security and defense. However, as the sources cited in this

document have stated, corruption has continued to penetrate the Ministry of the Interior and the National Civil Police over the years. This has meant that more efforts have been focused on eliminating the corruption than on implementing real structural reforms.

On the security agenda, the creation of the CAS was an important step forward, and although it has not always fulfilled the role stipulated by the AFPC, it is expected to have an important role in the reorganization process and the creation of the National Security System. The creation of the PNC also represents important progress, as does the founding of the Police Academy and the approval of a police career law. Quantitative goals have been met, and specialized offices established, while efforts have been made to ensure that more women and ethnic groups are represented in the PNC. Ten years later, the deterioration of the PNC is evident, and it has become necessary to purge the ranks of the organization to regain the trust of the population. The subject of increasing the PNC's budget continues to be debated and questioned. Some argue that the PNC is too dependent on international support. The Weapons and Munitions Law and the Private Security Companies Law continue to be a priority.

The rejection by voters in 1999 of the constitutional reforms proposed in the Accord have permitted the Army to continue to carry out internal security tasks. The joint army-police patrols, the states of exception and other operations carried out in 2006 are all contrary to the stipulations of the Peace Accords. One positive step was the demobilization of army troops and the transformation of armed forces institutions. However, demands for the reform of the military edu-

cational system and the reduction of its budget have still not been met.

Approval of the revised Law Incorporating the Armed Forces and the Military Doctrine, as well as reforms of the military justice system are still pending. Other obligations that have not been formally met include the transfer of the Register of Weapons and Munitions to the Ministry of Government, and a review of the process for acquiring arms and war equipment in accordance with the new democratic role of the armed forces.

Intelligence

The Presidential Joint Chiefs of Staff Office (*Estado Mayor Presidencial* or EMP) has been closed and replaced by the Office of Administrative and Security Matters (SAAS in Spanish).

A civilian intelligence agency, the General Directorate of Civilian Intelligence, has been formally established. However, some warn that military intelligence agents are infiltrating the office. The strengthening of the SAAS and the Strategic Affairs Office (SAE in Spanish) continues to be a priority, as does the financing of the DIGI-CI. The proposal to create the National Security System includes the modification of the SAE so that coordination functions are assigned to the State Strategic Intelligence Office (SIEE). Implementation of the Intelligence Framework Law, the Information Access Law and the *habeas data* principle to all military matters, remain pending, as does the Law on Classification and Declassification of State Information.

Glossary

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| AFPC | Peace Accord on Strengthening Civilian Power and the Role of the Armed Forces in a Democratic Society |
| AIDPI | Accord on the Identity and Rights of Indigenous Peoples |
| ASIES | Association for Research and Social Studies |
| IADB | Inter-American Development Bank |
| CAJ | Justice Administration Center |
| CAS | Security Advisory Board |
| CC | Constitutional Court |
| HCC | Historical Clarification Commission |
| CICIACS | Commission for the Investigation of Illegal Entities and Clandestine Security Organizations in Guatemala |
| CICIG: | International Commission Against Impunity in Guatemala |
| CIDH: | Inter-American Human Rights Commission |
| CNS | National Security Council. |
| CNSAFJ | National Commission to Monitor and Support the Strengthening of the Justice System |
| CONAJUS | Commission for Strengthening the Justice System |
| COPREDH | Presidential Human Rights Commission |
| CSG | Guatemala Chamber of Security Companies |
| CSJ | Supreme Court of Justice |
| DEMI | Indigenous Women's Defense Council |
| DICAI | Department of Civilian Intelligence and Information Analysis |
| DIGICI | Directorate General of Civilian Intelligence |
| DINC | Criminal Investigation Division |
| DOAN | Department of Anti-Drug Operations |
| EMP | Presidential Joint Chiefs of Staff Office (<i>Estado Mayor Presidencial</i>) |
| EMDN | Military Chiefs of Staff Office |
| FAMDEGUA | Families of the Detained and Disappeared of Guatemala |
| FEPAZ | Ecumenical Forum for Peace and Reconciliation |
| MMF | Myrna Mack Foundation |
| FORPOL | National Civil Police Reinforcement Program |
| GCE | Spanish Civil Guard |
| ICCPG | Guatemala Institute of Comparative Studies in Criminal Science |
| ICMSJ | Coordinating Body for Modernization of the Justice System |
| IDEM | Democratic Impact |
| IDPP | Public Criminal Defense Institute |
| IEPADES | Educational Institute for Sustainable Development |

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| IGPNC | Inspectorate General of the PNC |
| INACIF | National Forensic Science Institute |
| JDJ | Judicial Discipline Board |
| JPC | Community Magistrate Court |
| LOE | Executive Branch Law |
| MINUGUA | United Nations Verification Mission in Guatemala |
| MNDH | National Human Rights Movement |
| MP | Public Prosecutor's Office |
| OHCHR | Office of the UN High Commissioner for Human Rights |
| ODH | Human Rights Office |
| OAS | Organization of American States |
| UN | United Nations |
| ORP | PNC Office of Professional Responsibility |
| OSS | Social Organizations Specializing in Security Matters |
| PARLACEN | Central American Parliament |
| PDH | Human Rights Ombudsman's Office |
| PNC | National Civilian Police |
| PNUD | United Nations Development Project |
| REDIS | PNC Disciplinary Regime Office |
| REMHI | Inter-Diocesan Project for the Recuperation of Historical Memory |
| SAAS | Office of Administrative and Security Affairs Office |
| SAE | Strategic Analysis Office |
| SAIA | Anti-Drug Analysis and Information Service |
| SCEPSP | Division of Supervision and Control of Private Security Companies, Institutions and Individuals |
| SEDEM | Association for the Study and Promotion of Security in Democracy |
| SEPAZ | Peace Secretariat of Guatemala |
| SIC | Criminal Investigation Service |
| SIEE | State Office of Strategic Intelligence |
| SIS | Israeli Security Service |
| SNS | National Security System |
| TRID | Disciplinary Tribunals |
| UE | European Union |
| UMOJ | Judicial Branch Modernization Unit |
| UPAT | The Permanent Technical Advisory Unit |
| WOLA | Washington Office on Latin America |

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