

Case Study on Guatemala

Observations and Reflections on the Negotiation and National Dialogue Process

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List of Abbreviations

AGDH	Comprehensive Agreement on Human Rights
AIDPI	Agreement on Identity and Rights of Indigenous Peoples
ASC	Assembly of Civil Society
ASESA	Agreement on Socio-Economic Aspects and the Agrarian Situation
CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations of Guatemala
CC	Constitutional Court
CEG	Episcopal Conference of Guatemala
CEH	Commission for Historical Clarification
CEPAL	Economic Commission for Latin America
CIA	Central Intelligence Agency
CIACS	Illegal Groups and Clandestine Structures of Security
CICIG	International Commission Against Impunity in Guatemala
CIG	Chamber of Industry of Guatemala
CNR	Commission on National Reconciliation
CONDECA	Central America Defense Council
CPR	Organization of the Communities of Population in Resistance
ENCOVI	National Survey of Living Conditions
FIDA	International Fund for Agricultural Development
FMLN	Farabundo Martí National Liberation Front. El Salvador
FSLN	Sandinista National Liberation Front. Nicaragua
GPDR	Public Expenditure on Rural Development
IGSS	Guatemalan Social Security Institute
MINUGUA	United Nations Verification Mission in Guatemala
ODHAG	Office of Human Rights of the Archbishopric of Guatemala
OEA	Organization of American States
OIT	International Labor Organization
ONU	Organization of the United Nations
PIB	Gross Domestic Product
PNC	National Civil Police
PNDRI	Comprehensive National Rural Development Policy
PNUD	United Nations Development Program
REMHI	Recovery of the Historical Memory Report
UNFCO	United Fruit Company (English acronym)
UNICEF	United Nations Children's Fund (English acronym)
URNG	Guatemalan National Revolutionary Unity

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1 General Introduction

Four stages or historical periods can be distinguished in the Guatemalan peace process:

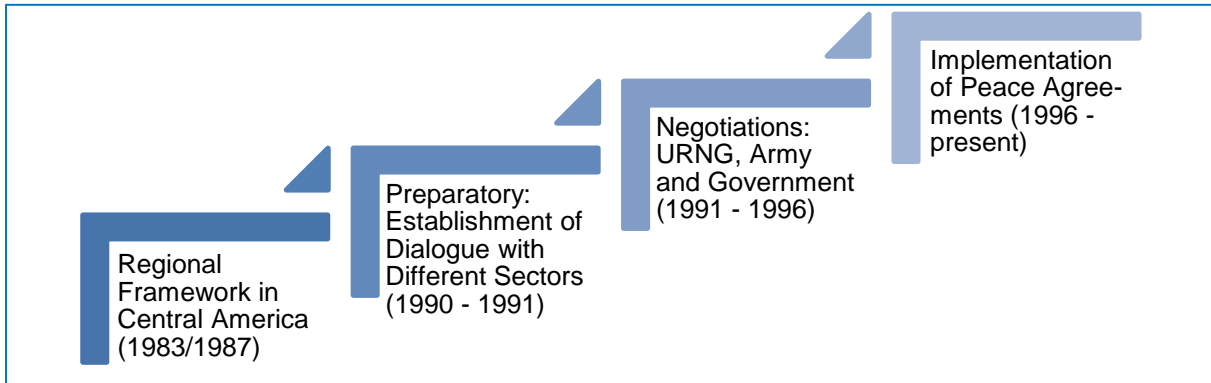


Figure 1: Stages of the Peace Process in Guatemala

Prepared by the author

1.1 Context: Current Situation and Historical Dimension

Guatemala is located in Central America. It has a territory of 108,889 sq. km, and the largest indigenous population of all the countries of Central America. Four peoples coexist in Guatemala: Maya, Xinka, Ladinos¹ and Garifuna, with the Mayans constituting most of the country's population. Spanish is the official language, but there are 21 indigenous languages, which are not officially recognized. Guatemala's natural resources have been permanently stripped away, and indigenous peoples have been enslaved, exploited, discriminated, and exterminated. The country suffered military dictatorships, supported by an economic power whose role has been crucial in the exploitation and impoverishment of the majority of the population, using the military as guardian of the system and as its main instrument of repression. In a rural and agrarian country, 65% of the land is owned by 2% of the population, a fact that has generated deep inequality. While the economic elites have historically been benefited by incentives and tax exemptions, workers earn about a dollar a day and have no access to basic services such as education, health and drinking water.

In 1944, after strong protests against the dictatorship of Ubico, two progressive governments were elected, a period called the "Democratic Spring" or "October Revolution". Both governments, that of Arevalo (1945 - 1950) and Arbenz (1951 - 1954), undertook a series of measures to modernize the state, such as the creation of a hospital network, a social security system, the Ministry of Labour and Social Security and the passing of a new Labour Code. A transcendental measure was land reform to improve the living conditions of peasants, through the permanent usufruct of land expropriated from large landowners who did not use it. The landowners and the hierarchy of the Catholic Church opposed this measure, particularly the United Fruit Company (UNFCO), an American transnational company that owned vast tracts of land for the cultivation of bananas: "The Constitution of 1955 tried to establish the recognition of social ownership of the land as a principle, that is, an integral agrarian reform. This type of ownership always was, is and will remain unthinkable for the private sector"².

¹ In Central America, the term ladino was developed during the period of the Spanish conquest to refer to native people who spoke Spanish (cultural mix). The concept evolved and is currently linked to the term mestizo, genetically and culturally, resulting from the mixture of different peoples. In Guatemala, the ladinos are recognized as one of the four peoples who live in the territory.

² Héctor Rosada Granados, Negotiator for the Government of Guatemala, in an interview on 10 February 2016.

In 1954, the United States invaded Guatemala under the pretext of saving the country from communism. The operation was organized by the Central Intelligence Agency (CIA), whose director, Foster Dulles, was the brother of Allen Dulles, owner of UNFCO.

The invasion (Operation Success) was planned in advance by the CIA and approved by President Eisenhower. It included through a military alliance with Nicaragua and Honduras, the supply of weapons and ammunition through a fictitious company, psychological warfare against Arbenz by means of radio messages to the population, the assigning of CIA agents to monitor operations in Florida, and the Declaration of the Organization of American States (OAS) condemning Guatemala. It started with flights by CIA planes, piloted by US pilots, over the capital of Guatemala. Puerto Barrios and Puerto San José, the country's two main ports, were bombed and 300 mercenaries entered through Honduras under the command of Colonel Castillo Armas, who had gone into exile in Honduras after a failed coup, and who later succeeded Arbenz. Once Arbenz had been toppled, political spaces were closed, and a brutal crackdown on any form of political and social organization followed. Trade union leaders, peasants, indigenous and agrarian populations were persecuted and murdered. In his resignation speech, President Arbenz said:

"We all know how cities have been bombed, and how women, children, elderly and defenseless civilians have been killed. We have been outraged at the cowardly attacks by American mercenary aviators who know that Guatemala does not have an adequate air force to repel them. They have used communism as a pretext. The truth is very different. The truth can be found in the financial interests of the fruit company and the other North American monopolies that have invested large amounts of capital in Latin America, fearing that the example of Guatemala might spread to fellow countries in Latin America"³.

In 1959, the Cuban Revolution emerged victorious, and in 1961, seven years after the invasion of Guatemala, the United States invaded Cuba, using Guatemala as a base for operations, but with a completely different result. This was the main cause of the first armed rising in Guatemala, known as the 13 November Movement, by young officers of the Guatemalan Army led by Luis Augusto Turcios Lima.

The armed conflict began within this framework in the 1960s, a period in which guerrilla groups were formed to confront the Guatemalan regime through armed struggle. The guerrilla movement also developed in Nicaragua, El Salvador and Honduras due to the same causes. In 1979, the Sandinista National Liberation Front (FSLN) overthrew the dictator Somoza in Nicaragua and the United States government immediately organized and financed a counter-revolution (contras). This meant an escalation in conflict in the region, with the United States intervening directly, not only to slow down the process in Nicaragua, but also to increase military aid to the dictatorial governments in El Salvador and Guatemala in order to avoid something similar to what had happened in Nicaragua. In 1982 the Guatemalan guerrilla groups formed the Guatemalan National Revolutionary Unity (URNG in Spanish). In the same year, Efraín Ríos Montt assumed power in a coup d'état, continuing and deepening the fierce persecution of civilians under the pretext of taking away the URNG's bases. This left thousands missing and murdered, especially among the indigenous populations. Analysing the situation in Guatemala compared to that of other countries in the region, the 1992 Nobel Peace Prize winner Rigoberta Menchú considers that: "The counter-insurgency plan in Guatemala was implemented on an experimental basis, as evidenced by declassified United States documents. There were no political prisoners here, as there were in Chile, Argentina and El Salvador, which is why Guatemala has a different internal context, one that has marked the peace process"⁴.

Political party registration, elections for a constituent National Assembly and a new Constitution supervised by the military were accepted. This is the context in which the Constitution of Guatemala (1985), currently in force, was written.

³ Excerpts from Arbenz's resignation speech on 27 June 1954.

⁴ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

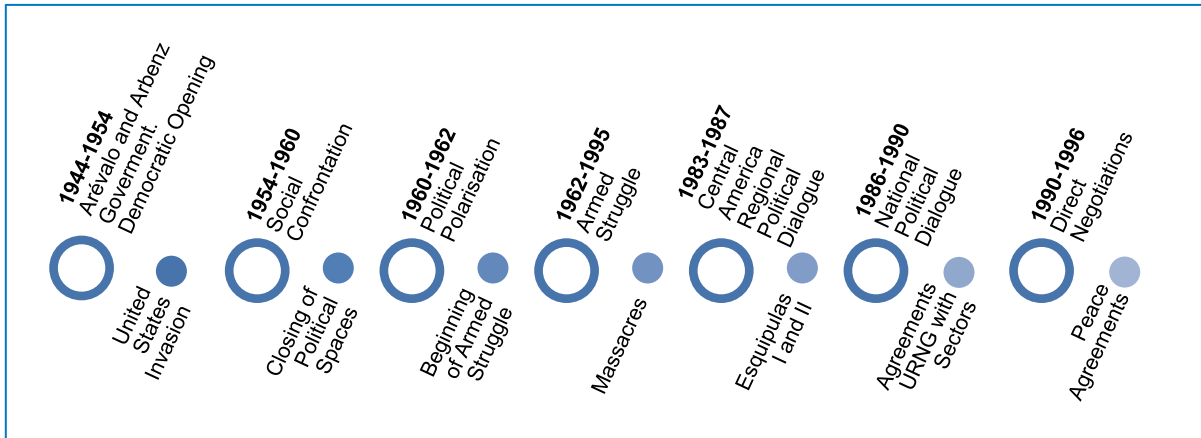


Figure 2: Guatemala Time Line (1944-1996)

Prepared by the author

1.2 Classification and Comparison of the Guatemalan Process with Others

Although peace in Central America has common aspects, the process in Guatemala has special features that result from the situation and characteristics of the country: large parts of the population are of indigenous Mayan decent, a segment of the population that has been discriminated, exploited and forgotten, and in whose territories the majority of the massacres took place, leaving a total of 200 thousand dead and 50 thousand disappeared. This marked the pillar of the peace process, insofar as the Agreement on Human Rights was to be complied with immediately in order to stop state repression. In Guatemala, the vision of peace encompassed not only the end of the war, but the opportunity to deeply transform the structural causes that originated the conflict. The signing of 12 agreements, after a period of almost 10 years of negotiations in which a variety of internal and external actors interacted, was marked by serious incidents, such as the coup by Serrano Elias that caused a stalemate in the negotiations and the cessation of the functions of the National Commission on National Reconciliation (CNR) in 1992, endangering the peace process. The following are considered important elements in the Guatemalan process:

- The unilateral initiative by the URNG who, with the support of the CNR, promoted bilateral meetings with various sectors of the country in order to obtain consensus and support for the negotiation. This aspect is relevant and it became the preparatory and construction stage of the agenda of the future negotiation, giving it greater legitimacy.
- The permanent participation of civil society organized in the Assembly of Civil Society (ASC), which served as an organ of consultation on substantive issues, ratifying the resolutions adopted and giving legitimacy to the agenda and to the negotiation of peace.
- The political momentum from various churches, especially the Catholic Church, in an internal way, and the Lutheran Church, in an external way, as well as ecumenical encounters in support of the peace process.
- An Act of Reconciliation proposed by the peace agreements prevented impunity in cases of genocide, crimes against humanity and forced disappearance, which has enabled the prosecution of war criminals.
- The number and specificity of the signed agreements, indicating the complexity and depth of change planned. The aim was to change the function of the army from a repressive, counter-insurgent body serving economic powers in the country, to one that was subordinated to civilian power in a new democratic context. Further plans included the creation of a Commission for Historical Clarification that would rescue the historical memory of the country in order to avoid impunity and repetition of the past, the establishment of institutions for the protection of human rights, and the recognition of the existence of and policies in favour of indigenous peoples, historically forgotten, discriminated and excluded from the life of the country.

1.3 Relevance of the Peace Process

Although there is a general opinion that the implementation phase has been the weakest part of the Guatemalan peace process, it is important to note and acknowledge that important progress has been made. The peace agreements have meant a new historical stage for indigenous peoples, who have swept into the reality of the country as subjects of history since the signing of the peace agreement. The growing participation of indigenous peoples in their communities, in consultations on their territories and in the defence of indigenous women's rights is now a permanent reality. The position of women, too, has been improved, albeit with many obstacles and difficulties, so that they are able to defend their rights. Women have also succeeded in advancing their needs as part of the national agenda, especially with regard to violence, with the introduction of better legislation and specialized courts. Denunciation of violence has broken the historical silence of women on this issue. Citizen participation has increased considerably, even if it is more circumstantial than stable. Nevertheless, it is clear that citizens are not afraid to express themselves, to demonstrate, to protest, something that was impossible before the peace agreement was signed. There is still, however, intolerance on the part of the powerful sectors that refuse to listen, to accept that there is another reality, and that the country has to change. There is agreement that the country's business and economic sectors are the most reluctant to change and that much of the implementation depends on this sector. Roberto Bonini from San Egidio Community considers that:

"Now there are concerns, because the peace agreements remain as a reference, but a policy framework needs to be built in order to for them to be implemented. This no longer has to do with the peace process, but with the new correlation of forces. What worries me after 20 years is that, in relation to the criminal proceedings that are taking place, it has not been possible to instill in society the need for a process of reconciliation. There are actors with space in the private written and broadcast media that still justify the unjustifiable, and maintain the position that the massacres and abuses committed were right. And it is understood that by admitting to even a minimum of abuses it would mean opening many processes, but when you see articles that do not argue but simply dismiss the processes, organizations and victims, it generates more polarization. In addition, the basis of the conflict related to discrimination and racism persists - this is mainly cultural and the reconciliation process has not been taken seriously, something which begins with taking historic responsibility, rather than criminal"⁵.

Wilson Romero from URNG thinks that:

"If we could go back 20 years, we would do the same thing. The reason is that we were facing a polarized society, everything was black or white, the business sector was refusing to negotiate, the military was implementing reforms with a military and political defeat in mind, a plan for an ideological defeat. And on the other hand there was an international environment where the rise of the market was the order of the day, and thinking otherwise was impossible. If the negotiation process was taking place today, we would have a better developed society, with less fear, and important players regarding issues of indigenous people and women. The sectors of power no longer have the hegemony that they had in the 1980s - at that time the sectors were linked by the fear of socialism. Today they are united by the fundamental interests of capital, but they already have differences."⁶

Meanwhile, General Julio Balconi Army's negotiator believes that:

"The operational part of the agreements was reached quickly. There is no doubt it was fulfilled. The substantive part was not. That is to say that part of the transformation has not been realized. We have not moved forward, I think that not even 30% has been achieved over 20 years. This is because of a lack of commitment from the politicians whose responsibility it is to guide the country along the appropriate path that enables its needs to be solved. Politicians do

⁵ Roberto Bonini, San Egidio Community, in an interview on 22 February 2016.

⁶ Wilson Romero, URNG, in an interview on 25 February 2016.

not pay attention to the peace agenda, they just prepare for elections and get into the government. There is no major effort of the state to reduce impunity”⁷.

2 The Peace Process in Guatemala

As previously noted, the Guatemalan peace process has four recognised stages. Each stage plays its role and has its own importance in the process in general, with its own actors and their own internal and external situations, which marked the different milestones of the process. The completion of each stage and how each stage was linked were crucial. Thus the regional context determined the preparatory stage or political dialogue, and this in turn determined the negotiation and the signature of peace. Internal and external actors played different and important roles in each stage. More than ten years is a significant but necessary time period, hence the importance of not limiting time or efforts in order to build and close stages, to move forward and to achieve goals and the proposed results.

2.1 Regional Procedures in Central America

In 1983, due to the escalation of the conflicts in Central America, and at the request of the Swedish Prime Minister Olof Palme and several Nobel Prize winners, the Governments of Panama, Mexico, Colombia and Venezuela, formed the Contadora Group⁸, as a multilateral space which sought to facilitate and mediate a peaceful resolution to the conflicts in the region as a whole. Byron Morales, a former member of the Assembly of Civil Society, considers that:

“You cannot view Guatemala in isolation from the tensions of the region. The bad example set by Nicaragua in the eyes of the United States, which questioned the hegemony in the region, the escalation of the war in El Salvador and the continuation and resumption of some fronts of struggle where the URNG has a significant presence, are aspects that contribute greatly... the presence of troops in Honduras and the apparent neutrality in Costa Rica (with its tricks)”⁹.

The Contadora Group

In 1984, the Contadora Act on Peace and Cooperation in Central America was presented, containing an outline of commitments to peace, democratization, regional security and economic cooperation. For the Contadora Group, it was essential to keep the negotiations alive and to maintain open spaces for dialogue between the Central American countries that did not have bilateral spaces for meetings and dialogue.

In 1985, in Lima, the governments of Argentina, Brazil, Peru and Uruguay, created the Support Group for Contadora or the Lima Group. These two groups of countries were known as the Group of Eight. In the same year, a new constitution was enacted in Guatemala.

From Contadora to Esquipulas

1986 was an important year for peace in Central America. Vinicio Cerezo took office in Guatemala, José Azcona in Honduras and Oscar Arias in Costa Rica. In January of that year, the Group of Eight issued the Message of Caraballeda¹⁰ highlighting the principle of simultaneous action, as an "indispensable requirement for achieving peace". In the same week, the five Central American governments signed up to the principles of the Caraballeda Message through what is known as the Declaration of Guatemala.

⁷ General Julio Balconi, Former Minister of Defense and negotiator of the peace agreements, in an interview on 26 February 2016.

⁸ The group was named after the island of Contadora in Panama, where the first meeting took place.

⁹ Byron Morales, ASC, in an interview on 9 March 2016.

¹⁰ Caraballeda, a city in the State of Vargas, Venezuela.

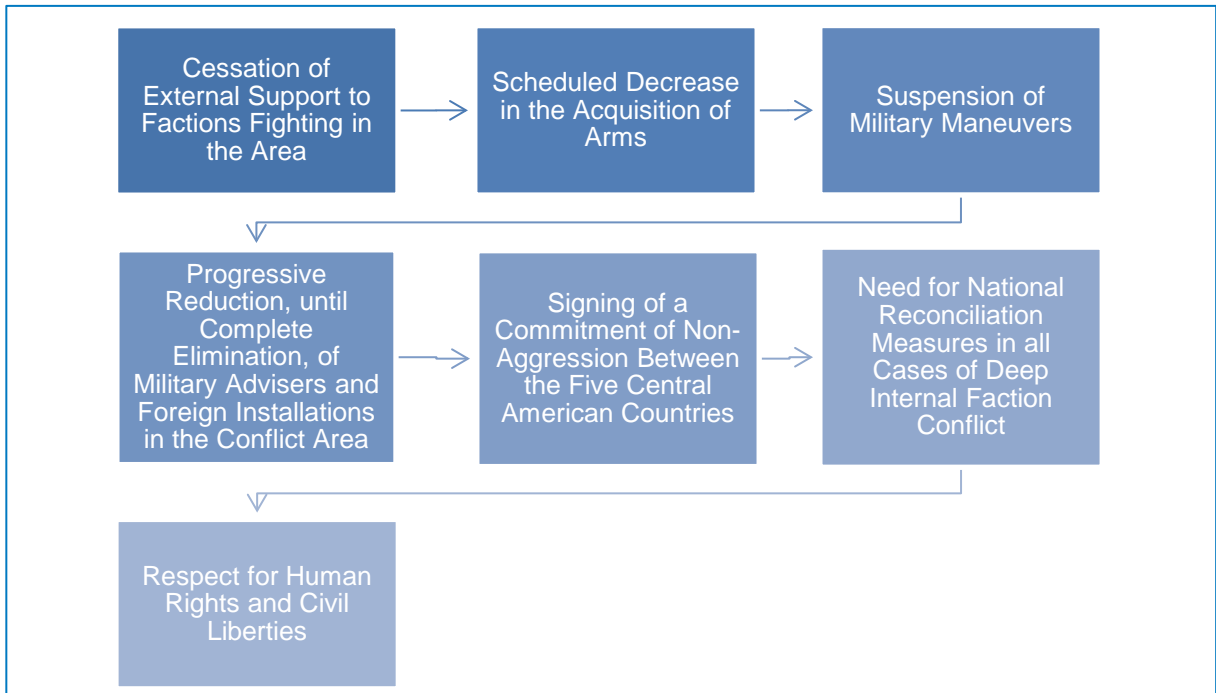


Figure 3: Message of Caraballeda

Prepared by the author based on the Message of Caraballeda

The Policy of Active Neutrality of Cerezo

President Vinicio Cerezo, who had assumed the Presidency of Guatemala in January 1986, took the initiative to gather the Central American Presidents together for the first time in Esquipulas City in Guatemala.

“During the period of Vinicio Cerezo, the context was characterized by the persistence of the Cold War and the East-West conflict (Ronald Reagan governed at the time in the United States), and likewise by the persistence of a counter-insurgent state and the limited territorial presence of armed groups, but there was a remarkable presence and initiative at the political-diplomatic level.”

International escort unfolded between the observation (UN), advocacy and political pressure (Contadora Group) to promote dialogue¹¹. It is important to note that at this time, the external actors promoting dialogue and advocacy were the Contadora Group countries. The UN began its observation during the preparatory phase.

In the same year (1986), the military of Guatemala, Honduras, El Salvador and Panama, at the request of the United States¹², met in Tegucigalpa, Honduras to try to reactivate CONDECA¹³, in order to discuss the legality of military intervention in Nicaragua. The CIA contacted President Cerezo so that Guatemala might provide its territory for the invasion of Nicaragua, but Cerezo rejected this.

Between 1986 and 1989, the Central American presidents met several times, both formally and informally, in order to establish similarities and differences, with a view to finding a solution to the Central American crisis. With advances and setbacks, the Esquipulas process laid the groundwork so that within the regional framework, countries could enter into regional agreements that would serve as a general framework for national processes.

¹¹ Catalina Soberanis, representative of the political parties, in an interview on 29 February 2016.

¹² Ronald Reagan was President of the United States from 1981 to 1989.

¹³ Council of Central American Defense (CONDECA) was created in 1962 at the initiative of the United States.

Obstacles and Difficulties

Costa Rica disagreed with the participation of Nicaragua in the regional process: "The proposal put forward by Costa Rican President Oscar Arias, 'Prayer for Peace', did not include Nicaragua"¹⁴.

The United States, with Reagan as president, had its own "Peace Plan" – to invade Nicaragua with the support of other Central American countries:

"The Secretary of State of the United States paid a visit to Guatemala to try to convince me to accept the United States' Peace Plan, which I refused, putting forward all the arguments concerning commitment to the agreements already signed. At the next meeting with Reagan in Washington, I told him that Daniel Ortega preferred elections rather than an invasion"¹⁵.

The armed conflict also affected enterprises in the region, which were facing business instability and loss of earnings. On the other hand, the possibility that the Central American governments would come to an agreement was of concern to Reagan, whose plan was to invade Nicaragua with the support of the governments of Central America. At the internal level, the governments of Guatemala, Honduras and El Salvador faced opposition from their armies. President Cerezo faced several coup attempts. The process was irreversible, however: "Cerezo's government definitely opened the door. However, it should not be forgotten that the army did not want a dialogue".

The Esquipulas II Agreement

The Procedure for Establishing Firm and Lasting Peace in Central America was signed in August 1987: Although Esquipulas II did not promote structural changes in the internal situation of each country, it laid the groundwork for the establishment of an area of minimal trust. It thus started a new period, in which the negotiations became a tool for ending national and regional conflicts and preventing war in the future. The agreement was named a procedure, which means it sets out steps and stages, as well as mechanisms that are fundamental for the establishment of mutual trust. In addition, it established a schedule which was to be complied with. The Esquipulas Agreement is a declaration of political will at the highest level. The aspect of simultaneity was essential for achieving mutual trust between countries with different views and ideologies. With this simultaneity governments agreed to act at the same time on those aspects that caused mistrust, such as the cessation of hostilities, and a ban on the use of their territory for attacks on other states, among other things.

After Esquipulas, each country began its own process of internal negotiation and dialogue. The regional agreement meant a defeat for the United States and Ronald Reagan's political strategy in the region, the intention of which had been to invade Nicaragua and weaken the insurgent movements in Guatemala and El Salvador, with the support of governments and Central American armies.

President Vinicio Cerezo's policy of active neutrality and the political will of the Central American presidents to put an end to the war in Central America and to initiate a new regional phase of peace, was imposed despite all the adverse factors and difficulties suffered by the regional peace process. The regional procedure is considered the starting point of the peace process in Central America and was a major milestone in the construction of peace in the region through dialogue and negotiation between states in conflict, with other states/groups of states playing an accompanying role that had a decisive impact throughout the process.

2.2 The Dialogue Process: The Grand National Dialogue and the Oslo Consultations (1989 - 1990)

On September 1987, following the Esquipulas II agreement, the National Reconciliation Commission (CNR in Spanish) consisting of representatives of the executive branch, the Episcopal Conference of Guatemala (CEG in Spanish), political parties and notable citizens was created in Guatemala. Monsignor Rodolfo Quezada, President of the CNR, was included as a key player, as were Tere de

¹⁴ Vinicio Cerezo, former President of Guatemala, in an interview on 24 February 2016.

¹⁵ Ibidem.

Zarzo as a notable citizen, Jorge Carpio on behalf of the executive branch and Jorge Serrano Elías on behalf of the political parties. It is important to note that *at* the beginning it was considered that the business sector ought to be part of the CNR, but the sector did not accept a role: "If we talk about dialogue, and it is called National Dialogue, it means all components or sectors of society are involved or must participate. But there are also much more limited dialogues, with a different focus and a different, more established political position"¹⁶.

National and International Context

At the international level, 1989 saw the fall of the Socialist Bloc; in 1990, the FSLN lost elections in Nicaragua. In the face of the failure of its policies, the United States changed its strategy towards Central America, and started to promote civilian governments as a result of "free" elections. The Washington consensus started to be spread, urging reductions in public spending, privatization of public enterprises, liberalisation of trade and capital markets, and foreign investment. According to Monsignor Ramazzini from the Episcopal Conference of Guatemala: "In Guatemala, internally, there was an exacerbation of repression by the Guatemalan State: assassination of political leaders, thousands of refugees, a growing economic crisis and the political isolation of the country"¹⁷.

The Grand National Dialogue¹⁸

In 1990, the preparatory phase of the Guatemalan peace process began. At a first stage and as a direct result of the Esquipulas II agreement, the CNR convened a Grand National Dialogue (GND) in 1989, which was left unfinished due to security reasons. It took place from February to October 1989, with 84 participants representing 47 organizations. While many societal segments were represented, important representatives were missing, such as from women and Mayan organizations, as well as the URNG. Although the GND did not finish, it initiated discussions on the root causes of the conflict, opened up space for public engagement and paved the way for the Oslo Consultations.

The Initiative of the URNG

At a second stage, at the initiative of the URNG and with the support of the CNR, meetings were held with or approaches were made to various sectors of the country in order to delineate a participatory approach that would drive the agenda of the peace process. An important aspect was that the revolutionary movement arrived at the peace process unified as a single force (URNG) led by the General Command. This prevented disintegration and allowed the creation of a process, negotiation and strategy leading right up to the achievement of peace. The URNG permanently promoted a diplomatic political strategy at international level, to make the Guatemalan situation known and to establish a dialogue that would culminate in agreements to put an end to the armed conflict. As part of this strategy, URNG contacted numerous actors at international level, such as churches, academics and journalists, which served as a basis for the subsequent conducting of political dialogue in the preparatory phase of the negotiation.

The Oslo Agreement

The first meeting between the URNG and the CNR was held in Oslo,¹⁹ its result being the "Basic Agreement for the Search for Peace by Political Means", known as the Oslo Agreement. The CNR was presided over by Monsignor Rodolfo Quezada Toruño, whose role was fundamental to the entire peace process. It promoted the concept that *peace* is not only the absence of war, but a chance for a new nation, which would put an end to the causes that originated the conflict. The Oslo agreement establishes the good offices role of the President of the CNR and requests that the UN play the role of observer and guarantor. The Oslo agreement was considered a framework agreement in the peace process. It was agreed that the URNG would meet with political, business, religious and popular

¹⁶ Héctor Rosada Granados, negotiator of the Government of Guatemala, in an interview on 10 February 2016.

¹⁷ Monseñor Álvaro Ramazzini, Catholic Church of Guatemala. in an interview on 8 March 2016.

¹⁸ Based on Alvarez (2002): The Grand National Dialogue and the Oslo Consultations - Creating a Peace Agenda.

¹⁹ The CNR is created on September 1987, as a result of the Esquipulas II agreement.

representatives from the country in order to seek solutions to national problems. They agreed to arrange a later date for talks aimed at achieving a political solution to the internal armed conflict, between representatives with decision-making capacity – the Government of the Republic, the Army of Guatemala (at the request of the URNG) and the General Command of the URNG. The URNG believed that although the Government of Guatemala was to sit down at the negotiating table, the army was the main actor involved in the armed conflict and that it was essential for the army to also sit at the negotiating table as a main actor.

In an interview, General Julio Balconi explains that:

“At the beginning the army did look kindly on participation in the negotiations. We did not believe that the URNG, after so many years of armed struggle, was going to surrender. The peace process was going to be long. We believed that moving the thing forward was a political process. What forced us to come to the table was the Central American commitment to Esquipulas II. If there had not been such a commitment, we would not have accepted, and perhaps we would have convinced the President not to do it. At the first meeting, there were ten of us – five military people and five civilians. On the first day we met with the URNG, there was initial mistrust on both sides, but after an hour we were soldiers and guerrilla fighters talking. The next day it was as if we had known each other for years. We started to talk and we knew that the topics were difficult, but they were not as complicated as we thought. The informal part was the ideal space, not the formal round-the-table setting. Little by little we clarified matters informally, but by the end, both parties were convinced that the process was the right road to achieve peace. The meeting points were really the reason that convinced us that the right approach was negotiation. The Guatemalan agreements are different from the El Salvador agreements. They are very detailed, because we wanted to get down to basics in order to propose solutions to problems that are not seen from the city. We agreed on that issue.”²⁰

General Balconi, army negotiator, shows in this quote the importance of the regional agreement in influencing the negotiated solution of the conflict. On the other hand, the informal contacts between the army and the guerrillas, in addition to the knowledge both had of national reality, led to greater confidence and an approach that allowed the process to move more quickly in the formal negotiations.

Agreements with Other Sectors

In San Lorenzo El Escorial, Madrid, the URNG met representatives of ten political parties, referred to as the "Political Parties Sector". The agreement of 1 June 1990 was called the "Agreement of El Escorial". In Ottawa, the URNG met the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF in Spanish) and although there were no agreements, both sides issued unilateral statements on 1 September 1990. At this meeting CACIF sent mid-level representatives with no power of decision, which showed a lack of interest in the peace process. Monsignor Alvaro Ramazzini considers that: "In the dialogue, the business sector did not assume its full responsibility".²¹ In Quito, the URNG met religious leaders from various churches, and they issued a joint statement on 26 September 1990. In Metepec, the URNG met Trade Union and Popular Action Unity (UASP in Spanish) and a few days later, in Atlixco, it met representatives of the academic, cooperative, enterprise, settler and professional sectors of Guatemala. In both cases statements were issued, on 25 and 28 October 1990 respectively.

It was at these meetings that the construction of an agenda for peace started, based on proposals from the various sectors. This subsequently gave substantive content to the negotiations, so that not only could the war be ended but a new country be built, solving the causes that originated the conflict.

These meetings with different sectors fulfilled the Oslo Agreement, and they can be said to have constituted the preparatory phase of the negotiations, in which dialogue took place and vital political

²⁰ General Julio Balconi, member of the negotiating team of the Guatemalan army and former Minister of Defense, in an interview on 26 February 2016.

²¹ Bishop Alvaro Ramazzini, Episcopal Conference of Guatemala, in an interview on 8 March 2016.

and social support was gained from different sectors of the country in search of peace through negotiation. Despite their different interests, all sectors supported the Oslo Agreement and supported the end of the war, peace, the building of democracy and social justice. Hector Rosada, Guatemalan government negotiator, makes the following point:

“No process of negotiation or dialogue is exactly like another. What we have is experiences which occurred in very specific circumstances and conditions. There is a difference between dialogue and negotiation: in the case of Guatemala the process of dialogue (the initial approaches) determined the negotiation”²².

2.3 The Negotiation Process (1991 - 1996)

The negotiation stage was the most complex, since both parties, accompanied by other internal and external actors, worked for several years to reach agreements within a pre-established agenda that in general suffered no substantive changes, but in some cases faced difficulties and design changes as described later.

Initiative for Total Peace of the Nation

In 1991, Jorge Serrano Elías, previously a member of the CNR, won the presidential elections with the promise of bringing peace. As president he issued the statement "Initiative for Total Peace of the Nation". In an interview, Catalina Soberanis, who represented the political parties, explains the conditions of the negotiations:

“The original demand had been for a ceasefire and the disarmament of the insurgent groups, but from 1991 that condition was removed, although there were unilateral ceasefires by each of the parties. Confidence was built based on the participation of the international community, especially the UN and the CNR representative at the beginning, and then the Conciliator (Monsignor Rodolfo Quezada Toruño). Negotiations had to be carried out in a neutral space outside Guatemala. Reciprocal safety guarantees for participants in the negotiation were requested. And the agenda had to be agreed on by the parties.”²³

The Peace Agenda

That same year, in Mexico City, held under the auspices of the CNR, the Government of Guatemala and the URNG met for the first time. They agreed to start negotiations to achieve a firm and lasting peace and a general agenda. The agenda was the result of the dialogues between the URNG and various social sectors. Jean Arnault, the UN mediator, highlights that:

“Of great value was the URNG’s political ability to build an agenda of peace, along with the social sectors, and to have set the issues of international support, ride the international wave of human rights, indigenous peoples, demilitarization, democratization, civil power, resources of the state, the state model, fiscal issues, historical truth etc. Without having much military force and a favorable correlation of forces, it managed to impose a highly advanced and fundamental agenda for the country, an agenda that has great validity.”²⁴

²² Héctor Rosada Granados, negotiator of the Government of Guatemala, in an interview on 10 February 2016.

²³ Catalina Soberanis, representative of the political parties, in an interview on 29 February 2016.

²⁴ Jean Arnault, UN mediator, in an interview on 22 February 2016.

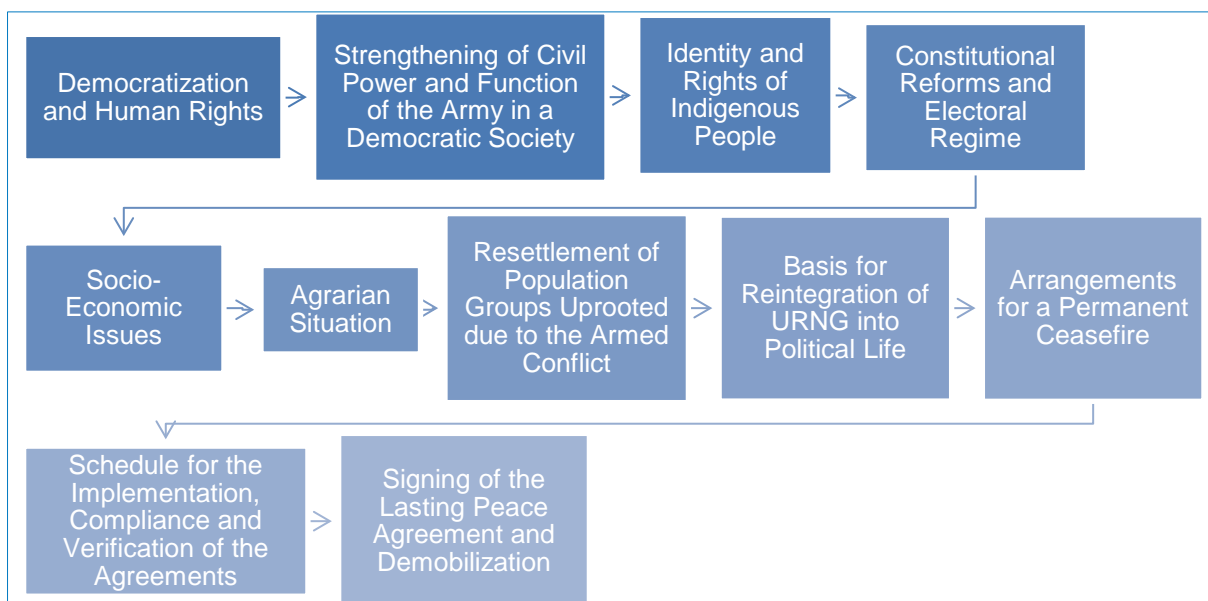


Figure 4: General Agenda Proposed by the URNG for Negotiations

Prepared by the author with information from the agenda

Internal Context during the Negotiation

During the subsequent years of negotiation, the armed conflict continued. Rosa Maria Watland, a former member of the Assembly of Civil Society, remembers that:

"Internally, people were tired of the war. The effects were so brutal, with internal refugees and displaced persons. People were seeking protection in the mountains. The pain of the people in Alta Verapaz, who had to come down and surrender, and then El Quiché, the brutal actions of the army against the population. But at the same time there was a boom or rebirth of social expression. The Assembly of Civil Society is perhaps the greatest success of the negotiation period".²⁵

The process ran into difficulties, but there was the political will to move forward. The difficulties included the self-coup of President Serrano (1993) and the takeover of Ramiro León Carpio as President, which halted the negotiations for a certain period. However, Héctor Rosada, negotiator for the Guatemalan government, was convinced that it was correct to suspend negotiations for a while and to not press the time issue:

"To stop a negotiation does not mean losing, it means a repositioning, clarifying the issues that I am not going to accept and the issues on which I could agree." The product of a negotiation is agreement, i.e. agreement on what we need to change. And when you restart the negotiation it is possible to achieve a good number of agreements".²⁶

2.3.1 Internal Actors

The Catholic Church

A key player in the peace process was the Catholic Church, which, supported by the Vatican, decided to boost the peace process. This allowed Monsignor Quezada Toruño to first have the role of conciliator in the CNR, then facilitator and later coordinator of the ASC. In addition, key bishops took functions in strategic areas; Monsignor Álvaro Ramazzini on the topic of land and Monsignor Julio Cabrera, on the subject of returnees. There was also a series of ecumenical consultations for peace in

²⁵ Rosa María Watland, ASC, in an interview on 9 March 2016.

²⁶ Héctor Rosada Granados, negotiator of the government of Guatemala, in an interview on 10 February 2016.

different places such as Costa Rica, New York and Norway. These were meetings of ecumenical reflection with all stakeholders in the peace process, which accompanied the different phases of the peace process and gave another dimension to the participation of the different religions supporting peace in Guatemala. This allowed greater ownership of the process and inclusiveness.

Legitimacy and Inclusion through the Assembly of Civil Society (ASC)

The creation of the ASC was fundamental to the development, validation and ratification of proposals and for the content of the peace agreements. The ASC was composed of five sectors: the religious sector, the indigenous peoples’ sector, the union and popular sector, research institutes and human rights organizations. During the negotiation process, the ASC was led by Monsignor Quezada Toruño, who had previously served as president of the CNR. In an interview, Jean Arnault, UN mediator, reiterates that: “The integration of the ASC into the peace process, where proposals were sent and the results signed were validated, gave legitimacy to the process”.²⁷ This view is shared by Byron Morales and Rosa Maria Wantland, members of the ASC:

*“It was not an agreement between elites. The ASC is the most representative body, with the most weight, that the peace process had. At the negotiating table the document that was discussed was the proposal put forward by the ASC. The government did not make proposals; its role was limited to discussing or pruning the proposals that were presented. There is fundamental recognition of the work that was done, not at the elite level, but at other levels. All sectors were mobilized. There were consultations and information was provided. Decision-making in the ASC was slow because the topics had to be consulted. Obviously not all sectors were covered, only the organized ones, but there was good coverage of territory and organizations. There was a high degree of legitimacy and discussion. Another very important factor that legitimizes the process was that there were consensus documents. There was discussion of and consensus on the decisions. For women, the process of peace and the ASC is what allows a step forward to be taken”.*²⁸

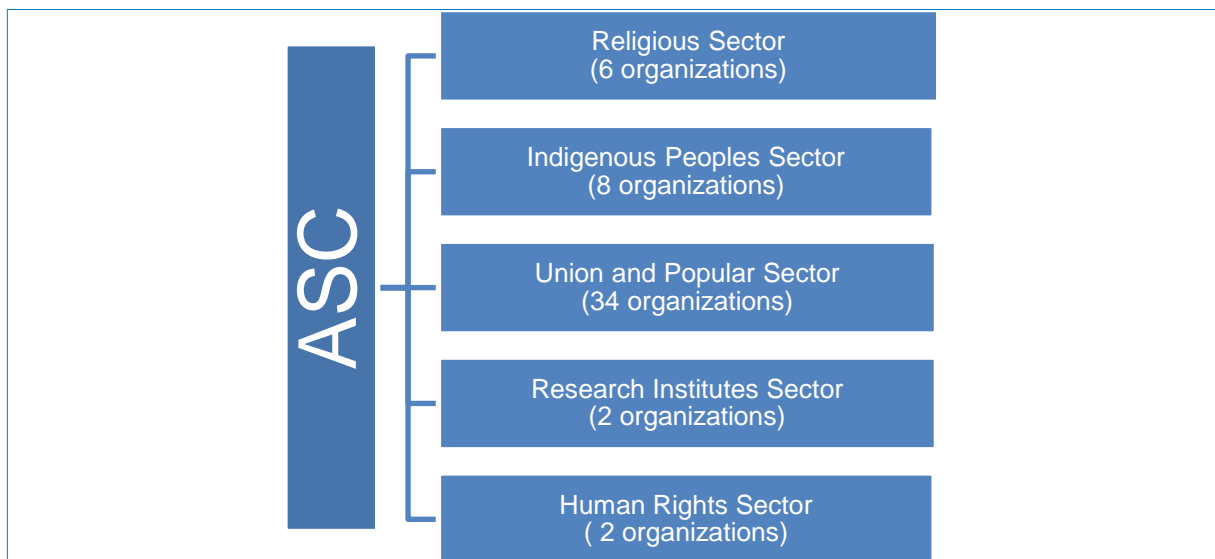


Figure 5: Composition of the ASC

Prepared by the author

²⁷ Jean Arnault, UN mediator, in an interview on 22 February 2016.

²⁸ Byron Morales and Rosa María Wantland, ASC, in an interview on 9 March 2016.

2.3.2 External Actors

UN: Observer, Mediator and Verifier

The different roles of the United Nations in the Guatemalan peace process were fundamental. In the first stage, the parties asked the UN to serve as an observer and this was very important for the creation of the first spaces of trust. In this first preparatory phase and at the start of negotiations with the government of Jorge Serrano Elías (January 1991 - June 1993), the CNR served as mediator.



Figure 6: Role of the UN

Prepared by the author²⁹

During the government of Ramiro de León Carpio (June 1993 - January 1996), the decision was taken to dissolve the CNR and to change the format of the negotiations. The parties asked the United Nations to change its role from that of observer to mediator during the negotiation process, a role the UN played throughout the process until the signing of the peace agreement. Later, and initially in order to monitor adherence to the agreement on Global Human Rights, the only agreement of immediate compliance, the United Nations Verification Mission in Guatemala (MINUGUA) was established in the country, and from 1995 to 2005 the UN was responsible for the verification of compliance with the peace agreements in Guatemala. Verification of the peace agreements involved a territorial deployment at national level, with international, civilian, police, and military personnel, as well as national staff with different specialisations and types of experience. MINUGUA produced numerous thematic reports on the peace agreements, which served as a reference and to influence the government, parties, political parties and society in general regarding the fulfilment, progress and difficulties in the implementation of the agreements. The participation of the United Nations at different stages granted recognition and international legitimacy to the process, and generated greater confidence between the parties as a neutral and impartial organization, providing experience and technical and political capacity. For the verification stage, meanwhile, it was the only organization able to carry out a territorial deployment nationwide.

Saint Egidio Community³⁰: Face to Face

The Saint Egidio Community has historically been a facilitator in various peace processes in the world and is based on the principle that any negotiation, to be successful, must have parties meet face to face, to work on mutual trust. During the negotiations, Saint Egidio organized discreet and secret meetings between the URNG Command and Presidents Ramiro de León Carpio and Alvaro Arzú, as well as with their work teams. These meetings generated the necessary level of confidence, later reflected at the negotiating table. It was an additional space for the presidents and the URNG command to meet, reflect and share points of view face to face and at the highest level, without intermediaries, as is the methodology of Saint Egidio. Roberto Bonini of the Saint Egidio Community explains:

“The URNG command started relations with Saint Egidio in late 1994. The URNG approached Saint Egidio, not for the negotiations, but to establish alliances or gain support, its main objective being to gain access to the Vatican. It was looking for a solidarity actor. Saint Egidio,

²⁹ Based on an interview with Jean Arnault, UN mediator, in an interview on 22 February 2016.

³⁰ The community of San Egidio was created in Rome in 1968 out of NGOs linked to the Catholic Church.

however, was not the Vatican and could not support any armed movement. It did, however, support peace processes, and one of its principles was not to shut its doors to anyone. The Community decided to intervene because the process was blocked after the departure of Monsignor Quezada Toruño. Their intervention was focused on becoming a reference point at the times that they might need to give specific support to the process. They were not in favor of the URNG, or against the government, they were interested and concerned about Guatemala reaching peace. The concept was simple enough, because Saint Egidio had the freedom to propose to the Command and the President that they should meet. All meetings were handled with much discretion and some in total secrecy. At these meetings there was no compromise; the objective was to know each participant's view of the problems and find meeting points that could be understood as commonalities"³¹.

The International Community

International support for the peace process was a key factor in the different stages of preparation and negotiation. Significant support was also given in the implementation phase. At the request of the parties, the "Friendly Countries of the Peace Process in Guatemala" was created. It was formed by Colombia, Spain, the United States, Mexico, Norway and Venezuela, as part of the "Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the Guatemalan National Revolutionary Unity" and signed in Mexico City in January 1994. The Friendly Countries, duly informed of the progress and content of the negotiations between the parties, had the following functions:

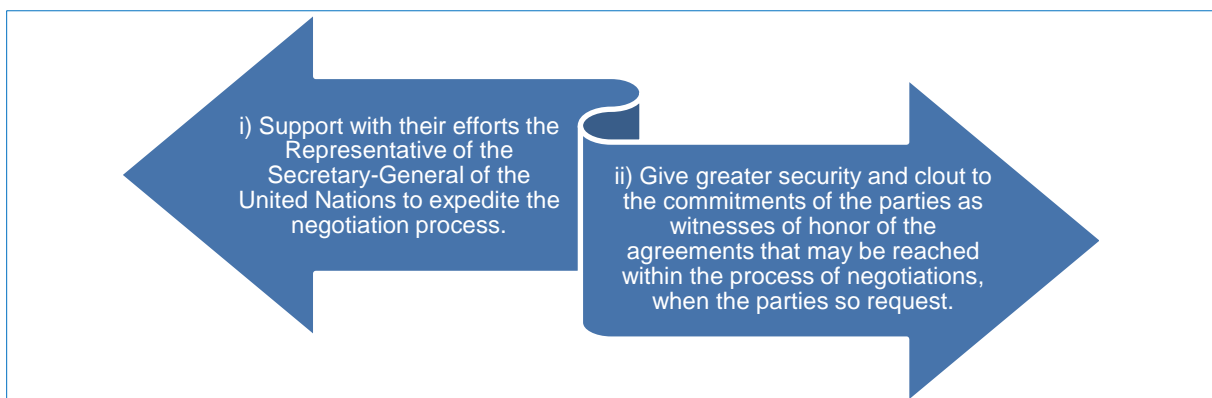


Figure 7: Functions of the Group of Friendly Countries

Prepared by the author

2.4 Content of the Negotiations

Between 1991 and 1996 the URNG, three governments and the Army of Guatemala signed a series of agreements of various types (procedural, operational and substantive) which culminated in the signing of the Firm and Lasting Peace. Negotiations in Guatemala were extremely long and highly complex, since the URNG, the ASC and the Catholic Church gave the process a substantive character, with the aim of not only the ending the conflict, but also of reaching agreements involving structural transformations of the country. This complexity was both an advantage and a disadvantage, since the difficult issues for some of the parts, such as the Global Agreement on Human Rights, required more time and more pressure from the ASC and the Group of Friendly Countries.

³¹ Roberto Bonini, Community of San Egidio, in an interview on 22 February 2016.

Human Rights - The Urgent and the Necessary: Comprehensive Agreement on Human Rights (AGDH/Mexico March 1994)

The serious situation regarding human rights in Guatemala meant that the first substantive agreement to be signed was the AGDH. This agreement was the only one requiring immediate compliance prior to the signing of the peace agreement. This was the purpose of the establishment of MINUGUA, with a focus on the national level, in the middle of the armed conflict, without any agreement having been signed on the cessation of operations. One of the more socially-sensitive subjects was forced recruitment, which made it possible for the Army of Guatemala to have more than 46 thousand military personnel and to create an element of fear among the population, since recruitment was carried out in the markets, churches, fairs and indeed any public place, with young people being taken by force and pressed into military service. The Death Squads were part of the counterinsurgency strategy used by the military in the dirty war. The massacre in Xaman took place during this period. The AGDH also established the cessation of forced paramilitarism, a counterinsurgency practice that led to the demobilization of the Patrols of Civil Self-Defense (PAC), consisting of approximately 400 thousand paramilitaries. It further required the cessation of state repression, the prohibition of the existence of illegal groups and clandestine security structures (CIACS) and the obligation of the state to combat them. Norms and rules of observation of violation of the parties' human rights were established. This was a novelty for the UN, given that it is the states that have the obligation to respect and promote human rights. The URNG accepted these rules and they had to be complied with and documented in the MINUGUA reports. A matter of the utmost importance during the negotiation of the AGDH was the creation of the Commission for Historical Clarification (CEH). The sensitivity of the subject and the stagnation of negotiations, as a result of military opposition to the establishment of the CEH, led to the decision to split the topics and develop a specific agreement to give viability to this negotiation. This experience of having separate subjects in different agreements highlights the importance of being flexible with the agenda and topics in order to advance in the negotiations. The design can always be modified along the way so that objectives and results can be achieved.

The Truth for Non-Repetition: Agreement for the Establishment of the Commission for Historical Clarification (CEH, Oslo, Norway, June 1994)

This was one of the most difficult agreements to reach, and one which met with significant resistance from the army, because of the fear of being brought to justice for massacres and genocide committed. Several factors enabled the signing of the agreement: the lack of individualization of responsibilities, the non-judicial nature of the report and the fact that the Clarification Commission would begin its work after the signing of the peace agreement. The mandate of the Clarification Commission was to draw up a report to establish the historical truth of what happened and the responsible institutions. Although it did not individualize responsibilities, nor did it have any legal effects in itself, it did not prohibit legal steps. The focus of the report of the Clarification Commission was the state's responsibility for repressive policies. The report forced the state to disclose this reality in schools and implement a series of recommendations. The agreement also generated debate between the URNG and the human rights movement, because the latter pushed to identify and prosecute cases. The URNG worked to convince participants of the importance of establishing the liability of a state policy, as a strategic issue and also to make the signing of the Agreement feasible.

Return and Reintegration with Dignity: Agreement on Resettlement of the Population Uprooted by the Armed Conflict (Oslo, Norway, June 1994)

As a consequence of state and military repression, thousands of people were displaced internally and externally. It is calculated that there were two million internally displaced persons and approximately 100 thousand refugees in Mexico. During the armed conflict and in places where massive repression by the army occurred, a social and community organization was created, Communities of Population in Resistance (CPR), to organize people who moved to avoid being massacred. The agreement aimed to organize and serve this population's relocation, the repatriation of refugees from Mexico and to meet the social problems derived from the massive displacement. The agreement deals with the

mobilization, identification, places of destination, purchase of land, organization in cooperatives and productive projects for survival.

The Historical Debt - Recognizing indigenous peoples: Agreement on the Identity and Rights of Indigenous Peoples (AIDPI, Mexico, March 1995)

This agreement is considered historic as it acknowledges that Guatemala is a multicultural, multilingual and multi-ethnic state. It set out the rights of indigenous peoples, cultural rights, their right to land, their languages and proposes constitutional reforms to strengthen them. It also proposed to criminalize discrimination. The content of this agreement runs deep, because it recognizes that racism and discrimination against indigenous peoples form the basis of the exploitative system in Guatemala. The agreement states that "recognition of the identity of indigenous peoples is fundamental to the construction of national unity based on respect for the exercise of political, cultural, economic and spiritual rights of all Guatemalans. Recognition of the identity of the Maya people, as well as the identities of the Garifuna and Xinca people within the unity of the Guatemalan nation, and the government is committed to promote before the Congress of the Republic a reform of the Political Constitution of the Republic in this regard".

Defying the Neoliberal Model: Agreement on Socio-Economic Aspects and the Agrarian Situation (ASESA, México, May 1996)

This was one of the more complex and difficult agreements to negotiate, as it sought to change the economic model and structure of the country. This was the only agreement where the CACIF was partially involved:

"Who should be the subjects and actors for an agenda of this nature to be moved? There are actors that were partially involved in the process of negotiation, or were not, such as the business sector, we're talking about the owners of the estates. Without this sector changes are going to be difficult."³²

The agreement raises topics ranging from the necessary fiscal reform – the tax rate that should exist in Guatemala – to fixing the amount of social investment in education, health and housing, as well as the role of the state as the ruling body of economic policy. It also establishes a land registry and the use of idle land. It addresses clearly the issue of rural development and the creation of the land fund FONTIERRA as an instrument of equity in the property issue.

"The corporate sector saw things differently, and we realized this when we discussed their topic. They were interested. They appointed a commission and called us frequently. When the discussion of that agreement ended and it was signed with the minimum they wanted, they forgot about us, they would not call us anymore, welcome us, or invite us to anything. Since they had solved their problem, the war could go on."³³

As explained later, the lack of political will and the economic interests of the business sector were the main obstacles for the effective implementation of the Socio-Economic Agreement.

Demilitarization and Strengthening of Civil Power: Agreement on the Strengthening of Civil Power and the Function of the Army in a Democratic Society (Mexico, September 1996)

This presented strategic actions for moving from an authoritarian and militarized country towards a democratic society, where the first clearly defined aspect is the subordination of military power to civilian rule, the demilitarization of society, its structures and relationships of power. This agreement created civil institutions to take charge of security that had thus far been in the hands of the military. It created the Civil National Police (PNC), the Secretariat of Strategic Analysis (SAE), the Secretariat of Administrative Affairs and Security of the Presidency (SAAS) and the Directorate of Civil Intelligence (DIGICI). This agreement closed down military institutions that did not have functions within the

³² Wilson Romero, URNG, in an interview on 25 February 2016.

³³ General Julio Balconi, army negotiator, in an interview on 26 February 2016.

democratic framework, such as the Mobile Military Police (PMA), Presidential General Staff (EMP), the Finance Guard, the Army TV channel, the Military Commissariat and the Army Bank. It reformed the functions of the Army, pulling it out of internal security and assigning it the functions of defense of sovereignty and the country's territory. It also modified its doctrine and budget. In his reflection on how to deal with the military issue in the negotiations, General Balconi says:

“When we were dealing with the military topic, we dealt with it last in order not to impede other issues. Before we would talk informally to the URNG, we asked them what their concerns were. Then we eliminated the concerns that both sides had by further informal talking. No under-the-table agreement was signed, we were openly dealing with issues and that facilitated the process, and the signature was left until the end. Everything was transferred to each party. We informed the army and the URNG informed the guerrillas, and this persists. To date, no incidents have occurred between the army and the URNG.”³⁴

Peace at the End of the Road

On 29 December 1996, the Agreement of the Firm and Lasting Peace between the URNG, the Government and the army of Guatemala was signed in Guatemala. This agreement was the starting point for the beginning of the implementation of the peace agreements, conceived and negotiated for more than ten years and constituting a road map and the necessary foundation for a different, modern, country where human rights, the recognition of indigenous peoples, social and economic development and the reform of the state, are the foundations of the new Guatemalan democratic state. This agreement opened a new stage that would test the true intentions of power groups regarding peace and the transformation of the country. It would also test the correlation of forces organized and mobilized to implement the peace agenda.

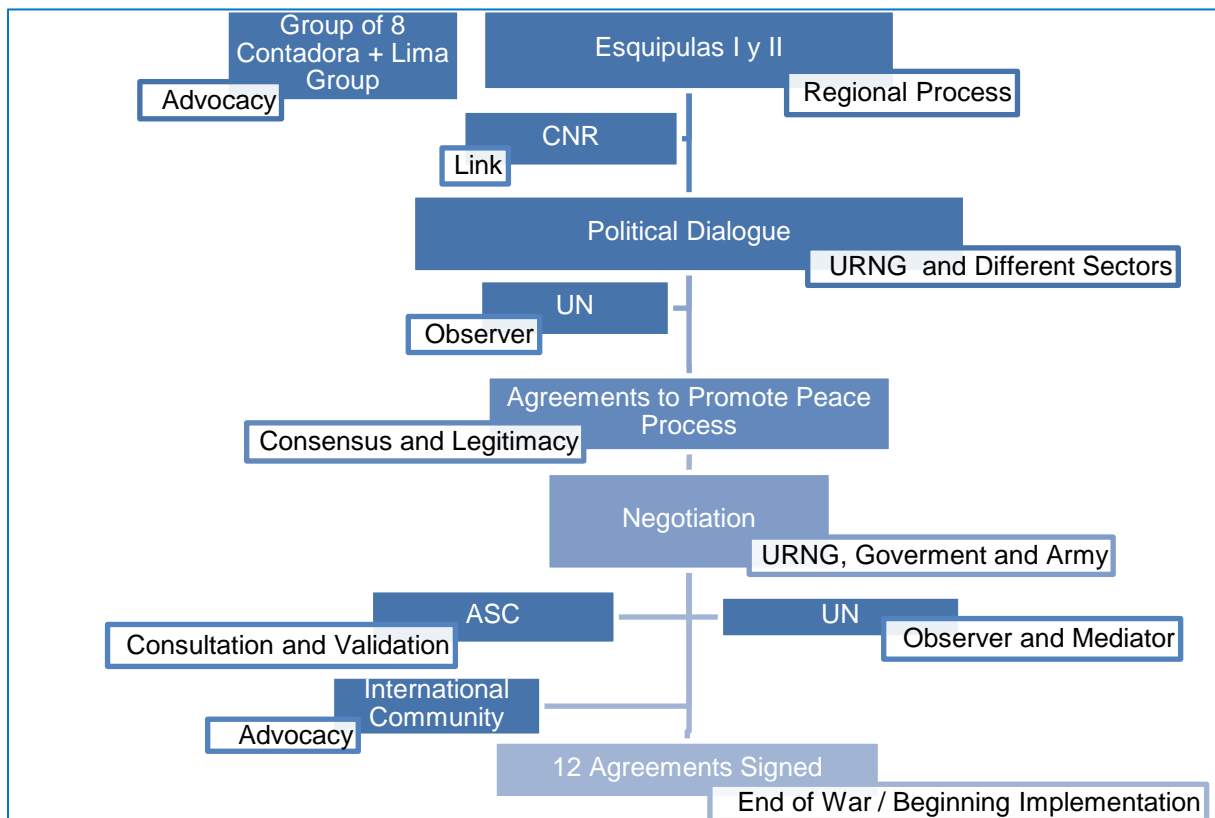


Figure 8: Organizational Chart of the Peace Process in Guatemala

Prepared by the author

³⁴ General Julio Balconi, army negotiator, in an interview on 26 February 2016.

2.5 The Implementation of the Peace Agreements (1996 - 2016)

Comprehensive Agreement on Human Rights (AGDH)

The first result of the AGDH was the suspension of the conscription that fed the army. Society took over this agreement immediately and the army had to cease conscription in the face of social organization and denunciation. With the signing of the peace there was an obligation to reduce the army to 30 thousand military personnel, something that was practically achieved with the cessation of forced recruitment. Later, 86 thousand military commissioners were demobilized, all part of the scaffolding of counterinsurgency: "A major achievement which is worth emphasizing is the end of conscription, since in almost a year and a half, from the beginning of 1995 to the end of 1996, with the agreement already signed, the army was reduced substantially, purely because they were not able to recruit."³⁵

On the other hand, although the massacres that occurred during the armed conflict ceased, numerous human rights violations were recorded. One of the most notorious events after the signing of the peace agreement was the murder, in April 1998, of Monsignor Juan Gerardi, former member of the CNR, Auxiliary Bishop of the Diocese of Guatemala, Coordinator of the Office of Human Rights of the Archbishopric of Guatemala (ODHAG) and Director of the Recovery of Historical Memory Report (REMHI):

"This crime had the greatest impact, both nationally and internationally, because of the eminent figure of the prelate and the brutal manner in which the killing took place. For many people it revived the horrors of the past and the underlying message that was sent to the promoters of human rights and the peace process itself when it was disclosed that those responsible for the crime belonged to the Presidential General Staff. This entity, which depended on the army, had, during the internal armed conflict, become an intelligence organ with its own operative capacity."³⁶

For many years, the PNC was one of the institutions most reported for violating human rights; recently, however, these complaints have decreased. Court action against the defenders of human rights has increased all over the country and the right to due process has confronted numerous obstacles especially in cases where members of the army or powerful sectors were involved.

The Office of the Human Rights Ombudsman (PDH) has been strengthened over the years, creating agencies specializing in issues related to human rights, such as women, children and adolescents, migrants, sexual violence and human trafficking, among many others. Human rights organizations continue to struggle for the respect of human rights, and new human rights organizations have arisen throughout the country.

Agreement on the Cessation of Operations

Parallel to the peace process and to the negotiating table, there was a process of military distension. Meetings were held in Havana (Cuba), Tapachula (Mexico) and Roatan (Honduras) between the URNG Command and the military base commanders. From meetings between middle-ranking officials, to soccer games between combatants and soldiers, a process of military distension was generated, which allowed a bilateral ceasefire nine months before the signing of the firm and lasting peace. The commitments made by the parties were strictly fulfilled in the operational phase:

- Concentration of forces,
- Ceasefire,
- Military distension,
- Demobilization of the URNG, the destruction and handing over of arms and its transformation into a legal political force.

³⁵ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

³⁶ MINUGUA Final Report, p. 7.

Institutional Framework for the Implementation of the Peace Agreements

The Peace Agreements Accompaniment Commission was established in January 1997, consisting of:

- Joint representation of the parties in the peace negotiations,
- Four citizens from different sectors, by mutual agreement of the parties involved in the peace negotiations,
- A representative of the Congress of the Republic,
- The head of the MINUGUA Mission, with a voice but without a vote.

In 2005 the Congress of the Republic approved, unanimously, the Framework Law of the Peace Agreements, Decree 52-2005, ranking the Peace Agreements as State Agreements. Currently there is a National Commission for the Peace Agreements, (CNAP in Spanish) consisting of representatives of the Peace Secretariat (SEPAZ), Ministry of Finance, Secretariat for Planning (SEGEPLAN), Supreme Court of Justice, (CSJ), political parties, Congress of the Republic, URNG, women, peasants, human rights organisations, trade unions, the academic sector, the Human Rights Ombudsman, indigenous peoples and business. This entity works formally, with little weight, mainly due to the lack of political will and budget.

Agreement on the Basis for Bringing the URNG into Legality

This has been fully complied with. The URNG has totally demobilized its military forces. There are no weapons storage sites remaining after the peace signature, and with international verification, the URNG delivered 100% of its arms. In less than two years, the URNG became a political party. Even though URNG is now a political party, however, it has not had the capacity to bring together forces and social movements to impose the peace agenda on economic and military power groups in order to change the correlation of forces because there is a lack of cohesion and unity. In addition, the rules regarding accessing political power have not changed enough to allow the seizure of power on equal terms, as for example regarding electoral financing.

Agreement on a Schedule for the Implementation, Compliance and Verification of the Peace Agreements

The Schedule Agreement is one of the agreements that went through several modifications. On one hand, the intention was to check substantive agreements on budget, tax reform, tax rate, lands, new institutions, policies, legislation, etc., which was highly complex, since substantive issues require political will and minimum consensus. Having time limits for the fulfilment of substantive issues was extremely complicated, and that is the reason they had to be rescheduled year after year. To make structural, social and cultural changes, specific deadlines need to be in place, however, since they are processes that feature progress and setbacks and, where different types of actors are involved in pushing through or stopping the process.

Agreement on the Creation of the Commission for Historical Clarification (CEH)

The CEH report recorded a total of 42,275 victims, including men, women and children. Of these, 23,671 are victims of arbitrary executions and 6,159 victims of enforced disappearance. Of the fully identified victims, 83% were Mayans and 17% were Ladinos. By combining these data with other studies involving political violence in Guatemala, the CEH has estimated the number of dead and missing in the fratricidal confrontation amounts to more than two hundred thousand people. Among the key findings are:

“The CEH concludes that agents of the State of Guatemala, within the framework of the counterinsurgency operations, carried out between 1981 and 1983, acts of genocide against groups of the Mayan people.” “The acts of violence attributed to the guerrillas represent 3% of the violations recorded by the CEH. This contrasts with 93% committed by agents of the state,

*especially the army. This quantitative disagreement adds new evidence on the magnitude of the state's repressive response*³⁷.

Among the main recommendations of the CEH were a request for public forgiveness both on the part of the Government and of the URNG, the declaration of a memorial day for victims (National Day of the Dignity of the Victims of Violence), the establishment of a national reparations program for victims of the conflict, a search for missing children, a law on exhumations, including the ratification of international instruments related to human rights, and protection for human rights defenders, and a Law of National Reconciliation which clearly excludes the crimes of genocide, torture and enforced disappearance, as well as those offences with no statute of limitation or that do not support extinction of criminal responsibility, in accordance with domestic law or international treaties ratified by Guatemala. The recommendations of the CEH were rejected by Álvaro Arzú's government and marked the beginning of opposition from economic sectors allied with the military sector against the peace process. Based on the express rejection of the Law of National Reconciliation, the victims of genocide organizations have managed to prosecute cases and they have been able to identify the responsibilities of the material and intellectual authors of the state's repressive policy:

*"With the courts and processes that have occurred in the field of justice, several important aspects have been gained: 1. Historical truth, the legitimate truth of the victims and 2. A criminal precedent. In order to obtain the above, research was carried out. This did not come out of revenge, but science was put at the service of the victims and this is fundamental"*³⁸

Agreement on Constitutional Reforms and Electoral Regime

In 1999, after long and tangled formal processes between the political parties in the Congress of the Republic, a national consultation on the fundamental, constitutional reforms for compliance with the peace agreements was carried out. These constitutional reforms were the democratic tool employed to deepen the implementation of the peace accords. The NO vote won for several reasons:

- The worst possible time was chosen to implement the reforms. The government of the time favoured privatization and was on its way out, in a pre-election situation. The inquiry became a protest vote against the government.
- The peace accords presented nine constitutional reforms, but PAN, the ruling party, prompted 54 reforms, so there was an orchestrated confusion. Which reforms were to be approved? The peace reforms or PAN's? The most conservative sectors and the ones with real power furthered this confusion.
- It was a demonstration of the exacerbated racism that exists in Guatemala, which showed the true face of the oligarchy and of the right-wing conservative and racist sector; they pushed the vote against constitutional reform, particularly the vote against the rights of indigenous peoples.
- Urban and capital sectors voted NO and the rural sector voted YES. However, the rural sector had fewer voting facilities, because at that time they could only vote in municipal capitals.

This consultation highlighted the major obstacles that the peace agreements face in their implementation and the long road to peace.

Electoral reform, in other words the change of the political system in order to democratise the country has been relegated in all the years following the peace, due to strong political and economic interests protecting the status quo. It was not until 2015, when cases of corruption involving well-known figures and political institutions were revealed, that citizens, in historical protests that had not been seen since the time of Arbenz, started pushing for political reform. This reform, with its many obstacles, is currently being discussed in the Congress of the Republic. Rigoberta Menchú considers that:

"The real reform that has to occur is on the issue of the electoral law and political parties. If within the political parties there is no ethnic equity, equity of gender, or generational equity, these parties will be obsolete and the state will remain small, and not responding to the demands of the population. The dream is that the system will allow not only parity but ethnic

³⁷ Commission for Historical Clarification, pp. 51-52.

³⁸ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

diversity; if not, it will not be representative. Only parity with diversity is a model of democracy which is truly inclusive.”³⁹

Agreement on Socio-Economic Aspects and Agrarian Situation. (ASESA). Neo-Liberal Model imposed on the ASESA

This is the agreement that has not been completely fulfilled and the one that has faced significant obstacles and resistance on the part of the economic sectors, since it is a key agreement regarding social participation, education, health, social security, employment, housing, rural development, agrarian situation, modernization of public administration and fiscal policy, in other words structural reform of the country. Wilson Romero of the URNG thinks that:

“Privatization of health and education, in a society where there is some degree of development, and a degree of movement of forces of the market, would regularize and give the population the capacity to purchase and go to school. But in Guatemala, the privatization of education deepens the inequalities. Not only is privatization starting but the scant social protection system that exists in the country is being dismantled, part of it being the informal sector. The economic model deepens racism and exclusion. It is thus not surprising that the areas where there are significant malnutrition problems are in rural areas and among indigenous peoples.”⁴⁰

The modern concept of rural development is understood as the “expansion of opportunities of access to goods and services, as well as the strengthening of capacities for rural communities to take decisions and especially, those sectors and marginalized strata that are subordinated (IFAD, 1996)”. In this respect, land tenure is a central axis of transformation, one that is also related to other agreements such as the AIDIPI, the AGDH and the resettlement of uprooted populations. Commitments regarding land tenure have been ignored, and this is one of the main causes of social conflict affecting the country at present, not only because of the illegal appropriation of land by landowners, the military and more recently drug dealers, but also by concessions to transnational companies for mining exploitation. Rigoberta Menchú, Nobel Peace Prize winner in 1992, said:

“The dignity and the economic life of people and the resolution of land conflicts have not improved – on the contrary, they have regressed. The advantage is that people are generating new phenomena, such as the use of Convention 169; although this is not something that was achieved in the negotiations or in the peace agreements, it was still the process of negotiation that led to new conditions, generating a level of credibility for the idea that there are other ways to continue the fight. This situation is reflected in what is going on with the struggle for the rights of women, land issues and territorial defense and what is happening in the legal system. There are changes. Today there is relative freedom, because it is true that there is a set of mechanisms and instruments, but the state is overwhelmed by the process of peacebuilding.”⁴¹

In 2009, within the framework of the ASESA, the National Policy of Integrated Rural Development (PNDR)⁴² was approved and Bill 40-84 was drawn up, the “Law on the National System of Integral Rural Development”. However, the bill did not succeed in Congress. Hector Nuila, former general secretary of the URNG and a former congressman, considers that:

“Law 40-84, the Law of Integrated Rural Development, the objective of which is to ensure that Guatemalan peasants are subjects of development and not anymore objects of over-exploitation, and that racism within labor relations cease to exist – this is something that is not

³⁹ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

⁴⁰ Wilson Romero, URNG, in an interview on 25 February 2016.

⁴¹ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

⁴² Governmental Agreement 1996-2009.

*acceptable to the interests and needs of the ruling classes which have maintained their economic model over time.*⁴³

Public expenditure on rural development (GPDR) has fallen considerably in recent years. It went from 26.76% in 2007 to 21.50% in 2012; while the macroeconomic priority fell from 4.94% to 4.27% of GDP. On average, over this period of time, Guatemala has invested only USD 0.84 per person living in a rural area.⁴⁴ In Guatemala the global food supply is insufficient, due to a lack of state policies to encourage the production of food and because of an export-oriented agricultural model, plus the vulnerability of the country to natural phenomena. This has led not only to migration from rural to urban areas, but to migration abroad.

Tax reform proposals have been relegated for years due to the refusal of the business sector to pay taxes and increase social spending to benefit the poor:

*“The private sector, the economic sector, has not opened up the possibility of continuing with the peace process. The strongest Guatemalan powers do not believe in the need to invest in peace, let alone in social transformation. And they don't see the benefits, that instead of investing so much in private police, it would be better to invest in education, in sport, in local development”.*⁴⁵

In 1998, the Government convened a dialogue process to formulate fiscal policy in a comprehensive and participatory way. Two years later, in 2000, an agreement between different sectors of society and the three branches of government, including a six-area political agreement, was signed. Other attempts to implement tax reform were made in 2003, 2006 and 2008, but were unsuccessful. Guatemala collects the lowest taxes in Central America. UNDP, in its National Human Report, stated that:

*“The fiscal history of Guatemala has been marked by a series of state efforts which have failed to broadly strengthen tax structure and the revenue capacity, and weakened the implementation of actions of fiscal policy for the benefit of social welfare. Among the factors that explain the low tax collection, the following stand out: a) the existence of a deeply-rooted anti-tax culture, which translates into high levels of evasion and avoidance; b) the weakness of the legal instruments ensuring compliance with tax obligations; c) the existence of a system of privileges and exemptions that undermine the tax base; d) the ineffectiveness of the justice system relating to taxes; e) the existence of constitutional padlocks, which limit the taxation power of the state; f) high levels of inequality in the distribution of income and wealth; and g) the existence of significant activity in the informal or underground economy. According to Transparency International, the country ranks 84 out of 180 countries in the corruption perception index for 2009”.*⁴⁶

On the other hand, a recent diagnosis made by the Central American Institute for Fiscal Studies (ICEFI) found that:

“In Guatemala, investment in social spending is totally insufficient to meet basic needs such as education and health. Official figures show that public spending in Guatemala is practically stagnant at around 14% of GDP and said that it continues to be insufficient to close the gaps of exclusion. This lack of public spending could impact negatively on public investment in childhood and adolescence (IPNA), which stands at Q6.48 per day, for each child or adolescent for 2015. More than 4 million children and adolescents are outside the educational system. It also considered alarming the low coverage in the provision of micronutrients, as a result of the structural problem of access to health services, and criticized the lack of priority

⁴³ Héctor Nuila, former General Secretary and former congressman of URNG, in an interview on 25 February 2016.

⁴⁴ Rural Development in Central America in figures, p. 16.

⁴⁵ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

⁴⁶ UNDP National Human Development Report 2009/2010, p. 91.

investment in childhood and adolescence in key ministries, such as the Agriculture and Social Development Ministries”.⁴⁷

Minimum wages amount to approximately USD 320 per month, while the basic basket has an approximate value of USD 385, i.e. the wage covers 83% of the basic basket, not including housing, education, health, clothing, etc.

“Qualitative investigations reveal that the population feels that social injustice continues to run through the veins of our countries. There is a recognition that the culture of privilege still wins, despite the struggle to build a culture of equality. Policies in favor of equality bother those who built their heritage in the shadow of public benefits and who constituted their social identity in relation to a cognitive dissonance that denies that the misery of others is morally unacceptable in civilized societies. Poverty is considered by them to be the roll of the dice, or the choice of indolent individuals, never as the result of profound structural problems and abandonment of social policies. The landlords, who receive billions without doing any work, are censured less harshly than those living in extreme poverty and who receive through social policies ten times fewer resources from the public budget”. That is if the landlords are even censured”.⁴⁸

Agreement on Identity and Rights of Indigenous Peoples (AIDPI)

This is considered historic because it recognizes the existence, history, identity, rights and the racism and discrimination to which the indigenous peoples of Guatemala have been subjected.

“Being poor and indigenous in Guatemala means also living predominantly in rural areas, being mainly engaged in agricultural activities, being largely illiterate, with rates of schooling below the national average, lacking access to basic services, and suffering varying degrees of marginalization and social exclusion. Indigenous women are the ones with the lowest rates of economic and social wellbeing, and are by far those most affected by this situation”.⁴⁹

Guatemala has registered some progress in the implementation of this Agreement, such as the creation of the Office for the Advocacy of Indigenous Women (DEMI in Spanish), the promotion of bilingual education in some regions of the country, the use of translators in Mayan languages in the judicial branch, the definition of discrimination as a crime, the creation of the Academy of Mayan languages, the use of indigenous traditional costume, and more recently, the implementation of health with a cultural relevance, among others. These advances are still insufficient compared to the extent of racism and discrimination that indigenous peoples have been subjected to.

“There has been minor progress with the inclusion of translators in the courts. It began with the case of Xaman in 1995, where a precedent was established that both victims and perpetrators must be prosecuted in their own language. Then came the case of genocide, the Ixil led the process in their own language. And last the case of Sepur Zarco, not only because it is currently in progress, but because it covers other topics and illustrates what happened in Guatemala. It defines the crime of sexual slavery, domestic slavery and violence against women in the context of the armed conflict, which is what Sepur Zarco symbolizes. In addition, it was not only a trial involving Mayan women; it was also a trial felt by Guatemalan women, not all of them, but it was a caus that was taken on by professional, intellectual women and entrepreneurial women. Another important precedent is that some institutions were created for indigenous people, and although they are used so that the state can say that it is inclusive, they are considered open spaces”.⁵⁰

The constitution still does not recognize officially that Guatemala is a multi-ethnic, multicultural and multilingual country, as it is established in the AIDPI. Identity is a matter that is still difficult to approach in Guatemala because of the racism and discrimination that sometimes also goes unnoticed: “The

⁴⁷ ICEFI Press Release.

⁴⁸ Opinion piece by Antonio Prado.

⁴⁹ International Human Rights Network (by Cecilia Aracely Marcos Raymundo)

⁵⁰ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

factor of identity is a historical weakness that is mentioned in the peace agreements, but at the time of the implementation it goes unnoticed, even by indigenous organizations.”⁵¹

Handling of racism for political and domination purposes continues to be the main ideological element that the system uses against indigenous peoples.

In many parts of the country, there have been queries based on Convention 169 of the ILO. Most communities have voted negatively regarding the exploitation of their territories and looting of natural resources. The 1992 Nobel Peace Prize winner, Rigoberta Menchú, points out that:

*“Something that was not foreseen is that many members of the army, who no longer do what they used to do before, are now landowners and are putting pressure to reach agreements for the benefit of their private businesses. This is serious because it means that we could end up with a new conflict at our door, what you see in places where the army has interest groups and there is a population that opposes activities such as mining. This leads to militarization in those places; the army comes in immediately and a military post is established, such as in the case of San Juan (Sacatepéquez), Sibinal, Huehuetenango and San Marcos. This problem exists and runs deeper than problems involving land during the time of the armed conflict”.*⁵²

Something considered of vital importance is the CC ruling on the consultation in the case of San Juan Sacatepéquez against Cementos Progreso S.A., which sets a precedent of vital importance which affirms that this right is part of the block of constitutionality and defines the obligation to ensure the fulfilment of this right.

*“The right of consultation of indigenous peoples is part of the block of constitutionality as a fundamental right, by virtue of the provisions of Articles 44 and 46 of the constitution, (consequently) the query is timeless, i.e. there is no time to carry it out, it is an aspect whose corroboration goes beyond the formal effectiveness which should or should not be recognized in successive municipal agreements”.*⁵³

The Customary Law of Indigenous Peoples is not recognized and official law is applied, without taking into account the cultural relevance and the ancestral traditions of conflict resolution:

*“In this country there are two systems, the Western system and the ancestral system. And that ancestral system is suffering devastating changes such as the migration of the Maya people to the urban areas, and although it breaks the dichotomy between the prosperous city and the poor countryside and begins to have an interaction between mixed race and indigenous population, there is a very strong ancestral system and more identity has been developed, youth do not think of the oppression that happened in the past, thus the young people have the choice of being truly intercultural and although institutional racism persists, people find ways that are hopeful for the indigenous population. Besides, the features of Mayan spirituality are so profound that they have been present at various times, in the accompaniment of the victims, in the process of compensation, in the reconciliation with the Holy dead, in a tribute to the discrete memory of leaders who are not officially part of the Mayans in this country”.*⁵⁴

Agreement on Strengthening of the Civil Power and Function of the Army in a Democratic Society (AFPC)

Progress has been made in the creation of new civil institutions. The Framework Law of the National System of Security (SNS) was approved, which regulates the scope of action of the Directorate of Intelligence of the General Staff of National Defense (EMDN) (D-2); it is limited to the role of the army. It also regulates the intelligence agencies while respecting the separation between the functions of intelligence and information operations which arise from them. A Department of Civilian Intelligence and Information Analysis of the Ministry of the Interior (DIGIC) was created; the Secretariat of

⁵¹ Héctor Nuila, former Secretary-General and former congressman of the URNG, in an interview on 25 February 2016.

⁵² Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

⁵³ File 3878-2007, pp. 19, 20, 24.

⁵⁴ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

Strategic Analysis (SAE) was changed to the Secretariat of Strategic Intelligence (SIE), strictly civilian, which advises the President. In the context of police reform, the new law and the new model of performance of the PNC are still pending. The PNC must have a police career that dignifies their members and must have the appropriate budget to fulfil its mandate. Among the obstacles to strengthening the PNC as a guarantor of citizen security, it is worth mentioning the use of the army in functions which weaken civilian institutions. There is also a New Public Order Law pending, which regulates states of emergency in a democratic framework, since the present law has a scheme that is authoritarian and dates from the time of counterinsurgency.

Given Guatemala's high crime rate, the wave of violence engulfing the country has been dealt with in the wrong way, through heavy-handed policies, with a militarized and repressive model of public safety that has failed completely. Thousands of young people have been imprisoned and remain in overcrowded prisons that are schools of crime, and not social rehabilitation centers. Security officials must be granted greater stability and power in order to be able to develop long-term policies. Disarmament campaigns must be permanent to prevent trafficking and the illegal possession of weapons in the hands of civilians.

Impunity remains one of the most important obstacles for the implementation of the Peace Agreements and the development of the country, due to the weakness on the part of the judicial system to deal with cases past and present in an autonomous and independent manner. Judges and prosecutors are under constant pressure not only from traditional economic and political decision-makers, but also from other powerful groups such as mafias embedded in the state that engage in organized crime and drug trafficking. One of the most important aspects of the fight against impunity for past crimes is contained in the Reconciliation Act, which establishes that there is no impunity for serious crimes such as enforced disappearances, crimes against humanity and genocide. This has allowed progress in transitional justice and made it possible to prosecute the perpetrators and masterminds of several of the massacres committed during the armed conflict. Throughout its history, power in Guatemala has been exercised via impunity and this represents a structural weakness of the state.

The AGDH made a commitment against impunity and has ensured that there are no illegal security forces and clandestine structures. In this context, under the auspices of the UN, the International Commission against Impunity in Guatemala (CICIG) was established in Guatemala in 2008.

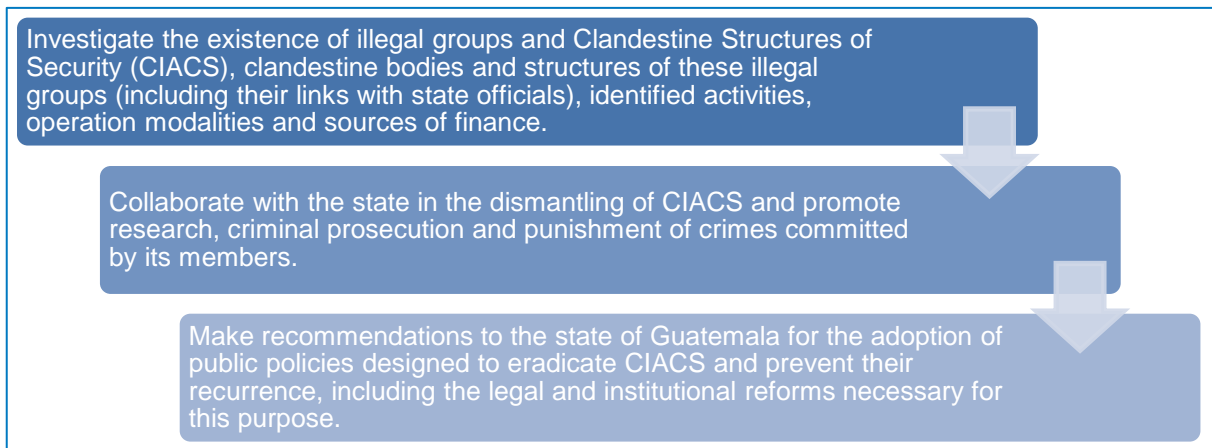


Figure 9: CICIG Mandate

Prepared by the author

In its eight years, the CICIG has evidenced and investigated the existence of numerous illegal and clandestine bodies that operate from within the state, such as a network of counterfeit passports for human trafficking,

corruption in the prison system where the main person accused is the person who was sentenced for the murder of Monsignor Gerardi, misappropriation of the Guatemalan Institute of Social Security (IGSS) funds through fraudulent contracts, a network of non-existent positions in the Congress of the

Republic, illicit enrichment of state officials (congressmen, mayors, etc.), networks of influence to obtain advantages and privileges in state-run businesses, cases of corruption of judges and magistrates, illicit electoral financing, money laundering, narco-trafficking, among many other cases. Recent research, which has had a great impact, has uncovered a case involving customs fraud by an organization known as La Linea, led by General Otto Pérez Molina, (signatory of the Peace Agreements), and Roxana Baldetti, former President and Vice President of Guatemala (2012 -2014), who are currently facing legal proceedings. La Linea is an organization in which former military men, businessmen and state officials are involved, and is considered to be a continuation of old power structures led by senior members of the Army of Guatemala dating from the armed conflict, known as the Moreno network.

Current Situation in the Country

In 2015, Guatemala had approximately 16 million inhabitants, 51% of which were women. Some 38.8% were self-identified as indigenous. Twenty years after the signing of the peace, it is regarded as a country of average income, with a per capita income of \$1,750. It is the largest economy in the region and also the country with the highest rate of poverty and inequality. The gap between the poorest and the richest is enormous – 20% of the population receives 64.1% of revenues and 80% receive only 35.9%. These differences increase when we analyse the disparities between indigenous and non-indigenous peoples.

According to the National Survey of Living Conditions (ENCOVI) conducted in 2015, extreme poverty increased by 23.4% and total poverty reached 59.3%. Most affected are indigenous peoples who live in the rural areas, where poverty increased by 12%.⁵⁵ Guatemala is the fifth most unequal country in Latin America and the Caribbean, with a Gini coefficient of 55.9%. About three million Guatemalans lack access to safe drinking water and approximately six million do not have access to improved sanitation. Enrolment in primary education increased to 96%, but only four out of every ten children finish elementary school. Indigenous girls attend school, on average, for only three years. It is the country in Central America with the greatest backwardness in education, with a level of 5.6 years. Some five out of ten boys and girls under five years of age suffer from chronic malnutrition (49.8%). There is a high rate of pregnancy in girls under 14 years of age, which implies rape. In 2012, 3,771 cases of rape were reported and 5,119 were reported in 2014, with a daily average of 14.

Guatemala is one of the most violent countries in the world, with an average of sixteen violent deaths per day. At the centre of this violence is the leading role played by firearms, coupled with growing organized crime and drug trafficking and a great weakness on the part of institutional structures to fight impunity. The majority of victims are under thirty years old. The lack of public policies in favour of children and youth, and to tackle poverty and extreme poverty, has forced hundreds of young people, including girls and women, to join gangs looking for an alternative to survive. Driven out by poverty, inequality, racism, discrimination and violence, thousands of people migrate to the United States. Remittances from migrants are one of the country's most important incomes, above traditional exports (USD 6,285 million by 2015)⁵⁶.

Guatemala is one of the most vulnerable countries to natural phenomena. Since the signing of peace there have been various phenomena that have affected its infrastructure and life in Guatemala, leaving great devastation and human and material losses (Hurricane Mitch 1998, Stan Storm 2005, Agatha Storm 2010, earthquake in San Marcos 2012).

This situation is a direct consequence of the weak implementation of substantive peace agreements that have faced multiple obstacles and difficulties, especially because of the lack of political will of governments and actors such as the military, and the business sector which has shown permanent resistance to implement them. In the opinion of Rigoberta Menchù, Nobel Peace Prize winner:

“The problem of the peace agreements in Guatemala is their implementation, since there was opposition from powerful, military and business sectors who didn't want peace as it was

⁵⁵ National Survey of Living Conditions.

⁵⁶ Bank of Guatemala.

*designed, they only wanted the demobilization of the URNG. They saw peace as a business (and thus it was), there was another agenda, privatization and the neoliberal agenda, which was the one they imposed". Peace was a business opportunity for the business sector, the image of peace was sought to enter the neo-liberalism, economic globalization and with this they sought trans-nationalization. They had a parallel and opportunistic agenda, they were not willing to give in, they only went after their own private interests. The peace agreements are a national agenda for everybody, they are far-reaching and seek transformation based on the root causes. They were not circumstantial, that is why twenty years later it is possible to measure whether they have been complied with or not. There is still a crisis in the state where public policy is not stable and this influences all the issues, which shows that there is no commitment and sustainability in process. However, Guatemalan society also makes efforts to meet these goals and in this stage of post conflict, the involvement of all stakeholders has enabled progress on very specific issues. Still, one area which has experienced a drastic regression is economic development according to the diversity and identities of this country. The vision of economic development is not the same for the Mames as it is for the Ixiles (indigenous people). Construction should be carried out to allow for diversity, otherwise racism, discrimination and marginalization increase, since economic growth does not reach the people and they are increasingly isolated."*⁵⁷

This agenda which has been implemented since the 1990s⁵⁸, promotes free trade, favours foreign investment through tax incentives to the detriment of social investment, decent wages, and increased access to opportunities and basic services. This has forced thousands of people into unemployment, informal employment or part-time jobs with poor wages and no social benefits. It is within this context that open-pit transnational companies, especially Canadian extractive industries, have started a new stage of plundering the country's natural resources. This has given rise to land grabbing and has had an incalculable environmental impact, especially through the indiscriminate use of water. Consequently, this has brought about great unrest in rural areas, which has led to numerous deaths.

Wilson Romero from the URNG thinks that:

*"In order for neo-liberalism to work, it requires certain conditions, among them, some degree of freedom of the markets, which provides fluidity, purchase and sale, and the need to regulate these processes. In Guatemala, there are monopolistic structures, colliding with this classic approach of neo-liberalism, so what exists is a "wild neoliberalism Guatemalan style". Looking at the institutional framework of the Agreement on Socio-Economic Aspects and the Agrarian Situation and taking as an example the Land Fund: what was created is not what is in the peace agreement, or only partially, and this part served to help the financial system and keep the land market distorted."*⁵⁹

A senior UN official in Guatemala said that:

*"At the signing of the peace agreement, there was not enough social strength to withstand the withdrawal of the interest of the international community whose greatest interest was peace, not the transformation of the country; each country had its bilateral agenda and some coincided with the agreements and others did not. Neither was there a social force to confront the other agenda, the business agenda, which was contrary to the spirit of the peace agreements, nor could the large agenda of peace be implemented fully because business sectors were opposed to it and there was no correlation of forces strong enough to enforce it."*⁶⁰

The massive social mobilization throughout the country in 2015, in response to the unveiling of cases involving the defrauding of the state, could mean a change in the correlation of forces to lead the

⁵⁷ Rigoberta Menchú, Nobel Peace Prize winner 1992, in an interview on 3 March 2016.

⁵⁸ Washington Consensus.

⁵⁹ Wilson Romero, URNG, in an interview on 25 February 2016.

⁶⁰ Anonymous source.

agenda of the peace agreements and make the changes the country needs. Protests can be considered a mature reaction in the Guatemalan social consciousness.

Important advances have been made in the regulatory framework, with the approval of a series of international conventions (see Annex 5) and national laws in the areas of human rights, justice and security. The new framework has incorporated the contents of the Peace Agreements and international commitments, which has meant a major change to the law of the country. Discussions of these laws and their approval has not been easy. Some 20 years on, further work is still being carried out on legislation that corresponds to the content of the Peace Agreements.

However, the main problem is with the implementation of these laws, not only because of insufficient budgets, but also because of the lack of political will to do so, since self-interest prevails over the national interest. On the issue of security, for example, in the case of the Law of Arms, there is a high level of resistance on the part of the gunsmiths or weapons dealers to adhere to arms registration and regulation, since arms is a very lucrative business, especially in countries like Guatemala. The Judiciary Branch and the MP (Prosecutors Office) have extended their sphere of influence but it is still insufficient. "In the area of justice, military jurisdiction was abolished (the Xamán massacre case). There is no court-martial for ordinary crimes, and although the case was never concluded because no judgment was made, it was abolished and was assigned to the civil courts".⁶¹

⁶¹ Rigoberta Menchú, Nobel Peace Prize 1992, in an interview on 3 March 2016.

3 Lessons Learned

3.1 The General Nature of the Process

- No process of negotiation or dialogue is exactly like another. They are very specific experiences that occur in specific circumstances and conditions. Each country is different. Actors and situations are different and this has to be taken into account when establishing the dialogue and negotiation. There are no rules or recipes. What could work in one country may not necessarily work in another.
- The peace process in Guatemala had its own characteristics. It was a negotiation with content, with the consensual national agenda forming the basis for the negotiation. The concept was developed that peace is not the absence of war, but national transformation.
- The fact that the peace agreements are so far-reaching is both their strength and their weakness. Strength because they address the country's structural problems, weakness because they create short-term expectations to find solutions, without taking into account that implementation depends on many internal and external factors. Greater ownership of the agreements, organization and social participation are required at all levels to advance the agreements.
- There are determining factors and conditioning factors. The determining factors are fundamental to the process and the conditioning factors are complementary. In this case the fundamental character of the Guatemalan reality is around the socio-economic aspects, but also within those is the political factor. There must be the correct political conditions to enable a new model, one that will change the economic conditions.
- A resolution to the war can be found through dialogue where the parties in conflict are represented, but in order for this to happen, the state must honor the commitments it makes. This does not mean putting things in writing in the knowledge that they are not going to be fulfilled.

3.2 Process Design

- The difference between dialogue and negotiation merits clarification: Dialogue and negotiation are two different aspects. Dialogue is the space where consensus is met, and it precedes the negotiation. In the case of Guatemala the process of dialogue (the first approach) determined the bargaining. Without dialogue there is no negotiation.
- You must not put time limits on the process of dialogue and negotiation. To halt the negotiation does not mean to lose it. It is used to reset, to clarify which issues are non-negotiable and which are issues on which people may agree.
- Open spaces for informal trust, where the objective is to see each other as partners, not as enemies. This can help in times of stress in the formal negotiations and to identify common interests (rural area of the guerrillas and the army).
- The role of external actors, particularly the United Nations, was important, given that it had different roles during the process. This depended on how each of the stages developed and it was a matter of adapting and taking on these roles, as well as providing expertise and experience. In the meantime, the Group of Friends influenced the main actors of the process.
- The flexibility to make viable agreements without sacrificing the content is fundamental in the design.

3.3 Participation, Inclusiveness, Appropriation, Legitimacy

- When we talk about dialogue and it is called the National Dialogue, it is understood that all components or sectors of society are involved or should participate. Other dialogues are probably more limited, and follow other guidelines and other more established political positions.
- The most difficult but key actor is the business sector. It is key to negotiations, but it remained on the sidelines. To make this sector commit, it is necessary to have a social force that presses the sector at the implementation stage. In Guatemala the business sector did not get involved in the process. Peace was regarded by the sector a great business, but over time this sector showed its

- lack of political will to transform the country. The economic aspect is vital for the implementation of changes. It should be a fundamental aspect of the negotiation.
- As the negotiation of agreements and commitments advance, these advances have to be made known to the population because if people are on the sidelines they cannot commit to the Agreements. One of the problems is not disseminating the content of the peace agreements to all Guatemalans. It is important to disseminate the important aspects of the negotiation so that the population takes ownership of the discussions and the country's commitments. The issue is not to write texts, but to widely disseminate the information through the media and in the necessary languages. This aspect is important before, during and after the dialogue and negotiation.
 - It is essential to gain legitimacy through the participation of different sectors of civil society. The consultation, validation and ratification of agreements through the ASC gave legitimacy and inclusiveness to the peace process.

3.4 Implementation Stage

- Is important to strengthen the role of the social partners in the implementation stage to advance the fulfilment of the agreements. Without social force, the implementation stage weakens. The withdrawal during the implementation process of the Church, internally, and of the international community, externally, (whose main objective was peace), affected the social force that was needed to implement change.
- The implementation is a process and cannot be seen as a check list. Designing a schedule for the fulfilment of the Peace Agreements meant that processes in the implementation phase could be eliminated. The process has advances and setbacks. It does not have deadlines for compliance because it depends on many factors, domestic and international. A situation like the one in Guatemala, which has experienced centuries of exploitation, cannot be resolved in 20 years. It is a long process, one perhaps involving several generations. The important thing is to consolidate steps to move forward.
- The International Community played a key role during all the stages of the process. However, during the implementation stage it decided to cooperate with the Government, which eventually demonstrated a lack of political will to advance the process. Agents of change – often found in social movements, civil society, and in social organizations – must be identified and strengthened.

3.5 Best Practices

- URNG arrived at the negotiation table as a single political force, which gave them the capacity to negotiate and put forward proposals.
- URNG proposed a negotiation agenda, covering substantive issues and containing "A fair and democratic peace: content of the negotiation". This proposal was the result of the completion of the preparatory phase in which the URNG held bilateral meetings with different sectors and achieved a consensus on the issues that would be brought to the negotiating table with the government.
- The agenda proposed by the URNG gives content to the negotiation and gives it the character of a substantive negotiation. It is no longer only a negotiation to end the conflict, but it has become a negotiation to find solutions to large national problems or the causes that originated the armed conflict.
- At the initiative of the URNG, the army was included as a main actor and, even though it was part of the government, it was considered a separate actor. The involvement of the army as a major player strengthened the negotiating process and contributed to the realization of agreements.
- The drawing up of a peace agenda in cooperation with the social sectors to include key international issues, such as human rights, indigenous peoples, demilitarization, democratization, civil power, the resources of the state, the model of the state, the fiscal issue, historical truth, etc.
- Inclusion of the UN as a neutral international entity with the ability to observe, mediate and enter into dialogue with parties in conflict, whilst taking advantage of the organization's experience and know-how.
- Inclusion of other international actors such as the Community of Saint Egidio, which strengthened trust between the parties outside the negotiating table.

- The role of the CNR with Monsignor Quezada at the helm, as an intermediary or internal spokesperson between the parties in conflict, was essential for dialogue and for the entire process in general. The CEG of the Catholic Church was a major actor in the process.
- Building informal spaces and a personal relationship between the parties to smooth rough edges and facilitate the formal negotiation. Confidence-building is the most important element to achieve agreements.
- The creation of the ASC is a good practice, because although it was not directly at the negotiation table, it had weight. It played an important role, acting as a counterweight to malicious dialogue on the part of the government and private initiatives that tried to lower its level. The ASC sent proposals to the negotiation table and, at the conclusion of the discussion, ratified the signed agreements, giving legitimacy to the process and enriching the content of the negotiations.
- The process of military distension, which occurred at all levels, generated degrees of confidence, allowed a ceasefire eight months before the signing of peace, and prevented operations against any of the parties. After the signing of peace, no post-conflict deaths were reported in Guatemala.

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5 Annexes

5.1 Interviews Conducted

Name ⁶²	Sector and Date of Interview
Byron Morales	Assembly of Civil Society
Rosa Ma. Wantland	9 March 2016
Catalina Soberanis	Representative of the political parties 29 February 2016
General Julio Balconi	Negotiator for the Army 26 February 2016
Héctor Nuila	URNG
Wilson Romero	25 February 2016
Héctor Rosada Granados	Negotiator for the Government of Guatemala 10 February 2016
Jean Arnault	UN mediator 22 February 2016
Monsignor Álvaro Ramazzini	Episcopal Conference Catholic Church 8 March 2016
Rigoberta Menchù	Nobel Peace Prize 1992 3 March 2016
Roberto Bonini	Trusted facilitator Community of Saint Egidio 22 February 2016
Vinicio Cerezo	Former President of Guatemala (1986/1989) Leader of the Esquipulas Agreements 24 February 2016

⁶² In alphabetical order.

5.2 Classification of the Peace Agreements of Guatemala

Procedure	<p>Mexico Agreement</p> <p>Framework Agreement for the Resumption of the Negotiating Process</p> <p>Schedule of Negotiations Agreement</p> <p>Agreement on Deferral of the CEH</p> <p>Contadora Agreement</p>
Operative	<p>Permanent Ceasefire</p> <p>Reintegration of the URNG into political life</p> <p>Verification Schedule</p>
Substantive	<p>Global Agreement on Human Rights</p> <p>Agreement on Resettlement of Uprooted Population Groups</p> <p>Agreement on Commission for Historical Clarification</p> <p>Agreement on Identity and Rights of Indigenous Peoples</p> <p>Agreement on Socio-Economic and Agrarian Issues</p> <p>Agreement on Strengthening of Civil Power and Function of the Army in a Democratic Society</p> <p>Constitutional Reforms and Electoral Regime</p>
Final	<p>Signing of the Lasting Peace Agreement</p>

5.3 Phases, Governments, Actors and Agreements Reached

Government	Date	Place	Main Actors	Participants	Agreements/Statements
	Political Dialogue				
Vinicio Cerezo Christian Democracy Party 1986-1990	March 1990	Oslo, Norway	URNG CNR UN	CNR	Oslo Agreement
	June 1990	El Escorial, Madrid, Spain		Political Parties	El Escorial Agreement
	August 1990	Ottawa, Canada		Business Sector	Unilateral Statement
	September 1990	Quito, Ecuador		Religious Sector	Joint Statement
	October 1990	Atlixco, Puebla, Mexico		Academics, cooperatives, small and medium enterprises	Joint Statement
	October 1990	Metepec México,		Unions and Popular Sector	Joint Statement

Government	Date	Place	Main Actors	Participants	Agreements/Statements
	Political Negotiation				
Jorge Serrano 1991-1993	1991	Mexico D.F.	URNG Government of Guatemala Army	CNR	Mexico Agreement: Procedure for the search for peace by political means
Ramiro Carpio UCN Party 1993-1995	1991	Querétaro, Mexico		CNR	Querétaro Agreement: Framework Agreement on Democratization
Ramiro Carpio UCN Party 1993-1995 Álvaro Arzú PAN Party 1996-1999	January 1994	Mexico		UN ASC	Framework agreement for the resumption of talks
	March 1994	Mexico		UN ASC	Schedule Agreement of Peace Negotiations. Government/URNG Declaration, Comprehensive Agreement on Human Rights
	June 1994	Noruega			Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict
	June 1994	Noruega			Agreement of the Commission for Historical Clarification (CEH)
	March 1995	Mexico			Agreement on the Identity and Rights of Indigenous Peoples
	August 1995	Panamá			Contadora Agreement
May 1996	Mexico	Agreement on Socio-economic Aspects and the Agrarian Situation			
Álvaro Arzú PAN Party 1996-1999	September 1996	Mexico		UN ASC	Agreement on the Strengthening of Civil Power and the Function of the Army in a Democratic Society
	December 1996	Noruega			Agreement on a Definitive Ceasefire
	December 1996	Suecia			Agreement on Constitutional Reforms and Electoral Regime
	December 1996	España			Basis for the Reintegration of URNG into legality
	December 1996	Guatemala			Schedule Agreement for the Implementation, Compliance and Verification of the Peace Agreements
	December 1996	Guatemala	Firm and Lasting Peace Agreement		

5.4 The Regulatory Framework on Human Rights, Justice and Security with the Content of the Peace Agreements

Legislature	Approved Laws
1996-1999	Law of Creation of the PNC Law of Judicial Career and Law of the Institute of Public Criminal Defense
2000-2003	Law of SAAS Law of Civic Service
2004-2007	Law of the DIGICI Law Against Organized Crime Law of the Penitentiary System Law of Creation of INACIF CICIG Mandate Ratification of the Optional Protocol against Torture Law of Adoptions
2008-2011	Framework Law of SNS Law against Femicide and other Forms of Violence Law against Sexual Exploitation and Trafficking Law of Weapons and Ammunitions Strengthening of the Criminal Prosecution Law Law of Nominating Commissions Extension of the Mandate of CICIG Law of Criminal Jurisdiction in High-Risk Cases Amendments to the Law Against Organized Crime Reform of the Code of Criminal Procedure Incidents Creation of the National Mechanism against Torture Control of Private Security Services
2012-2015	The ICC Rome Statute Law Anti-corruption Law Law of creation of DIGICRI
2016-2019	Organic Law of the Prosecutor Office (the Spanish acronym is MP)

5.5 Ratification of International Instruments

- Convention 87, 98 and 169 (ILO)
- San Salvador Protocol on Economic, Social and Cultural Rights
- Inter-American Convention on Forced Disappearance of Persons
- Convention on the Civil Aspects of International Child Abduction
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
- Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women
- Acceptance of the Competence of the Committee against Torture to Receive Individual Complaints
- Statute of the International Criminal Court
- Second Optional Protocol to the Covenant International Civil and Political Rights, aimed at Abolishing the Death Penalty

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