The Impact of USAID DG Programs on Political Change

Guatemala Case Study

Submitted to:

USAID/Guatemala

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Acronyms and Abbreviations

ANAM	National Association of Municipalities of Guatemala
CAII	Creative Associates International, Inc.
CEH	Historical Clarification Commission
CONAVIGUA	*Coordinadora Nacional de Viudas de Guatemala*
CONTIERRA	*Coordinadora Nacional de Tierra*
CPC	Criminal Procedures Code
CSO	Civil Society Organization
D/G	Democracy and Governance
DIMS	Democratic Indicators Monitoring System
EMP	*Estado Mayor Presidencial*
FAFG	Foundation for Anthropological Forensics of Guatemala
FLACSO	*Facultad Latino Americana de Ciencias Sociales*
FONTIERRA	*Fondo Nacional de Tierra*
GOG	Government of Guatemala
HRR	Human Rights and Reconciliation
IDPP	*Instituto de Defensa Pública Penal* Public Defenders Office
IECCPG	*Instituto de Estudios Comparados en Ciencias Penales de Guatemala*
MP	*Ministerio Público*
OAV	*Oficina de Atención a las Victimas*
OHRO	Office of the Human Rights Ombudsman
OTI	Office of Transition Initiatives (USAID)

PAC	Civil Defense Patrols
PNC	National Civilian Police
REMHI	Historical Memory Project
ROL	Rule of Law
UNICAP	The MP Training Unit
UPAT	Technical Assistance Unit
URNG	*Unidad Revolucionaria Nacional Guatemalteca*
UT	University of Texas

Summary Findings and Conclusions

This Guatemala democracy and governance (D/G) case study is one of several retrospective assessments being carried out by the USAID Office of Democracy and Governance to identify D/G program results obtained under different political conditions, and the factors that account for program impact or the lack thereof. The purpose of the assessments is to assemble lessons learned. The assessments try to respond to two central questions:

1. ***What kinds of impact have USAID's democracy and governance programs had on macro-political or systemic democratization changes?***

2. ***What factors can account for this impact or the lack of it?***

Country Context

Guatemala's recent political history can be viewed optimistically or pessimistically, depending on one's point of reference. In relation to its prolonged civil war, and centuries of ethnic division and authoritarian governance, there is no doubt that Guatemala has made significant democratization progress. It is now in its seventeenth year of freely elected government, and democratic institutions of governance are developing. Above all, state-sponsored human rights abuses and killings no longer occur. On the other hand, viewed in relation to the degree of democratization in the region, and the lofty goals agreed to by Guatemalans in the 1996 Peace Accords – ones that called for a veritable transformation of Guatemalan society – Guatemala's record has not been very good.

Any assessment of recent Guatemalan democratization has to begin by recognizing the enduring effects of the country's 36-year civil war, a conflict characterized by extreme human rights abuses that capped centuries of ethnic division and inequitable socioeconomic development between European-descendent "Ladinos" and indigenous peoples – once the majority and still numbering over 40 percent. Those effects include very low levels of interpersonal trust, extreme levels of income inequality, social atomization and polarization, continuing discrimination, and enormous differences in socioeconomic welfare.

The broad majority of Guatemalans welcomed the Peace Accords and their commitments to transform Guatemalan society. Progress in meeting commitments specified in the Accords has been very slow for several reasons. From the founding of the country, Guatemalan government was designed to be weak. It still is. Public sector expenditures have risen since 1996, but by 2001 still accounted for only 11.1 percent of GDP. This compares with a 20.1 percent average worldwide. Until peace negotiations began, the Guatemalan State's notoriously weak performance in providing public services was aggravated by its longstanding repression of civil society development. With the exception of the initial democratization period truncated by the U.S.-backed coup in 1954, civil society was not allowed to prosper, and just began to develop again during the last decade.

Given the country's recent history, Guatemalan democratization must be considered a long-term proposition with a still uncertain outcome. While progress toward institutional democratization has been made, the process of deepening democracy has stalled, especially during the last two years.

For now, powerful political and economic elites seem to have accepted the inevitability of democracy, largely because they know that the international costs of abandoning it would be too great. Yet, it is not at all certain that if the international situation were to change, Guatemala would not lapse back into authoritarian rule. Questions persist about prospects for deepening democracy. When the definition of democracy is expanded beyond its institutional or procedural aspects to include promotion of socioeconomic inclusion, some elites – many linked to the current government – still actively oppose taking meaningful action, particularly if it means raising taxes. Although a majority of Guatemalans now expresses a preference for democratic government, the prevalence of democratic values (e.g., tolerance) has not increased during the last 10 years, and the level of social capital is still very low. The lingering effects of Guatemala's 36-year civil war, in terms of interpersonal distrust, authoritarianism, lack of recognition of extreme injustices, reluctance to participate, and the like cannot be overemphasized.

The most important continuing challenges to Guatemalan democratic development are:

- Socioeconomic divisions between Ladinos and indigenous Guatemalans.
- Insufficient prevalence of democratic attitudes and values.
- Low social capital.
- Poor public security, violence, and impunity.
- A public sector that is too small and inefficient.
- Failure to achieve consensus on a limited role for the military.
- Very poorly functioning political parties.

Program Impacts

USAID's support for the development of Guatemala's democracy began in the mid-1980s when the country was still engaged in civil war. D/G assistance has been provided in six areas: elections administration, rule of law, legislative strengthening, human rights, civil society, and local governance. This assessment covers programs in the last five areas carried out from 1993 to 2002.

The impacts achieved in each of the areas assisted by USAID are summarized below.

ROL

USAID pioneered support for justice sector development, and paved the way for other donors. As a result, Guatemalan reformers have enjoyed technical and political support from several countries and international organizations – support that has enabled them to keep the ROL reform process moving forward against great odds.

USAID assistance has been essential in bringing about lasting institutional changes to support implementation of the Criminal Procedures Code (CPC). Without USAID assistance, the public defenders service (IDPP), a *sine-qua-non* for any democratic criminal justice system, would not exist. The criminal court clerks' offices have significantly increased transparency and efficiency, and established a model that can be further developed and replicated. The Judicial Career Law and judicial school are increasing the professional competency of judges. For the first time in Guatemala's history, an independent judicial branch is monitoring and disciplining judges in a transparent manner.

Justice centers are improving the efficiency of law enforcement organizations and the courts in rural areas. Structuring justice centers to provide for participation by civil society and local government officials allows them to be more responsive to citizens' needs, and enables citizens to take responsibility for cooperating among themselves democratically to resolve community problems.

The alternative dispute resolution practices USAID has helped introduce have the potential to increase access to justice significantly, and can positively affect public confidence in the justice system.

Human Rights

USAID assistance for successful demobilization and resettlement following signing of the final Peace Accords enabled Guatemalans to complete an important first step in post-war reconciliation, without which efforts to advance human rights would not have been able to begin.

Helping to establish and strengthen public and private organizations working to improve human rights conditions has been USAID's most important contribution. Joining with other foreign governments to assist dedicated Guatemalans to carry out reconciliation and violence prevention initiatives pursuant to the Peace Accords has also been very important, especially in an environment where substantial numbers of elites still resist reforms and numerous average citizens still do not give high priority to respect for human rights.

Civil Society

Guatemalan civil society, broadly defined, has only just begun to develop since the mid-1990s, and social capital remains low. Among the various USAID-sponsored activities that have impacted on broader civil society development, those which improved indigenous peoples' capacities for participation in civil society, and society in general, were probably the most important, but absent a more aggressive stance by the GOG to improve the socioeconomic status of indigenous peoples, the level of impact achieved relative to needs has been small.

The fact that advocacy by civil society organizations (CSOs) is now accepted as a common political phenomenon is a significant outcome of USAID's support for advocacy by CSOs. Some success has been achieved by the CSOs supported by USAID, but so far, it has been the exception rather than the rule. The initial success achieved in promoting more networking among CSOs and with other organizations has made a significant contribution to broader civil society development, one that can be expected to grow. The Mission objective – to support productive engagement of civil society in key policy discussions growing out of the Peace Accords – was achieved, but real influence on policy was minimal.

Legislative Strengthening

The most significant results achieved under USAID's truncated legislative improvement program were establishing the practice of carrying out research to back up bills, compiling a database of all existing laws, and initiating constituent outreach offices. USAID canceled the program over two years ago when the current President of the Congress, ex-dictator Ríos Montt, refused to cooperate as envisioned. The Mission objective, to improve the quality of legislation passed in the aftermath

of the Peace Accords, may have been achieved to some extent prior to 2000, but longer-term impact was not (other than the continued use of legislative studies to prepare legislation).

Local Governance

This program's support for policy development work that has contributed to three revised laws to strengthen decentralization has had the most important impact to date. The revised laws are the Municipal Code, the Law of Decentralization, and the Law of Urban and Rural Development Councils. Important work is also underway to draft a municipal tax code that will allow municipalities to raise revenue locally.

USAID successfully assisted the association of municipalities, AMAN, to revitalize itself, thus providing a means for municipalities to continue influencing laws and policies affecting them. Also, citizens in the program's geographic focus area are now able to participate in local investment and development decision making.

It is still too early to tell whether the municipality-strengthening activities and citizen participation mechanisms being developed in 41 municipalities will obtain their intended results.

Factors Influencing the Degree of Impact Achieved

The Assessment Team divided the factors affecting program impact into two categories: *external factors* are decisions and actions by parties other than USAID, ones that USAID does not control but may be able to influence; and *internal factors* are decisions and actions by USAID.

External Factors

The basic long-term political and social impediments to Guatemalan democratic development mentioned above help explain the reasons behind decisions and actions by Guatemalans that greatly complicated implementation of USAID D/G programs.

Longstanding socioeconomic inequality between Ladinos and indigenous peoples, combined with institutionalized discrimination, guarantee that human rights and democratic progress will only be achieved slowly.

Incomplete consensus in favor of democratic governance is at the root of Guatemalan decisions that continue to impede progress in various D/G sectors.

Inadequate social capital has undermined the potential for rapid short-term democratization in all the sectors in which USAID assistance has been provided.

By far, however, the single most influential factor affecting the environment for USAID- supported democratic development was the civil war and its aftermath. All during the period of USAID involvement in D/G programs, Guatemalans were either engaged in the civil war, or trying to recover from its devastating effects. In the absence of basic peace, democratization efforts could begin, but not progress far. Once the long war ended, USAID support for efforts to promote minimal reconciliation and more normal levels of dialogue and cooperation among Guatemalans had to accompany democratization efforts.

Identifying Guatemalan reformers with whom to partner was more difficult than in many other countries because thousands of natural leaders were killed or left the country during the war. Given the atomized nature of Guatemalan society, even when reformers could be identified, they had little or no practice with democratic consensus and coalition building, and had to learn new skills.

The Peace Accords provided reformers and their foreign government supporters with an extremely useful framework for many of the D/G reform efforts they undertook and enabled them to claim publicly that they were working in favor of goals already agreed to by the Guatemalan people.

Without international pressure to complement the efforts of brave and dedicated Guatemalan democratic reformers, it is very difficult to believe Guatemalan democratic development would have progressed at all. Both foreign pressure to democratize felt by political elites and foreign support for Guatemalans leading reform efforts, have been very important.

The USG's proactive stance on democratic reforms has served as a key component and motivator of the international pressure cited above. Other U.S. Embassy officials, especially the current U.S. Ambassador, and USAID have successfully combined assistance and diplomatic actions to magnify the effects of both.

Internal Factors

The principal factor responsible for USAID D/G program impact when it was achieved was that USAID program managers and contractors gave priority attention to political factors influencing program success. This meant understanding the political context within which D/G programs were being carried out, taking account of stakeholders' incentives, maintaining the flexibility to take advantages of reform opportunities as they arose, assisting local partners to promote consensus and build constituencies for reforms, and combining USAID assistance with USG diplomatic initiatives.

USAID/G-CAP has had particular success implementing the above practices in its ROL and human rights programs.

USAID/G-CAP's approach to partnering with local counterparts has been a critical factor influencing the degree of impact obtained.[1] Further study, and comparison with other country programs, should be focused on this topic. The principal issues for examination appear to be (a) how reliable and dedicated local partners are identified and then engaged in a process of policy reform or institutional strengthening; (b) the degree to which these partners are able to navigate successfully in a difficult and even dangerous political environment to achieve key objectives, and how USAID can best support them in that process; and (c) whether the initial push for a particular reform initiative comes from the local partner or USAID (e.g., often through observational visits or forums and seminars involving technical experts) and whether that locus of initial decision making makes any difference in the degree of achievement.

USAID's decisions on program strategy heavily influenced whether or not results were achieved. Some important strategic decisions were:

> **ROL** – Using the Criminal Procedures Code as a framework for assistance decisions; deciding to decentralize administration of justice; involving civil society in the governance of justice centers.

Human Rights – Combining assistance for human rights organizations with diplomatic support; ensuring implementation of important elements of the Peace Accords.

Legislative Strengthening – Deciding to implement the program in the absence of efforts to improve political parties; emphasizing a short-term objective (quality legislation to implement the Peace Accords) by focusing on improving technical capacities rather than a longer-term institutional objective that would require building consensus among stakeholders for improving Congressional performance.

Civil Society – Putting primary emphasis on CSO advocacy capacity to address short-term policy reform efforts growing out of the Peace Accords, leaving less opportunity to address long-term fundamental issues such as constituency building and financial sustainability in a country with such weak social capital.

Local Governance – Including policy reform initiatives in the program; deciding to focus work in the *Zonapaz*; moving forward more quickly with participation efforts at the local level and therefore creating demands without having balanced that effort through greater emphasis on municipal resource constraints.

The $R4^2$ program planning and review exercises used to set objectives and monitor progress provided only minimal utility to program implementers. This was because, as in other missions, outcomes were often expressed as abstract ultimate goals, and indicators often dealt with outputs rather than outcomes and did not take account of underlying political conditions.

Due to the priority given by the USG to supporting the Peace Accords, the funding made available for USAID D/G programs was ample. This enabled the Mission to carry out a broad D/G program. The level of funding available and the period of time USAID was able to sustain funding were important elements in the success achieved in some D/G sectors, such as ROL. The same levels of funding and years of attention have not yet been devoted to D/G programs in other areas, and it now looks unlikely USAID will be able to do so. New funding for D/G programs will be much more scarce, and the Mission is already making decisions on where to cut back. This calls into question whether USAID should have decided to get involved in as many D/G sectors as it did.

Mission personnel note that the decision to move into new sectors where long-term funding was not ensured was justified based on USAID's potential to provide leadership in fields where it has substantial institutional experience and more ability to take on difficult political issues than other donors. They believe that USAID's recent involvement in the areas of civil society and human rights, even if it cannot be maintained beyond the current strategy period, has allowed the USG to play a leadership role in key areas and has had important impact on the way other donors are approaching these topics. Nonetheless, a key lesson learned from the Guatemala experience is that USAID's greatest impact has been in areas where significant resources were focused over an extended time period.

Lessons Learned

The Assessment Team offers the following lessons learned to be considered with those identified in other assessments. Suggested issues for examination in future D/G assessments are contained in Annex 6.

- Sustained international pressure, combined with reliable technical and financial support for Guatemalan reformers over significant periods of time, has been a necessary condition for the progress made in Guatemalan democratization to date.

- The consensus framework of goals for democratic development provided by the Peace Accords was very useful to Guatemalan reformers and their supporters.

- Assistance to address post-conflict conditions had to accompany more traditional D/G programming for the latter to have a chance of succeeding.

- Impact was greatest when USAID gave priority attention to political factors affecting democratization progress in specific D/G sectors.

- USAID had to work especially hard to identify and nurture capable and dedicated Guatemalan reformers with whom to cooperate. The more USAID was able to develop and partner with trusted local reformers who could take the lead in selecting and implementing program initiatives, the more impact was achieved and sustained.

- Very careful attention to program strategy choices by USAID and its local partners is important.

- The availability of significant funding over several years enabled USAID/G-CAP to achieve impacts in some D/G areas. Without it, the likelihood of achieving impacts in other D/G sectors is reduced.

- Coordination of assistance with diplomatic initiatives has magnified the impact of both.

- Ensuring flexibility exists to modify program strategy choices based on experience, and when political conditions change, can help improve impacts achieved. Flexible program design and contracting arrangements implemented by the Mission have been instrumental in allowing USAID/G-CAP to take advantage of reform opportunities as they arose, and to cancel programs when they failed to make progress.

- Frequent, participatory program monitoring and evaluation is advisable, as are efforts to identify and stay abreast of basic political factors affecting democratization, through the use of DIMS-type surveys and expert analyses by political scientists.

Section

I

Introduction

Last year, USAID's Office of Democracy and Governance began a multi-year organizational learning initiative designed to assemble lessons learned in its democracy and governance (D/G) programs. The initiative calls for country case studies to identify results obtained under USAID programs operating under different political conditions, and the factors that account for program impact or the lack thereof. The country case studies will be complemented by sector-specific[3] studies to compare the results of USAID D/G program decisions and practices under different political conditions.

In 2001, three country case studies were completed, and a synthesis study was prepared[4] to summarize what was learned to date and pose questions for further study. The Guatemala Case Study is the fifth country study to be carried out. Guatemala is one of three countries selected for study in 2002 where conditions for democratic development have included medium-level political competition, low-level constraint on executive power, mid-level socioeconomic status, and middle-to-large USAID program size.

The assessment was guided by a research protocol developed by the Office of Democracy and Governance that poses two central questions:

1. ***What kinds of impact have USAID's democracy and governance programs had on macro-political or systemic democratization changes?***
2. ***What factors can account for this impact or the lack of it?***

The purpose of attempting to answer these two questions is not to evaluate decisions made by Mission personnel, or to speculate whether other possible approaches might have had more impact. It is to cooperate with Mission officers in learning what results were achieved and why. Whereas a program evaluation would examine the degree to which pre-established USAID program objectives were obtained and the reasons why, the assessment aimed to identify the actions taken by USAID and other actors in a dynamic political environment that influenced whether USAID D/G programs had a significant impact on democratic progress in Guatemala.

These factors were divided for analytical and learning purposes into two categories: external and internal. "External factors" were defined as those resulting from decisions made by stakeholders other than USAID - that is, by Guatemalans, other USG authorities, and other countries and donors. Obviously, USAID cannot control decisions made by these actors, but it may be able to influence them. "Internal factors" were defined as those under USAID's control (i.e., USAID's own

decisions and actions regarding D/G program strategy and the design and implementation of individual programs).

For each D/G area in which USAID assistance has been provided (the rule of law, legislative strengthening, human rights, civil society, and local governance), the Assessment Team carried out five steps:

1. **A Political Overview**: Description of political conditions in the D/G area under consideration at the beginning and at the end of the period under consideration (1993-2002), and identification of principal external factors influencing democratic progress in that D/G area.
2. **A Program Overview**: Identification of principal decisions made and actions taken by USAID (internal factors), and the reasons for them.
3. **Findings on Program Impacts**: Identification of impacts obtained with USAID assistance on individuals, institutions, and the political system as a whole.
4. **Conclusions** on the significance of USAID program impacts.
5. **Conclusions** regarding the factors most influential in influencing whether or not USAID program impacts were significant.

Information on Guatemalan political conditions and their evolution, and on USAID programs and their impacts, was assembled in desk studies carried out prior to the Assessment Team's visit to Guatemala - and once there, through interviews with Guatemalans and USAID personnel, and by reading program progress reports and evaluations. Conclusions on the significance of USAID program impacts were drawn by seeing whether there appeared to be a relationship between program impacts and progress made by Guatemala in each D/G sector during the period. Conclusions regarding which external and internal factors were influential in whether significant program impacts were obtained were based on interviews conducted in Guatemala.

Suggested lessons learned, and issues for further investigation, were elaborated by reviewing the four external factors and the six internal factors found to be influential in one or more Guatemala program areas. Annex 3 lists the external and internal factors identified by the Assessment Team.

ARD, Inc. provided two consultants to work with Eric Kite of the Democracy and Governance Office to Guatemala as the Core Assessment Team. Robert J. Asselin, Jr., a former USAID Foreign Service officer, served as Team Leader. Dr. Orlando J. Perez, Associate Professor of Political Science at Central Michigan University served as Chief Political Analyst. ARD contracted Dr. Mitchell A. Seligson, Daniel H. Wallace Professor of Political Science at the University of Pittsburgh, to complete a desk study on Guatemala prior to the team's trip, and to comment on the first draft of the assessment. Dr. Dinorah Azpuru, the principal author of the 2001 Democratic Indicators Monitoring System (DIMS) survey for Guatemala, assisted the team with its fieldwork, and Christina Mendoza coordinated the team's schedule in Guatemala (April 8 – 26, 2002). ARD's home office representative for the assessment was Dr. Rhys Payne, Senior Associate, who accompanied the team during its first week in Guatemala and reviewed the draft report. The views expressed in this assessment are those of Messrs. Asselin, Perez, and Kite.

This assessment report begins in Section II with a brief review and analysis of Guatemalan political development between 1993 and 2002. Dr. Seligson's more detailed political background report can be found in Annex 2. Section III contains an explanation of the D/G program strategies employed by USAID during the period under review. Information gathered on the impacts of USAID

programs in the rule of law, legislative strengthening, human rights, civil society, and local governance is presented in Section IV in the following format: (a) a political overview; (b) a description of USAID assistance activities; (c) findings regarding program impacts; and (d) conclusions on the significance of those impacts and on the factors influencing the degree of impact achieved. The report concludes in Section V by identifying the main factors affecting the degree of impact USAID's D/G program achieved in Guatemala, and suggesting lessons learned.

Section

II

Summary Analysis of Guatemalan Political Development, 1993-2002

In order to assess the impact USAID D/G programs had on Guatemalan democratization between the years 1993 and 2002, the team reviewed significant occurrences in Guatemala's political environment during the period. The principal events that took place and the current political situation are described below. This is followed by a summary analysis of democratic development trends in five areas: consensus, competition, inclusion, rule of law, and governance.[5]

Guatemala's recent political history can be viewed optimistically or pessimistically, depending on one's point of reference. In relation to its prolonged civil war, and centuries of ethnic division and authoritarian governance, there is no doubt that Guatemala has made significant democratization progress. It is now in its seventeenth year of freely elected government, and democratic institutions of governance are developing. Above all, state-sponsored human rights abuses and killings no longer occur. On the other hand, viewed in relation to the degree of democratization in the region, and the lofty goals agreed to by Guatemalans in the Peace Accords – ones that called for a veritable transformation of Guatemalan society – Guatemala's record has not been very good. This can be seen when comparing Guatemala's Freedom House ratings for 1988 and 2000 with those for El Salvador.[6]

	Guatemala		El Salvador	
Political Rights	3	3	3	2
Civil Liberties	3	4	3	3
Total	6	7	6	5

Any assessment of recent Guatemalan democratization has to begin by recognizing the enduring effects of the country's 36-year civil war, a conflict characterized by extreme human rights abuses that capped centuries of ethnic division and inequitable socioeconomic development between European-descendent "Ladinos" and indigenous peoples – once the majority and still numbering over 40 percent.[7] Those effects include very low levels of interpersonal trust, extreme levels of income inequality,[8] social atomization and polarization, continuing discrimination, and enormous differences in socioeconomic welfare.

The broad majority of Guatemalans welcomed the Peace Accords and their commitments to transform Guatemalan society, but expecting Guatemalan leaders to collaborate well enough to bring about rapid changes was never realistic. Guatemalan government was designed from the

founding of the country to be weak. It still is. Public sector expenditures have risen since 1996, but by 2001, still accounted for only 11.1 percent of GDP.[9] This compares with a 20.1 percent average worldwide.[10] Until peace negotiations began, the Guatemalan state's notoriously weak performance in providing public services was aggravated by its longstanding repression of civil society development. With the exception of the initial democratization period truncated by the U.S.-backed coup in 1954, civil society was not allowed to prosper, and really only began to develop again during the last decade.

Guatemala's long civil war was brought to an end when outside forces would no longer support the guerilla combatants, and Guatemalans themselves got fed up with the war's consequences. It was clear to all parties that the war was not resolving any of the serious problems underlying the Guatemalan nation state; it only made them worse. During the negotiation of the Accords, agreement was reached to achieve a breathtaking array of socioeconomic goals in a very short time. In contrast to El Salvador, where significant progress has been made implementing Peace Accords, progress in Guatemala has been very slow, and Guatemalans are now very disappointed. Looking back, however, it now seems clear that it was unrealistic to expect the goals of the Peace Accords to be achieved quickly, given the legacy of violence, discrimination, and inequality that has characterized Guatemala throughout this century.

A. Major Political Events

Overall, it is important to distinguish between the basically positive trends from 1993 to 2000 and the last two years. In fact, three periods can be distinguished:

- From 1993 to 1996, following the failure of the Serrano coup and during the government of Ramiro de León Carpio, progress was made in consolidating consensus in favor of democratic government, and beginning to respect political competition and the rule of law.

- From 1996 to 1999, progress was made in demilitarization and separation of powers, and beginning to deal with inclusion issues. Progress continued to be made in rule of law, but positive changes were not as evident in factors influencing consensus and competition.

- Since 1999, there has been little or no progress in factors affecting consensus, inclusion, and rule of law. The status of governance and competition has worsened.

As can be seen below, significant democratization progress was made between 1993 and 2000, but it has regrettably stalled during the last two-plus years.

1. 1985: Return to Elected Government

Convinced that a return to civilian rule was essential to improving Guatemala's deteriorating international image, and in response to growing internal pressure, de-facto President, Gen. Oscar Humberto Mejía Víctores,[11] held an election in July 1984 for a constituent assembly to draft a new constitution. The constitution was promulgated in 1985, and followed by free and competitive presidential elections. In 1986, the Christian Democratic Party candidate, Vinicio Cerezo, became Guatemala's first civilian president since 1970.

2. 1993: Failure of Serrano Self-Coup

Jorge Serrano succeeded President Cerezo, and initiated peace negotiations with the *Unidad Revolucionaria Nacional Guatemalteca* (URNG)[12] in April 1991. The GOG and UNRG agreed to discuss democracy; human rights; refugees; a truth commission; indigenous rights; the economic, social, and agrarian situation; the role of the army; strengthening civilian authority and institutions; and constitutional reform – after which, they would take up arrangements for a cease-fire and demobilization of URNG forces.

By early 1993, the negotiations stalled on issues of human rights, dissolution of the PACs,[13] and a cease-fire. Discredited, deserted by political allies, and under increasing pressure from the army, Serrano dissolved Congress, the Supreme Court, and the Constitutional Court on May 25, announcing he would rule by decree. The U.S., Japan, and the EU suspended aid programs. By May 31, members of the political elite, private sector, the Church, and popular organizations joined forces in what they called the "National Consensus Body" (INC) to condemn the coup. Serrano resigned on June 2, and on June 6, the Congress named Human Rights Ombudsman Ramiro de León Carpio, President.

The failure of the coup was a seminal event in the process of democratization. First, it showed that the international community was prepared to take action to preserve democracy in Guatemala, and demonstrated that Guatemala could no longer ignore international pressure as it did in the 1970s and 1980s. Second, by joining popular groups opposing Serrano, emerging business elites - mostly those involved in nontraditional exports[14] with close ties to the international community - showed they would not allow a president to threaten their economic interests by alienating the international community with anti-democratic measures. Third, civil society groups showed their ability to mobilize mass protests and public opinion against the regime. Fourth, the army's eventual opposition to the coup was a victory for those more forward-looking officers who wanted to preserve the institutional structures of democracy.

The failure of the coup brought an end to irregular transfers of power that had been so common over the centuries in Guatemala. In January 1994, a constitutional reform package was approved by referendum. It diminished the president's power relative to Congress, created more open mechanisms for the selection of judges, established new functions for the *Ministerio Público* (public prosecutor's office), and increased the share of the national budget allocated to municipalities.

3. 1994–1996: Negotiation and Signing of the Peace Accords

A "Framework Agreement for the Resumption of Negotiations between the GOG and URNG" was signed on January 10, 1994. It provided for establishment of a broad-based Civil Society Assembly that would make recommendations to negotiators and ratify subsequent accords. The Assembly was composed of organizations from both the right and the left, and its establishment was an important step in beginning to build civil society.

It was clear from the beginning that peace negotiations would be protracted because motivations to grant concessions were very limited on both sides. The GOG knew the guerrillas had been defeated militarily, and had no prospect of receiving extensive international support to continue their struggle. The guerrillas knew the government needed to formally end the civil war, in cooperation with the international community, or face the prospect of a continued, albeit low-intensity, conflict.

The first Peace Accord, addressing human rights, was signed in March 1994. It was followed by the "Agreement on the Resettlement of Populations Uprooted by the Armed Confrontation" that provided for the peaceful return of internal and international exiles. On March 31, 1995, the "Agreement on the Identity and Rights of Indigenous Peoples" was signed and went into effect. It redefined Guatemala as a "multiethnic, multicultural, and multilingual nation" and included commitments to recognize the identity of indigenous peoples, eliminate discrimination, and guarantee indigenous peoples' cultural, civil, political, social, and economic rights. Commissions were established to develop proposals on educational reform, political reform and participation, indigenous peoples' land rights, granting of official status to indigenous languages, and preservation of sacred areas.

In a runoff election on January 7, 1996, Alvaro Arzú Irigoyen, a leading businessman and member of the Party of National Advancement (PAN), was elected president. This increased the political influence of reform-minded business elites over that of the army, and invigorated the peace negotiations.

The next Accord, "Strengthening of Civil Power and the Functioning of the Army in a Democratic Society," was signed in September 1996. It clearly linked a reduction in the role of the military to further democratization of the Guatemalan political system. This Accord called for a constitutional amendment to limit the role of the army to defending the nation from external attacks, abolishing the PACs, and consolidating several existing police forces into a National Civilian Police. It also called for reforms in Congress and the judiciary, but the changes it proposed were set out in such broad terms, it was difficult to see how they might be implemented.

Another 1996 agreement on "Socioeconomic and Agrarian Issues" rejected the longstanding *laissez-faire* role of the state and sought to replace it with government acceptance of responsibility for social welfare.

On December 29, 1996, the final Peace Accords were signed in Guatemala City, formally ending the civil war. Demobilization of the URNG was accomplished immediately following the signing of the final Accords. USAID's Office of Transition Initiatives was a key player in the successful demobilization and resettlement process.

The negotiation and signing of the Peace Accords were welcomed by Guatemalans and interested foreign governments because they brought an end to the armed conflict, and laid out an aggressive agenda for democratic reform and more equitable socioeconomic development. By 1997, many believed the moment had arrived to begin deepening Guatemalan democracy. The terms of the Peace Accords specified objectives that were to be reached over several years to rein in the military and establish durable democratic rights for Guatemalan citizens, especially the indigenous population. Free and fair elections had already become the norm, and key sectors of the military seemed prepared to accept a far more limited role in politics than they had enjoyed for over a century. Opposition groups related to the URNG were able to organize parties and run candidates for local and national office. Dissident voices were no longer immediately accused of being disloyal or subversive. The press gained previously unrealized freedom to report on taboo subjects, especially criminal acts alleged to have been committed by the armed services. Reports of corruption by elected officials became commonplace. A limited number of controversial cases involving the military were pursued, and in a small number of very high-profile cases, the courts convicted them.

On the other hand, the Accords laid out an extremely aggressive and extensive agenda for more permanent long-term reform. The number of commitments exceeded 300. Looking back, it is clear that progress was not to be achieved in a neat and linear fashion for a number of reasons. The challenges facing well-intentioned Guatemalans were deep-seated and comprehensive. Not only did they have to continue establishing the formal institutions of democratic governance (elections and other democratic "rules of the game," governing institutions with separate and complementary powers, clear limits on the role of the military), but they simultaneously had to (a) improve the effectiveness of governmental organizations; (b) begin addressing longstanding socioeconomic disparities; (c) improve public security and provide for fairer application of the rule of law; and (d) encourage their fellow citizens to engage in democratic practices that would lead gradually to growth in the prevalence of democratic attitudes and values, social capital, and system support.

Furthermore, the Accords were the product of negotiations between the URNG and the GOG with little involvement by other elements of Guatemalan society. By the second half of 1995, the Civil Society Assembly had been marginalized, as leaders from both the left and the right ceased to participate. Consequently, the Accords could not be considered social pacts since they did not enjoy broad ownership within Guatemalan society. Finally, the Accords left decisions on how their stated commitments were to be implemented by numerous commissions they called to be established with broader participation of stakeholders. The challenge faced by Guatemalan citizens - with virtually no experience engaging in principled dialogue, collaboration, and participation - who were expected to collaborate successfully in numerous commissions was enormous.

Some progress was achieved in advancing Peace Accord objectives during the remainder of the Arzú presidency, but it began to grind to a halt in 1999.

4. February 1999: Issuance of Historical Clarification Commission Report

On February 25, 1999, the Historical Clarification Commission (CEH) published its report entitled "Guatemala: Memory of Silence." The report concluded that more than 200,000 persons died or disappeared as a result of the armed conflict, more than 80 percent of whom were indigenous. It attributed responsibility for 93 percent of the deaths to agents of the state, principally the army. The report contained 84 specific recommendations on preserving the memory of human rights abuses, reparations for victims, fostering a culture of mutual respect, and strengthening democratic processes. Most of the recommendations have yet to be implemented.

5. May 1999: Failure of the Consulta Popular *Referendum to Revise the Constitution*

Rejection of constitutional reforms in the *consulta popular* of May 1999 marked a significant turning point in the implementation of the Peace Accords. The Accords specified changes to be made in the Guatemalan Constitution, which, if approved, could have redefined the political system in many vital ways. These reforms were debated by Congress for over a year and finally won legislative approval in late 1998. It was decided to carry out one referendum. Some 50 different reforms were included in it that fell into four major categories: (1) the rights of indigenous people, (2) changes in the legislature, (3) executive branch reforms, and (4) reforms of the judiciary. Some of the reforms were only tangentially related to the Accords and democracy, and the package as a whole was confusing to voters. For a number of reasons, including political manipulation by the FRG[15] in Congress and a well-orchestrated campaign of misinformation by those supporting the "no" option, the reforms were rejected by 55 percent to 45 percent, with an abstention rate of 81 percent.

The failure of the reforms meant that basic changes to the structure and role of the armed forces, such as appointment of a civilian minister of defense and elimination of internal security functions, could not be made. Other reforms of key importance to the indigenous population were also rejected: official recognition of the multilingual, multi-ethnic nature of the Guatemalan nation, granting official status to indigenous languages, recognition of indigenous law in certain types of legal cases, and the requirement for direct consultation when legislation was to be considered that would affect the indigenous population.

Failure of the *consulta* illustrated that the social breach between Ladinos and indigenous peoples that had in some ways been papered over by the Accords, and other underlying challenges to Guatemalan democratization were still very strong. Analysis of the vote based on a 1999 national probability survey[16] of 1,200 Guatemalans found that the uneducated rural poor were more supportive of the changes than more highly educated and urban Guatemalans. Yet, even among the poor and uneducated, support barely reached 50 percent. This was clear evidence that as late as 1999, majorities of Guatemalans were not yet ready to accept the key transformations required by the peace process. Among the indigenous population, 42 percent of those who cast a vote supported the reforms, compared to 32 percent of Ladinos who supported it. Thus, it was clear that Guatemala's poor and indigenous people were significantly more supportive of the reforms established by the peace process than were the non-Indian population. Put in other terms, however, irrespective of the level of education, nationwide, no more than one-third of non-indigenous Guatemalans supported reforms called for in the Peace Accords that were crucial to the transformation of Guatemalan society. Moreover, even among the indigenous population who cast a vote, the majority opposed the reforms.

Following the failure of the *consulta*, Guatemalans in favor of democratic development found it difficult to see how public support needed to carry out the reforms called for in the Accords might be generated. Then the situation got worse.

6. November 1999: Election of the FRG Government

In the presidential elections of late 1999, Alfonso Portillo of the FRG defeated Oscar Berger of the PAN with over 68 percent of the vote in the second round. Portillo campaigned as a strong-handed leader who would continue democratic reforms called for in the Accords. The FRG's principal founder, Gen. Ríos Montt, who served as de-facto president during the early 1980s when the most serious human rights abuses were carried out, was also elected, as the head of Congress. The elections saw a substantial increase in participation, both in registration and turnout at the polls, especially noticeable among women and indigenous peoples.

Despite early optimism that President Portillo would push forward with the Accords, particularly his assurances that he would take specific measures to limit the internal security role of the military, he did not follow through, and has shown little interest in pursuing GOG obligations under the Accords. Many of those now involved in illicit activities (former military and PAC leaders and some nefarious businessmen) enjoy connections with the FRG administration. A complete rift has developed between the Portillo administration and reform-minded elites in commercial and industrial sectors. His support comes from those involved in illicit activities, along with some traditional landed oligarchs in the interior and former military.

Initial progress achieved in improving the institutions of democratic governance has stalled, and even retrogressed in some cases (e.g., Congress). In addition, the confrontational style of the current

government has alienated it from all elements of Guatemalan society that are not aligned with it, but opposition groups are not united in their views on how best to further develop Guatemala's democracy, or even whether to do so. Some of Guatemala's traditional oligarchs are trying to maneuver within the system to undermine the current government (e.g., using corruption charges as a political tool). Unprincipled political operatives are looking for how best to take advantage of the current malaise. Civil society organizations are frustrated with the government's disinclination to deal with them, and not sure how to proceed. Reformers working from within governmental organizations to improve their efficiency and increase their contributions to democratic governance seem to be biding their time. Many moderate business and military leaders fear further backsliding.

Given the country's recent history, Guatemalan democratization must be considered a long-term proposition with a still uncertain outcome. While progress toward institutional democratization has been made, the process of deepening democracy has stalled, especially during the last two years. For now, powerful political and economic elites seem to have accepted the inevitability of democracy, largely because they know that the international costs of abandoning it would be too great. Yet, it is not at all certain if the international situation were to change that Guatemala would not lapse back into authoritarian rule. Questions persist about prospects for deepening democracy. When the definition of democracy is expanded beyond its institutional or procedural aspects to include promotion of socioeconomic inclusion, some elites – many linked to the current government – still actively oppose taking meaningful action, particularly if it means raising taxes. Although a majority of Guatemalans now express a preference for democratic government, the prevalence of democratic values (e.g., tolerance) has not increased during the last 10 years, and the level of social capital is still very low. The lingering effects of Guatemala's 36-year civil war, in terms of interpersonal distrust, authoritarianism, lack of recognition of extreme injustices, reluctance to participate, and the like cannot be overemphasized.

Guatemalan democratization is currently on hold. In this environment, donor countries that wish to see it proceed need to identify effective ways to continue exerting international pressure on political leaders and elites to comply with the objectives Guatemalans themselves set in the Peace Accords, and to accompany that pressure with selective political and technical support for dedicated, effective, and often brave, Guatemalan reformers.

B. Political Development Trends

During the 1993 to 2002 period, Guatemalans achieved some progress in the areas of consensus, competition, and rule of law, and very little in the area of inclusion. Initial progress made in the area of governance has been reversed since the assumption of power by the current government.

1. Consensus

The most important factor leading to an increase in consensus was the ending of the armed conflict through the negotiation of the Peace Accords. Guatemalans achieved basic consensus on democratic "rules of the game": free elections, transfers of political authority based on electoral competition, at least nominal separation of powers, and other institutional structures common to democratic regimes. But three fundamental factors negatively influence the degree of consensus extant in Guatemala: still low levels of system support, the low prevalence of important democratic attitudes and values (e.g., low levels of tolerance and significant preference for strong-handed government), and limited social capital, evidenced by low levels of interpersonal trust[17] and citizen participation.

2. Competition

The failure of the Serrano self-coup in 1993 helped to consolidate the trend toward greater competition that had begun in 1985. Transfer of power through democratic elections is now assumed. An advocacy role for civil society organizations (CSO) has come to be accepted. Numerous groups are working on important public issues, and some have had successes, such as influencing the recent election of the new Human Rights Ombudsman. Individuals belonging to traditional economic elites are beginning to recognize the advantage of working within civil society. The period has also seen a further diversification of elite groups, particularly in the business sector, but also among military officers. Political parties continue to be extremely weak and do not yet serve any democratic function well. Partly as a result of this, productive competition is not exhibited in the National Congress.

3. Inclusion

While basic human rights for all Guatemalans are now publicly recognized, there are still numerous impediments to the development of an inclusive society in Guatemala. Very little progress has been made in dealing with issues of poverty, social exclusion, discrimination, and disparities in income and wealth, although limited representation of women and indigenous groups in national politics has been achieved.

4. Rule of Law

The most important ROL accomplishment was the cessation of state-sponsored violence against citizens. The rights of indigenous citizens are now formally recognized, as are basic civil liberties, but intimidation is common. A justice system with the potential to enforce the rule of law is slowly being constructed. The new Criminal Procedures Code has replaced an inquisitorial system with an accusatorial one, and provided independent roles for judges, prosecutors, and defenders. A number of law enforcement and judicial institutions have been established (e.g., Public Ministry, PNC, IDPP, Justice Centers). Making them perform better is now the issue. Crime, violence, and impunity are still serious problems.

5. Governance

Despite steady gains improving democratic governance since 1993, deterioration in performance since 1999 has reversed that progress. The executive branch's continuing financial limitations and poor administration (and now a lack of political will) prevent it from meeting Peace Accord responsibilities, particularly support for efforts by Guatemala's indigenous peoples to improve their socioeconomic status. Government institutions are weak and often incapable of carrying out basic state functions. While an independent court system is being developed, an effective legislature does not yet exist. Local officials are now elected, but little progress has been made nationwide in establishing more effective local governments. Other governance challenges include failure to eliminate the military's role in internal security (and recently again in other areas of government), high rates of corruption, and dysfunctional political conflict between the government and opposition groups.

From this short analysis, the most important continuing challenges to Guatemalan democratic development can be identified:

- Socioeconomic divisions between Ladinos and indigenous Guatemalans.
- Insufficient prevalence of democratic attitudes and values.
- Low social capital.
- Poor public security, violence, and impunity.
- A public sector that is too small and inefficient.
- Failure to achieve consensus on a limited role for the military.
- Very poorly functioning political parties.

Section

III

USAID Democracy and Governance Program Strategies

USAID's support for the development of Guatemala's democracy began in the mid-1980s when the country was still engaged in civil war.[18] As Guatemalans gradually made a full transition to elected government, wound down their civil war, and tried to implement various components of the final Peace Accords, the underlying strategy of USAID's democracy and governance program evolved. USAID/G-CAP recently prepared a document entitled, "Background Information on the USAID/Guatemala Democracy Program" that neatly summarizes USAID D/G assistance since 1987. That document describes a transition in USAID's D/G assistance strategy:

> "The initial bilateral Mission projects were largely focused on building key central government institutions important to the functioning of democracy (justice, legislature and elections). Over time, the initial recognition of the contributions that could be made to democracy through effective political processes and governance at the local level and the role of NGOs as key elements of civil society has been validated, and activities in these areas have become a central part of the Mission strategy."

Examination of USAID D/G programs during the pre- and post-Accords periods shows this transition occurring in three stages:

1. An initial emphasis on institution building for democratic governance (1987-1993).
2. Balancing institution building with "demand-side" initiatives (1993-1997).
3. Focusing on citizen involvement in governance within their communities, human rights, and civil society development (1997-2002).

During the first period, assistance was directed at facilitating the transition to civilian government, ending the armed conflict, and initiating processes for institutional reform. USAID gradually moved from an emphasis on government institution building to one that balanced institutional strengthening with "demand-side" interventions with civil society intended to generate support for reforms. This shift was completed following the national and international resistance that prevented the *auto-golpe* in 1993, and the bloodless purge of Congress and the Supreme Court that took place after the January 1994 *Consulta Popular* on constitutional reform. By 1994, the Mission also had at its disposal information on Guatemalan values and attitudes relevant to democracy from the initial Democratic Indicators Monitoring Survey (DIMS).

By 1995, the Mission had moved to structure its D/G programs to include consensus-building mechanisms for dialogue among public and private sector leaders designed to identify and agree upon reforms that would be supported by USAID. The 1996-1997 Action Plan (prepared in May 1995) signaled another strategic shift, noting that the Mission was "gradually shifting to a more

decentralized approach working through NGOs, moving closer to municipal levels and community-based solutions, and relying less on partnerships with beleaguered national level agencies." The same Action Plan stated the following:

> "The events of the past year have validated the need to continue to strike a balance of assistance aimed at reformers working at both ends of the spectrum, be they government officials intent on making their institutions more responsive, or private citizen groups eager to enter into the political debate on this country's future. We also note that in the democracy sector, we need to maintain the freedom to respond to changing realities in the political environment as they occur."

Following the signing of the final Peace Accords, the Mission prepared its FY1997-2001 Strategic Plan. That document made it clear the Mission had shifted its D/G strategy to more directly promote citizenship development among indigenous peoples, civil society development, and community-based access to justice and governmental services. Efforts to strengthen governmental institutions at the national level were de-emphasized. Support for the executive branch was limited to advice on generating more tax revenue and activities to improve services in rural areas. Support for the National Congress was continued but eventually terminated in 2000 when Rios Montt took over its leadership. In the rule-of-law area, although significant support was continued to enable the 1994 Criminal Procedures Code to be implemented, emphasis was put on establishing rural justice centers, mediation centers, and public defender training to increase access to justice by indigenous populations.

Program Assistance Areas

USAID D/G support has been provided in six assistance areas: elections administration; rule of law; legislative strengthening; human rights; civil society; and local governance. The order in which these areas are listed corresponds to when assistance in each area began.

Assistance Area	Period of Assistance
Elections Administration	1987 – 1990[19]
ROL	1987 – present
Legislative Strengthening	1987 – 2000 (intermittently)
Human Rights	1990 – present
Civil Society	1995 – present
Local Governance	1998 – present

Beginning in FY1997, USAID established a special strategic objective in support of the Peace Accords under which D/G assistance also began to be provided. For the purpose of this paper, USAID assistance provided under both D/G and Peace Accord strategic objectives are combined by assistance area.

Section

IV

Understanding the Impact of USAID Programs

A. Rule of Law[20]

1. Political Overview

By early 1993, peace negotiations had stalled, and Guatemala's experiment with democratic government was about to be severely tested. Human rights abuses were still common, and laws were very unevenly applied. There were NO prosecutors or public defenders. The military still handled internal security, and there were only 4,000 police officers, working in different organizations. The criminal courts operated under a written inquisitorial system whose procedures severely disadvantaged Guatemala's non Spanish-speaking populace. The system provided no assurance of a right to defense and no presumption of innocence; it allowed arbitrary detentions and induced confessions, fostered abuse of power and intimidation, tolerated inconsistent investigation practices, and presented a high potential for violations of due process and conflicts of interests by judges.[21] Guatemalan courts were largely absent from rural areas, and, where they did operate, they were incapable of investigating, trying, and sentencing those responsible for human rights abuses and other serious crimes.

Guatemalan justice system reformers over the last 10 years have focused their efforts primarily on creating the law enforcement and judicial organizations called for in the CPC: the National Civilian Police (PNC), the *Ministerio Público* (Criminal Prosecutors Office), the *Instituto de Defensa Pública Penal* (IDPP) (Public Defenders Office) - and on increasing access to justice through the creation of justice centers. Between 1993 and 2002, the principal advances made to establish the rule of law in Guatemala were:

- The cessation of state-sponsored violence against citizens (somewhat counterbalanced, unfortunately, by a significant rise in crime).
- The entry into force of the Criminal Procedures Code (CPC).
- The creation of the National Civilian Police (PNC), and the accompanying reduction (but not full elimination) of the role of the military in law enforcement.[22]
- The establishment of the *Ministerio Público* (MP) and the public defenders' office (IDPP). The MP was created in 1994 and now includes 175 prosecutors, but it is still not meeting its prosecutorial responsibilities (see box below). The IDPP also began operating in 1994 and became an independent organization within the judicial branch in 1998.
- Expansion and improvement of the court system – primarily by the opening of justice centers and the establishment of a court administration office in Guatemala City – improving both system efficiency and access.

- The increased numbers of judicial sector personnel now working, and their improved professionalism. Increases from 1986-2002 were:
  - "First instance" court judges: 50 to 120
  - Justices of the Peace: 100 to 375[23]
  - Prosecutors: 30 to 175
  - Public Defenders: 0 to 98 (and 360 contracted part-time lawyers)
- The entry into effect of the Judicial Career Law to regulate selection, training, and evaluation of judges.
- The introduction of alternative dispute resolution methods (conciliation and mediation) in rural areas.[24]

The CPC was developed over the course of several years by Argentine experts with Guatemalan input, during which USAID very actively worked to familiarize important judicial sector decision makers with the advantages of oral processes and other reforms that were eventually made part of the new code. The new code replaced the inquisitorial system with an accusatorial one, and provided independent roles for judges, prosecutors, and defense attorneys. Oral proceedings were introduced, both to make judicial processes more efficient and to provide for better citizen understanding of the criminal justice system. The CPC also provided for shorter pre-trial detention periods, the right to legal defense, the use of plea-bargaining, the right to use native languages, and appeals.

The performance of the Public Ministry is particularly poor. A USAID sample survey of legal complaints presented to the MP by citizens in Guatemala City showed the following on an estimated annual basis:

- Presented to MP – 90,000
- Dismissed by reception clerk (no standard criteria) – 35,000
- Rejected because no aggressor identified in complaint – 21,000
- Referred to prosecutor – 34,000
- Cases filed with court – 1,125
- Cases tried – none in sample (Only a handful are tried, although plea-bargaining is a factor.)

Now, only five and a half years since the end of Guatemala's civil war, although significant progress has been achieved in establishing the organizations of the state required for the justice system to function, the rule of law is still far from being institutionalized. Measured against the absence of a functioning justice system and the prevalence of human rights abuses as the civil war wound down, it cannot be denied that real progress constructing the justice system and developing the rule of law has been made. Measured against the lofty objectives outlined in the Peace Accords, however, and minimal standards for peaceful, democratic countries, Guatemala has a long way to go. The state organizations needed to make the system function now exist, but the performance of the justice sector – especially in dealing with capital crimes – is poor, and criminal activity is rampant.[25]

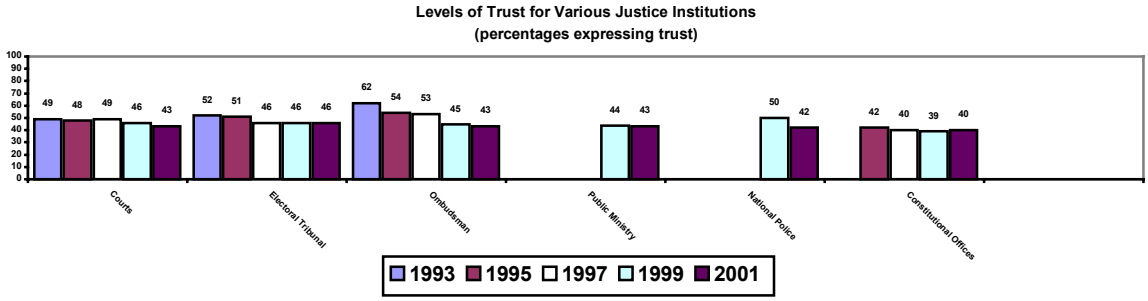
Serious political impediments underlie the financial and organizational constraints impeding the operation of Guatemalan law enforcement entities and the courts. At the height of the armed conflict, the GOG regarded much of the indigenous population as enemies of the state. Criminal impunity was the norm, and the justice system took a back seat to military and economic elites who exerted power to suit their personal interests. The military, and its civilian supporters, summarily apprehended those believed to be enemies of the state or criminals, and tortured or executed them.

Although Guatemalans agreed on the rule of law reforms specified in the Peace Accords, there was no real agreement on the timing of reforms. After the Accords were signed, many economic and military elites - and others - continued to follow their old practices for resolving conflicts. To be sure, the extent to which those in a position to ignore the law actually do so has been tempered by

the fact that, with the establishment of the PNC and criminal courts, it is now possible the formal justice system may act against them, but the extent of extra-legal activity carried out with impunity is alarming.

During the Arzú Administration, most of Guatemala's traditional business oligarchs kept on exerting influence as they always had. With the much less cooperative FRG regime, they have resorted to using media they control to manipulate public opinion, and even undermine democratic governance. Significant numbers of former military personnel, and civilians who cooperated with them when they were in power, still opt for extra-legal violence to resolve conflicts. In the case of the former military, intimidation and violence ("parallel justice") are used to protect illicit businesses or to impede efforts that might lead to public condemnation or prosecution for prior human rights crimes. Recently, growing numbers of rural citizens have resorted to lynchings to deal with common criminals or problems between communities and government officials.

The general public and the rural poor have a low level of confidence in Guatemala's justice system because it performs so poorly providing public security, and serving as a resource to help citizens resolve the normal conflicts of daily life.



2. Program Overview

Assistance Strategies

USAID support for ROL activities began in 1987. To date, over $30 million in assistance has been provided. USAID support can be divided into three periods: 1987-1991, 1993-1998, and 1999 to the present. During each period, USAID's ROL program strategy was different – in line with the justice sector needs it perceived and what was possible politically. USAID began by promoting interest in court reform, moved on to support for institutional development when reform had begun, and most recently focused on improving access to justice.

During the 1987-1991 period, USAID was alone among donors working to convince potential Guatemalan reformers of the advantages of improving the criminal justice system, and how it might be accomplished. After the *auto-golpe* in 1993, USAID decided that its strategy for justice sector support would be to help implement the new CPC. DPK Consulting was contracted to provide periodic technical assistance to the Criminal Justice Planning and Transformation Unit of the Supreme Court as it prepared to implement the new code. When the code became law in July 1994, DPK began a four-year effort to assist with the establishment of the MP and the IDDP. Work to promote the establishment of justice centers and mediation programs also began.

From 1999 to 2002, organizational strengthening efforts continued where possible, while much greater emphasis was given to improving access to justice. This was done by supporting the establishment of justice centers,[26] efforts to gain official recognition for indigenous conflict resolution methods, and the introduction of alternative dispute resolution mechanisms. These activities, and assistance to the *Universidad de San Carlos* Law School in curriculum reform, have been implemented under a contract with Checchi.

Principal Areas of Assistance

For analytical purposes, USAID assistance has been grouped into four areas: institutional reform, access to justice, legal education and training, and civil society initiatives.

Institutional Reform

Establishment of the IDPP: With a USAID grant, MINUGUA worked in 1997 to help pass the law to create the IDPP. USAID then began training public defenders (who worked under the authority of the Supreme Court at the time) and provided technical assistance to establish the Institute. Since its formal establishment in July 1998, USAID assistance has been extended for training, policy development, organization management improvements, and ensuring availability of services to indigenous populations. From the start, USAID assistance was provided with two strategic principles in mind: supporting and developing leadership from within the IDPP, and encouraging other donor involvement for the Institute's long-term development.[27]

Establishment of the PM Victims' Assistance Office: The first attorney general appointed Dra. Luisa Gonzales as the unit's first director, a position she has held ever since. The attorney general in office since 1999 has not supported the OAV's development. According to Dra. Gonzales, the fact that USAID provided support for the OAV since its establishment has helped it survive politically. USAID helped fund training for all 40 of the OAV's personnel, and stepped in to help cover OAV costs when the current attorney general cut its budget.

MP Citizen Complaint Unit: In Guatemala, citizens must present criminal complaints to the MP rather than the police. To receive them, the MP operates a case intake office. In mid-2000, the Ministry agreed to allow Checchi to work with the intake office personnel to redesign processes and train employees. The IDB financed the purchase of new computer equipment.

Clerks' Office for Guatemala City Criminal Courts and Two High-Impact Courts: USAID provided technical assistance and training to establish these offices. Beginning with the organization of case intake and record systems, these offices expanded to provide a variety of administrative support services to courts.

Judicial Career Law and Judicial Career Council: USAID technical assistance to the Supreme Court's training unit (UCI) over a six-year period helped it develop a curriculum for judge candidates and in-service training plans. USAID-financed technicians also participated in the establishment of criteria for selection of new judges and the evaluation of sitting ones. The Supreme Court established the Judicial Career Council in July 2000.

Access

Establishment of Justice Centers: As of mid-2002, USAID had supported the establishment of 11 justice centers, nine of which are located in departmental capitals. Justice centers are intended to increase both the efficiency and quality of justice services. Justice centers do not revolve around the concept of a single building. Instead, justice centers provide a structure and processes for collaboration among police, prosecutors, judges, public defenders, local civil society, and private law practitioners. This way, they make the justice system work better, and are able to proactively address ROL problems that are particularly troublesome in their region.[28]

Each justice center is governed by a "coordinating unit" consisting of the most senior representatives of the police, prosecutors, public defenders and judges, with a rotating chair. Coordinating unit members also participate in their center's "executive committee," which includes members from local governments and local civil society, along with church representatives and staff of the MP Office of Victims' Assistance. The centers' executive committees serve as their link to local citizens and their representatives, public and private. Each justice center operates under a strategic plan that addresses such topics as improving coordination, gender and domestic violence, mediation, multilingualism and indigenous law, and public communication.

USAID support for the centers consists of training, technical assistance, and the financing of initial startup costs. USAID also established NGO funds at centers to finance projects to address local justice sector issues. Most of the costs of the centers are covered by the budgets of the organizations participating in them, and with the in-kind services of local volunteers. Centers rely on USAID to provide technical assistance and "political support" to get them started.

Establishment of Community-Based Mediation Centers: Mediation centers are intended to provide citizens living in rural areas with more ready access to services that assist them to resolve a variety of conflicts – those among family members, regarding land or labor-related problems, commercial disputes, and even crimes. The centers have been intentionally designed to respect traditional community leadership and indigenous conflict resolution customs, to be community-based, rather than formally attached to courts, and to allow for use of local languages. Fifteen centers have been created to date, where community leaders assist those engaged in conflicts to settle their disputes, using conciliation and mediation techniques.

Other Activities: These included establishment of a translation office for the courts, training of court translators, and development of a masters degree program in indigenous law at San Carlos University.[29] USAID also financed an interpreter education program at Rafael Landívar University.

Legal Education and Training

USAID worked with the *Universidad de San Carlos*[30] to modernize its law school curriculum to take into account the changes in the CPC, and to include courses on judicial ethics and values. A diagnostic was completed in 1999, and the new curriculum was approved in November 2001, for implementation beginning in 2002. Prior to that, 40 USC professors received training to prepare to teach it. USAID also assisted the law school with administrative reforms. The Embassy Public Affairs Section provided assistance in teaching methods.

Civil Society Initiatives

Assistance in this area supported initiatives by Guatemalan NGOs to advocate for specific ROL reforms and efforts by judicial sector organizations to cooperate with civil society to carry out their

responsibilities. Two NGO activities received support under the *Incidencia* program. *Defensoria Maya* prepared a series of monographs on indigenous law practices for public education purposes, and that organization obtained agreement with the Supreme Court to engage in an ongoing discussion of ways to incorporate indigenous law into the formal justice system. The *Instituto de Estudios Comparados en Ciencias Penales de Guatemala* (IECCPG) did justice sector research and published a "court watch" publication to allow the public to follow judicial reform issues.

A coalition of NGOs concerned with domestic violence was supported through a grant from USAID and coordinated some efforts with Checchi. Concerted efforts to involve civil society in the activities for which they are responsible have been undertaken by each of the justice centers and the MP Victims' Assistance Office.

3. Findings on Program Impacts

Almost all of the impacts achieved under USAID ROL programs have occurred at the institutional level (i.e., they involve improved organizational practices and performance). For that reason, impacts are reviewed below by organizations involved. In the few cases where individual impacts (in terms of improved justice services received or imputed) or systemic impacts (in terms of actual or potential changes in the Guatemalan ROL regime) were detected, they are mentioned.

Instituto de Defensa Pública Penal

USAID assistance was instrumental in establishing the *Instituto*. Without this support, and the additional political support provided to the Institute from influential Guatemalan civil society organizations,[31] the IDPP would not have been able to develop as quickly and as well as it has. Every department of the country now has at least one public defender.

Statistics on cases handled are as follows:

Period	Cases	Appeals and Writs Filed
July 1998 – June 1999	17,944	N/A
July 1999 – June 2000	20,057	693
June 2000 – July 2001	21,409	918

Since the Institute began functioning as an independent entity, the average caseload of full-time public defenders has decreased from several hundred to 30.

All current full-time public defenders have participated in USAID-sponsored training. Seventy of the part-time public defenders – those assigned to police stations - were also trained by USAID. USAID helped set up the Institute's training center (UNIFOCADEP) and establish a graduate degree program in criminal law at the *Universidad de San Carlos*.

USAID assistance in policy development and organization management included development of caseload management practices, pilot case filing systems, standards for treatment of similar cases,

regulations on prison visits, and even technical support for presentations to Congress advocating new or amended laws. USAID also helped the Institute to recruit public defenders to work in indigenous regions and to hire translators.

Although Institute leaders recognize the magnitude of the challenges ahead, they are proud their organization is already a leader in Central America. Systemically, the establishment and functioning of the Institute has transformed the nominal right to defense established in the constitution into a reality for Guatemalans charged with crimes. Trials cannot proceed without defense lawyers.

Public Ministry

Without any doubt, the justice sector organization that has made the least progress in developing its capabilities – and in fact is most responsible for the poor performance of law enforcement and the courts in dealing with crime – is the Public Ministry. Insufficient political will by the MP's attorneys general and other senior leaders – which has its roots in the less than adequate commitment to the rule of law among Guatemalan elites – is primarily to blame, but organizational rivalries, especially between the PCN and the MP, have also been important.

USAID and other USG agencies stood ready since 1994 to provide significant assistance to improve criminal prosecutions, but cooperation from the MP was not forthcoming. Support was accepted in only two areas. In four other areas – where MP performance is more critically important to the functioning of Guatemala's criminal justice system – no assistance could be negotiated, and virtually no progress was made.

For instance, beginning in 1994, USAID (and other USG agencies) worked with the MP training unit (UNICAP) to improve the training of prosecutors, but little was accomplished. Since a couple of years ago, the IDB and the UNDP have also struggled with UNICAP to no avail to agree on plans to strengthen its performance.

USAID helped the MP prepare a strategic plan that was completed in December 2000, but was never acted upon.

A pilot case backlog initiative, using student interns from Rafael Landívar University to classify case files, did not prosper.

Most importantly, numerous efforts to facilitate agreement between the MP and the PNC regarding coordination of investigation activities and evidence handling procedures have failed, with the result that few, if any, serious crimes can be prosecuted on the basis of sound investigations and good physical evidence.

MP Customer Service Case Intake Unit

Prior to installation of the new case intake system, the average citizen presenting a complaint had to wait three or four hours to receive attention. Now the average wait is 15 minutes. Translators are now on duty, and the office stays open 24 hours per day. The case intake model has been expanded to the 11 justice centers opened to date and all 22 departmental capitals.

Oficina de Atención a las Victimas (OAV)

When the office started, there was no clear idea of its purpose or how it should operate. Now, the victims' assistance program operates from a central office in Guatemala City (11 employees) and from each of the 11 justice centers (29 employees). Since 1995, over 47,000 cases have been handled. To be sure, individual impact on crime victims has been modest when measured against national need, but when measured against the fact that no such services were available just a few years ago, the impact has been significant.

The majority of individuals served by the office have been victims of domestic violence, but victims of human rights threats, rape, and other crimes are also assisted. Services range from advice on legal rights and responsibilities and arranging legal defense, to first aid, psychological support, and referrals to NGO and public sector service providers. The office has established cooperative relationships with 83 service-provider organizations, an excellent example of cooperation with civil society by a public sector entity. Following the OAV's example, the PNC began its own victims' assistance efforts, creating units in six of its stations in Guatemala City.

The office's success to date is a good example of what can be achieved by a dedicated leader and a few colleagues who are provided technical and political support by USAID – even when they do not enjoy support within their own government.

Criminal Courts

USAID support to the criminal court system, provided in cooperation with the Supreme Court, has helped improve the efficiency, professionalism, and independence of the criminal courts.

With USAID assistance, a Clerks' Office was created for the 11 criminal courts in Guatemala City. Its first task was to regularize the case intake system for those courts. In the year ending in October 1998, before the office was created, a total of 1,061 case files were "lost" by six of the courts, many as the result of small payments to court clerks. By 2001, the number of case files lost by all the courts had been reduced to two, thus allowing the courts to operate more transparently (no more "judge shopping") and efficiently (most cases are settled with plea bargains or settlements), and serving to control corruption. At the request of the Supreme Court, clerks' offices were also established for two high impact courts. Judges have gradually given the clerks' offices more duties in order to lighten their own administrative burdens. An example is the registry, control, and delivery of pretrial release orders. Another is the production of an administrative manual for use by other clerks' offices, and a manual for process servers. Initiatives such as these are useful not only in terms of court efficiency, but also because they can affect the rights of those involved in judicial processes. For instance, in 1999, 63 percent of all prisoners were awaiting trial, and that percentage dropped to 53 percent by 2002. The establishment of Clerks' Offices in other criminal court systems is now an important part of the court reorganization plan agreed to with the World Bank.

USAID responded to other requests for assistance from the Supreme Court. For example, in August 2000, USAID helped the Court establish the two high-impact courts by training the prosecutors, public defenders, police, and judges to be assigned to them.[32] Another example was an initiative to test procedures for oral presentation of pre-trial motions, which was carried out in several justice centers on a pilot basis, and resulted in an average reduction in delays from 13 months to 9 months.

USAID offered various types of assistance to support development of the court system's judicial training school, the UCI. The Supreme Court only accepted assistance with the design of training

programs for judge candidates and in-service judicial training. As of 2001, 75 new trial court judges and 100 justices of the peace passed six-month career preparation courses prior to their sitting for entry. The in-service training program with which USAID assisted has not yet been initiated. USAID-sponsored training of judicial sector officials has also been carried out at the justice centers.

After a decade of assistance from USAID and other donors, the new Judicial Career Law came into effect in January 2000. It provides for selection of judges according to examination results, following training at the judicial training school. It also provides for periodic evaluation of judicial performance. In each of the last two years, the Judicial Career Council has disqualified judges not meeting its standards.

Justice Centers

The law enforcement and justice sector organizations operating from the justice centers established to date have achieved important institutional impacts through the increased efficiency, transparency, and consistency with which they are serving the public. Numerous citizens have been impacted individually, having benefited directly and indirectly from justice services that were not previously available.

As a result of the decision to structure justice centers to facilitate transparent and ongoing civil society involvement in their operation, beneficial impacts on both justice sector performance and local civil society development have been realized. The involvement of a variety of local civil society representatives (along with local government officials) in justice centers helps ensure the centers' services are more responsive to citizens' needs.[33] The cooperation justice centers help generate among local citizens to address challenges they share holds great promise for increasing interpersonal trust and confidence in democratic institutions.

Both the justice center and clerks' office models implemented with USAID assistance have demonstrated that the model organizational structures and practices they have established can be replicated elsewhere in Guatemala. The Supreme Court has been discussing a different justice center model with the UNDP (*Centros de Administración de Justicia*), one that incorporates some of the elements of the justice center model but puts more emphasis on single buildings. Discussions with the Court and UNDP will continue as the Checchi contract winds down, with a view to incorporating as many of the successful features of the justice center model in the Court's long-term plans as possible. Although it is not yet known what Guatemala's ongoing model for justice centers will be, the Court has decided that additional centers need to be created. The pace at which the number of justice centers will be multiplied, beyond the 15 to be established with USAID support, will depend on the availability of GOG revenue for that purpose.

Mediation Centers

As of early 2002, some 130 leaders from 17 communities received training to enable the centers to operate. This included 30 individuals who received training as official mediators. Since their initiation, about three-fourths of the cases submitted to the centers have been amicably resolved. Where necessary legally, agreements reached are officially sanctioned by court action. As a result of the mediation centers, rural citizens (mostly women, it turns out) have been able to resolve disputes in which they are involved, relying on community leaders and customs they trust, while still meeting the requirements of Guatemalan law. For most, if not all, the citizens served, successful experiences with the mediation centers are their first positive contact with the official

justice sector. The centers demonstrate that disputes can be settled peacefully by the parties involved, and should contribute over time to helping build trust among community members and with the formal justice system.

USAID's mediation center program succeeded in introducing alternative dispute resolution practices to Guatemala. The World Bank and UNDP are also cooperating with the Supreme Court to implement court-annexed mediation services throughout the country, making mediation services available from justices of the peace.[34]

Civil Society Organizations

Under the ROL program, USAID made a $1.3 million grant to a coalition of Guatemalan NGOs that agreed to cooperate to address the problem of violence against women. The grant was used to strengthen the capacities of coalition member organizations, and for joint actions to raise public awareness, improve the services available to victims, and monitor GOG actions to implement relevant laws. Laws addressing domestic violence and assistance to victims were passed.

4. Conclusions

Significance of Impacts Achieved

USAID pioneered support for justice sector development, and paved the way for other donors. As a result, Guatemalan reformers have enjoyed technical and political support from several countries and international organizations – support that has enabled them to keep the ROL reform process moving forward against great odds.

USAID assistance has been essential in bringing about lasting institutional changes in Guatemala's justice system.

Justice centers are improving the efficiency of law enforcement and justice systems and providing access to justice in rural areas. Structuring justice centers to provide for participation by civil society and local government officials allows them to be more responsive to citizens' needs, and enables citizens to take responsibility for cooperating among themselves democratically to resolve community problems.

The public defenders service is a *sine-qua-non* for any democratic criminal justice system.

The criminal court clerks' offices have significantly increased transparency and efficiency, and established a model that can be further developed and replicated.

The Judicial Career Law and judicial school (UCI) are increasing the professional competency of judges. For the first time in Guatemala's history, an independent judicial branch is monitoring and disciplining judges in a transparent manner.

Alternative dispute resolution practices have been introduced in Guatemala. They have the potential to increases access to justice significantly, and can positively affect confidence in the justice system.

Factors Affecting the Degree of Impact Achieved

External

Progress developing the rule of law has occurred much more slowly than Guatemalan reformers desire due to strong political factors working against it. Under these circumstances, progress has required ongoing intervention by other governments and the international community, both to maintain political pressure in favor of ROL reforms and to support Guatemalan leaders working to achieve it. Guatemalan justice sector reformers would not have been able to make the progress they have if the USG did not exhibit the political will it did beginning in 1987 to pursue ROL reforms.

The progress that has been made could not have occurred without the dedication and skill of individual Guatemalan reformers. The lesson for donors is that although outside pressure and assistance may be needed, reforms require local leadership at many levels within the judicial system, and outside of it.

Guatemalan reformers, and those supporting them, benefited enormously from the framework for reform provided by the Criminal Procedures Code.

Internal

USAID's ROL programs provided assistance that was opportunistic and flexible. USAID's long-term commitment to work in this area allowed them to nurture a critical mass of local reformers. The Mission then stood ready to support specific reforms in partnership with these Guatemalan leaders when conditions for implementing them seemed good and those involved possessed sufficient political will and skills to bring them about.

USAID worked collaboratively with its local partners by engaging in discussions about goals, exposing Guatemalan leaders to alternative approaches, and making clear the basic conditions they would need to meet to receive USAID support.

Many Guatemalans mentioned that the political support represented by USAID assistance for their programs helped them face obstacles and gain the support they needed from colleagues to persevere and move forward (e.g., justice centers, clerks' office, OAV).

USAID was able to reserve significant funding for ROL programs during the last 15 years. Without USAID's commitment of time and resources, it is very doubtful ROL reforms would have been obtained. As political conditions changed during this period, USAID was able to maintain its opportunistic and flexible stance regarding ROL reforms. Furthermore, having access to significant resources magnified the diplomatic influence the USG was able to exert in favor of democratic development.

Finally, USAID succeeded in attracting technically skilled (and politically aware) program managers and technical advisors.

B. Legislative Modernization

1. Political Overview

The Guatemalan Congress is a weak institution. Its independence has grown in relative terms, but due to the weaknesses of the political party system in Guatemala, it does not yet fulfill the representative function of a democratic legislature.

The institutional prestige of Congress was significantly strengthened with the failure of President Serrano's *auto-golpe* in 1993, and Congress' subsequent appointment of the then Human Rights Ombudsman, Ramiro de León Carpio, as president. Successful national elections in November 1995, resulting in election of the most politically diverse Congress in the country's history, were viewed as milestones in Guatemala's democratic consolidation. The inclusion of the legitimate left represented by the FDNG, along with a substantial showing of women and indigenous leaders, were a first. Another first was the commitment, across the political spectrum at the time, to work on a non-partisan basis to rebuild the Congress as a democratic institution.

The signing of the final Peace Accords provided an opportunity for reforming state institutions, including the National Congress. The Accord on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society set the following goals:

- To enhance efficiency in the initiation, discussion and adoption of legislative initiatives (a priority given that over 200 legislative initiatives were required by the Accords).
- To streamline the parliamentary process (through a revision of the Act on the Rules of Procedure), among other procedural and administrative reforms.
- To strengthen congressional oversight of the executive branch, especially in budget execution.

When USAID assistance to the Congress began in the late 1980s, the institution lacked many of the most rudimentary procedures required of a modern legislature. For instance, neither Congress nor legal scholars had any clear idea how many laws passed by the Congress since 1871 were still on the books, or had been contradicted by subsequent legislation. Congress had no internal capability to carry out research in support of legislation or to study the budget implications of executive branch initiatives.

Any given Guatemalan Congress is normally comprised, in its majority, of first-time deputies limited to no more than two consecutive terms. Members of Congress must rely on staff for the preparation and review of legislation. Staff members are generally political appointees who obtain their jobs whether or not they possess skills in drafting/analyzing legislative initiatives. As of 1997, no more than a half-dozen capable bill-drafters served 24 legislative committees. Proposed legislation was poorly written, creating confusion in the application of the law. Congressional staff also lacked the capability to review bills for their constitutionality.

Congress was, and is, most seriously weakened by the almost complete lack of political party discipline. Rampant party switching occurs after elections. Lack of political party stability has undermined institutionalization of procedures within the Congress. Technical and professional staff turnover (the 1999 election was indicative – over 90 percent staff turnover rate) makes institutional reform, or improvements through training, very difficult.

2. Program Overview

Initial efforts by USAID to assist Congress focused on improving its administrative and law-drafting capacities. Beginning in the late 1980s, USAID provided modest assistance for much-needed capital equipment, along with limited technical support to improve administration. In 1992, USAID broadened its support through a cooperative agreement with a local organization to provide technical assistance to key commissions responsible for drafting laws in areas that USAID identified as important. USAID also provided a grant to *Acción Ciudadana* to improve Congress' legislative database. Between 1992 and 1994, a series of scandals involving individual deputies, and a steady deterioration of Congress' ability to function effectively vis-à-vis the executive, led USAID to suspend assistance.

Given the need to strengthen Congress so that it could pass laws called for in the Peace Accords, USAID again entered the legislative strengthening arena. In August 1996, USAID signed a 15-month, $800,000 delivery order with the State University of New York (SUNY/OIP) to assist Congress with the design and implementation of a comprehensive modernization plan that addressed three challenges: technical capacity for bill-drafting, parliamentary procedures, and improving administration. The plan called for the creation of a Technical Assistance Unit (UPAT) to develop legislative initiatives solicited by individual deputies and Congressional commissions. UPAT was comprised of some 30 Guatemalan students (legislative interns) working under the guidance of Guatemalan mentors in legislative research (*anteproyectos de ley*). UPAT also formed a Budget Analysis Unit to provide expert assistance to Congress in planning and monitoring implementation of the state budget.

USAID also financed activities to enhance efficiency in parliamentary and administrative procedures. Attention was focused on reforming the Act on the Rules of Procedure (*Ley Organica del Organismo Legislativo*) to codify improvements in congressional processes. The project worked to streamline the administrative functions of the Congress through the development of an Administrative Procedures Manual and a Job Functions Manual, and an accompanying proposal for an administrative restructuring of the Congress. USAID helped develop a diagnosis of training needs for administrative and technical staff, and organized and financed short-term, in-country and international training.

The SUNY program succeeded in helping Congress make progress in some of the initiatives mentioned above during its 15-month duration, but by the time a new University of Texas (UT) program began in late 1997, it was clear that the Congress had not yet been able to improve its performance in passing laws or fulfill its basic political responsibilities of citizen representation and executive branch oversight.

UT and USAID decided to continue implementing a program strategy that emphasized improving Congress' technical capacity (for bill-drafting and with administrative structures and procedures) and to begin efforts to improve Congress' ability to meet its political responsibilities for exercising executive branch oversight, providing opportunities for citizen participation and input to the legislative process, and representing constituents' interests. The UT program provided assistance in four areas: formulation and analysis of legislative initiatives, constituent services, executive oversight, and administrative reform. USAID's intent was to professionalize Congressional operations, and begin efforts to improve Congressional performance of political responsibilities, with the expectation that when and if political parties functioned better, elected representatives

would find a better operating legislative institution with which to work. In the meantime, it would be possible to pass legislation required by the Peace Accords.

As indicated below, progress was made in some of these areas, but because elected representatives and parties failed to change the traditional non-democratic ways in which they behaved, overall Congressional performance failed to improve and the existence of USAID's program depended on the goodwill of the dominant party in Congress. When the general elections in late 1999 led to assumption of Congressional leadership by Gen. Rios Montt, it was no longer possible for USAID to depend on that goodwill, and the program had to be terminated, all but eliminating the prospect for meaningful long-term results.

3. Findings on Program Impacts

Individual Level Impact: Much of the work of the SUNY and UT programs focused on training and human capacity development for congressional staff. In all four assistance areas noted above, coordinators and assistants were trained and transitioned to the congressional payroll. The new training unit formed under the UT program sponsored 62 seminars, 37 short courses, and 19 legislative exchanges, as well as continuing education for congressional staff. The impact of this training was severely limited due to staff turnover following the 1999 election. Of 456 Congressional employees in December 1999, only 200 - principally secretarial and support staff - survived the post-election transition. The vast majority of professional staff trained under the program was not retained. (Some trained staff members continue to work on budget analysis for the Finance Committee.)

In the area of constituency outreach, nearly 50,000 copies of *Conoscamos Nuestro Congreso* were published in multiple languages and distributed nationwide. Related radio programs were aired. Congressional staff trained in constituent outreach under the program made presentations to tens of thousands of school children, as well as constituents, through visits to Congress and field offices.

Some 90 legislative interns were trained in legislative research. A few still work in Congress, while many others moved to other government ministries or to NGOs and think tanks. Significantly, several moved to the President's office where they use their skills to draft legislation. It is apparent that some individual-level impact was achieved from which Guatemala is still benefiting.

Institutional Level Impact: Over 150 legislative briefs, studies, and bills were produced with support from the project. Although the USAID-created legislative research unit was discontinued by the current Congress, the practice of carrying out research to back up proposed legislation is now commonplace. The project helped develop a database of over 275 specialized Guatemalan legislative experts.

With project assistance, Guatemala's first database of the laws approved by Congress between 1871 and 2000 was created. This database helps inform efforts at de-legislation and provided the Supreme Court with its first complete automated database of acts of Congress. Congress is also now connected with a global network to access the legislative databases of other countries, which has facilitated legislative research. A database of all laws, decrees, and resolutions related to international treaties was also prepared.

Finally, USAID organized a two-year public policy program and associated fellowships at the *Universidad Rafael Landivar*, and a parallel program at UT-Austin, for legislative staff. The first eight graduates will return to Congress this year.

In the area of enhanced constituent services, the project improved the capacity of the Legislative Library to respond to requests for information from constituents, deputies, and the executive branch, but the current Congress does not appear to be taking advantage of it. The program also initiated a clipping service from 53 Latin American newspapers for library and Congressional committees.

The project helped establish Congress' first three regional constituency-outreach field offices in 1999. The current Congress created nine more. Although use of these offices by opposition parties not controlling Congress has been minimal, it is now expected by citizens that Congress should have field offices for contact with constituents.

The goal of improving executive oversight assistance was tackled by training new staff to analyze the President's annual budget proposals and quarterly budget implementation reports, as well as to analyze the budgetary implications of proposed legislative initiatives and annual audit reports prepared by the Controller of Public Accounts. The Technical Support Unit developed and implemented a procedure for budgetary analysis of committee bills prior to the second reading in plenary session. We understand that this is still the practice in Congress.

The project attempted to promote administrative reforms by developing recommendations for restructuring Congress and drafting new internal rules of order. Five personnel manuals were completed. To date, none of these initiatives has borne much fruit beyond the completion of the manuals. The project did succeed in developing a personnel database for Congress.

Under the U.S.–Guatemala Legislative Studies Program, graduate students were recruited from both countries to prepare studies and recommendations on ways to strengthen Congress administratively. The constituent outreach offices were based on the research of one of these studies. Another study led the Congress to develop its own internal security force, independent of the PNC.

Although USAID's programs helped bring about institutional-level impacts at the margin (beginning the practice of legislative research to accompany bills, establishment of legal databases, and improvement in budget review capacities), Congress' basic organizational performance challenges remain.

Systemic Level Impact: At the systemic level, it is difficult to identify USAID impact, especially since the program had to be canceled. For instance, with respect to carrying out research regarding bills, it was not possible to discern whether this practice had improved the quality of legislation passed. In the same vein, no clear evidence could be found to indicate whether Congress' improved capacity for budget analysis has improved its oversight of the executive branch. It does seem to be significant that outreach offices are providing for more contact with constituents. Although they have been monopolized by the ruling party, citizens have begun to expect more such contact.

4. Conclusions

Significance of Impacts

Impacts achieved at individual and institutional levels have been marginal because political factors – namely anti-democratic behavior by elected representatives and dysfunctional political parties - prevented legislative strengthening programs from being continued.

The Mission objective, to improve the quality of legislation passed in the aftermath of the Peace Accords, may have been achieved to some extent prior to 2000, but longer-term impact was not (other than the continued use of legislative studies to prepare legislation).

Factors Affecting the Degree of Impact Achieved

External Factors

Legislative bodies can meet their democratic responsibilities only when political parties agree to establish and abide by rules that govern how elected representatives will work together to carry out a legislature's business. No such rules exist in Guatemala where political parties are dysfunctional and political leaders' loyalties are ephemeral. As a result, personalities and party politics reign supreme within Congress, with the leader of the majority party at any one time holding most of the cards. USAID-promoted technical and administrative improvements in congressional operations were frustrated by lack of agreement among parties and elected representatives on internal institutional procedures for congressional operations. The existence of USAID's legislative strengthening program depended mostly on the goodwill of the leader of Congress. When problems surfaced with Rios Montt, the program had to be terminated.

It is also worth noting that a lack of donor coordination may have exacerbated the political problems USAID encountered in the program. The decision by the FRG party not to continue cooperating with USAID coincided with the start of congressional negotiations with the IDB for a multi-million dollar loan for legislative modernization. The IDB agreed that its program would be controlled by the FRG-dominated Congressional Governing Board, a point of contention with USAID.

Internal Factors

Given the priority assigned by the Peace Accords to obtaining follow-on legislation, and the difficulty and long-term nature of tackling political party reform creating effective civil society demand for improved legislative performance, USAID opted for program strategies that gave priority to improving Congress' technical capacities in bill-drafting and its administrative functions.

Within Congress, USAID contractors arranged to work with a multi-party technical committee that was responsible for day-to-day project implementation oversight. The chairpersons of that committee were usually individuals from small opposition parties. Significant tensions between the multi-party technical committee and Congress' Governing Board, which is controlled by the majority party, often occurred that could not be resolved because procedures for doing so were not negotiated and no members of either committee served on them both.

Politically motivated staff turnover in 2000 severely limited the sustainability of the human capacity development impact of the program.

C. Human Rights

1. Political Overview

Between 1993 and 2002, Guatemala's human rights situation changed for the better in several significant ways, but much remains to be done.

In early 1993, peace negotiations had stalled. Conflict-related human rights abuses continued. No Guatemalan organizations felt free to advocate human rights. One of the few encouraging signs at the time was the increasingly effective work being done by the Human Rights Ombudsman, Ramiro de León Carpio.

The situation improved during de León Carpio's presidency and during the final negotiation of the Peace Accords. The Accords officially recognized Guatemala as a multi-ethnic state. They set out numerous measures to allow indigenous peoples to exercise their rights and improve their social welfare status. Following the signing of the final Peace Accords, human rights abuses associated with the civil war ended and began to be publicly acknowledged. The GOG ratified international human rights instruments and signed a series of agreements in which it accepted responsibility for a number of human rights cases pending before the Inter-American Commission on Human Rights. Two painstakingly detailed reports were issued that confirmed the abuses committed during the war, and firmly attributed blame for the vast majority of them to the Guatemalan military and its civilian allies. The reports were done by the Guatemalan Catholic Church's Recuperation of the Historical Memory Project (REMHI) and the Historical Clarification Commission (CEH) established under the Accords.[35]

Although it began to be taken for granted that the basic human rights of all Guatemalans were to be acknowledged in public, very little action was taken during the Arzú administration to improve human rights conditions further. Alfonso Portillo came to office in January 2000 promising that the Accords would be state policy, that the recommendations of REMHI and the CEH would be implemented, that parallel structures interfering with the administration of justice would be dismantled, and that the notorious *Estado Mayor Presidencial* (EMP) - the Presidential High Command responsible for most of Guatemala's clandestine activity - would be disbanded. None of this has been accomplished.

Three military officers were sentenced to the maximum 30 years' imprisonment for the murder of Bishop Juan José Gerardi following issuance of the REMHI report, but there has been little or no progress made in several of the other high-profile human rights cases.

One of the most disturbing phenomena in recent years has been the escalation of "lynchings" (killings of suspected criminals and, sometimes, local officials by bands of citizens) in rural areas fed up with slow, unreliable police and judicial processes. In the last two years, the GOG conducted anti-lynching campaigns, achieved some convictions in past lynching cases, and made numerous arrests; however, less than a third of the hundreds of lynching cases have gone to trial.

Another very disquieting factor arises from the increasing intimidation being directed against human rights organizations. In 2001, MINUGUA documented 171 cases of threats and incidents of harassment and targeted violence against human rights advocates, concluding that they were the result of "systematic action." The abuses continued in 2002. Two examples were the murder of an accountant from the Rigoberta Menchú Foundation, and the regular intimidation of the Guatemalan

Forensic Anthropology Foundation. During the team's visit in May, four forensic anthropologists who had unearthed the skeletons of thousands of victims, and the organization's president, decided to leave the country after they and their families were threatened with death.

Despite the pressure foreign governments and some influential Guatemalan leaders have tried to exert, Guatemala has not yet succeeded in making structural adjustments called for in the Peace Accords that are key to permanent improvement in human rights conditions, such as limiting the role of the military to exclude internal security, and termination of the EMP. To this, of course, must be added the lack of political will to make the *Ministerio Público* fulfill its prosecutorial functions.

The decision to make the operations of the Office of the Human Rights Ombudsman dependent on the good will of the Ombudsman, rather than respond to statutory requirements, has limited its effectiveness. Relations between the Human Rights Ombudsman's Office and MINUGUA have been strained and distant. Upon the expiration of the MINUGUA's mandate, which is scheduled for 2003, the Human Rights Ombudsman's Office is to take over the human rights verification function, but there has been little preparation for the transfer of that responsibility.

Lastly, Guatemala has not yet gone very far in the sort of national reconciliation process that other countries have found is necessary, after prolonged internal and/or ethnic-based conflict, to create conditions under which human rights can be permanently improved.

MINUGUA's report to the recent Consultative Group meeting sums up the current human rights situation well:

> "…quantitative and qualitative analysis shows that the steady progression of significant improvements in the human rights situation from the time of the Mission's arrival and until mid-1998 has given way to stagnation and signs of deterioration that are particularly evident in the following four areas: a) the disturbing evolution in the lynching phenomenon; b) the signs of the continuing existence of clandestine and illegal security units and structures; c) the climate of threats targeted above all against judicial officials and trial witnesses, human rights activists and the news media; and d) the fact that impunity continues to represent a major obstacle to the full respect and development of human rights in Guatemala."[36]

Generally speaking, human rights improvement processes in post-conflict countries go through a series of overlapping steps. These include cessation of the most serious human rights abuses; promotion of "truth-telling," reconciliation, and dialogue; measures to improve the rule of law that help ensure future abuses are prevented, or sanctioned when they occur; and special initiatives to improve the socioeconomic status of formerly oppressed groups. Initiatives in all these areas were foreseen in the Peace Accords, but progress in carrying them out has been very uneven and slow.

The reason for mentioning this is to state the obvious: improving human rights conditions after serious and prolonged abuses have occurred requires consistent application of a variety of measures over a long period of time. National attitudes are the last thing to change, and changes occur as a result of experience by individuals and groups with new practices they agree to carry out together.

Recent findings from DIMS confirm the second point. Guatemalans were asked whether they believed that *human rights are an important subject for all or whether they have served to benefit criminals*. In Figure 1 below, we observe that, overall, average support for human rights is rather low, and lower among Ladinos than among indigenous Guatemalans, except for those with university education. Guatemalans with no formal education tend to give more support to human rights issues. A very high percentage of Guatemalans fears that promotion of human rights is not so important because it helps criminals.

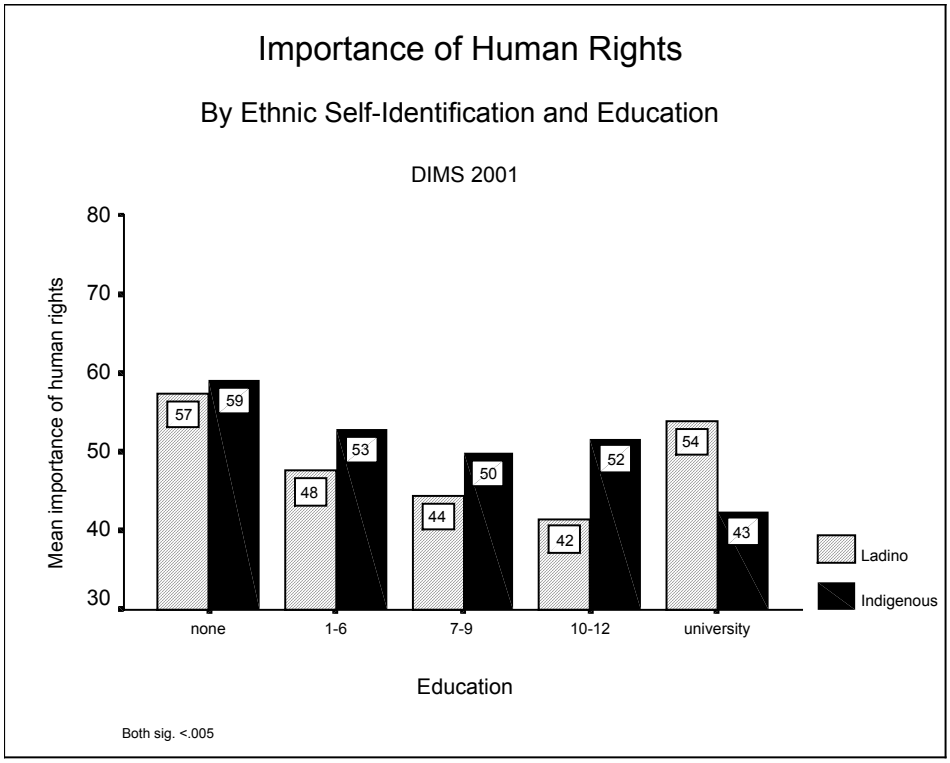


Figure 1

2. Program Overview

USAID assistance for human rights was provided to help pursue objectives cited in the Peace Accords. It can be divided into three areas: post-conflict reconciliation; conflict prevention and resolution; and civil society advocacy.

Post-Conflict Reconciliation

In 1997, USAID helped support the Demobilization Commission's work to demobilize and resettle former guerrilla fighters. This effort, carried out by a team from the USAID Office of Transition Initiatives (OTI), was instrumental in laying the groundwork for further implementation of the Peace Accords.

A second activity involved the dissemination of the HCC and RHEMI reports, helping to defray the cost of translation and publication. Distribution to high school students was carried out. USAID also helped develop and publish a book compiling the experiences and memories of a large cross-section of Guatemalans from the time of the conflict.

USAID and the Dutch government have supported a program of exhumations in clandestine cemeteries implemented under a grant to the Guatemalan Forensic Anthropology Foundation (FAFG) via UNDP. Over 200 exhumation events and identification of victims were conducted by early 2002. Mental health and other services were also provided to families of the victims. USAID also extended assistance to CONAVIGUA (*Coordinadora Nacional de Viudas de Guatemala*) to coordinate its efforts with FAFG. USAID funds have been used to construct monuments to victims of the armed conflict.

Conflict Prevention and Resolution

One of the most significant human rights activities supported by USAID was paying for the initial operations of the Office of the Human Rights Ombudsman (OHRO) in the late 1980s and early 1990s. This assistance enabled the office to begin operating, especially under the second ombudsman, de León Carpio. USAID support helped the office track human rights violations and develop public awareness and training programs addressed to various segments of society, including those with minimal literacy skills. USAID assistance to the OHRO continued even when other Guatemalan assistance programs were suspended in the early 1990s. Not only did this help it to continue operating, but in the process, de León Carpio remained a public figure, and was eventually called upon to serve as president. Unfortunately, later ombudsmen did not (still to this day) perform nearly as well, and after changes in key staff, the Mission ended funding for the main OHRO office in the mid-1990s. The efforts of selected OHRO representatives cooperating with justice centers do, however, still receive occasional USAID support.

In an effort to help implement the provisions of the Accords on strengthening civilian authority and to define a more limited role for the military, USAID funded the work of FLACSO (*Facultad Latino Americana de Ciencias Sociales*) for the development of a national defense and intelligence policy. FLACSO organized a series of meetings between civil society organizations and the government on restructuring the intelligence and military functions of the Guatemalan State. The FLACSO program ended in December 2001, having completed drafts of several laws, including one to create a civilian intelligence unit within the PNC. In this same vein, USAID provided assistance to the SAE (*Secretaria de Asuntos Estratégicos*), and the SAAS (*Secretaria de Asuntos Administrativos y de Seguridad de la Presidencia*).[37]

In 2001, USAID support for CONTIERRA (*Coordinadora Nacional de Tierra*) and FONTIERRA (*Fondo Nacional de Tierra*) helped resolve 189 land conflicts, and has been instrumental in helping maintain those entities.

USAID has provided assistance to create "anti-lynching committees" in a number of justice centers. They have been helpful in limiting the spread of lynchings.

Finally, USAID helped create a master's program in human rights at the University of San Carlos.

Civil Society Advocacy

USAID began assisting human rights CSOs under the *Incidencia* program. In 2001, a new cooperative agreement for $4 million was signed with Creative Associates for the Human Rights and Reconciliation (HRR) program. The new program is structured like the *Incidencia* program, and includes significant technical assistance and training for local and national human rights

organizations and a subgrant program to support their efforts to accomplish human rights results. The purpose of the HRR program is to promote respect for human rights and heal wounds from the past. It is also intended to help human rights organizations address organizational weaknesses they often share with other CSOs: inadequate constituencies and poor organizational capacities.

One of the problems both public and private sector human rights organizations supported by USAID face is the very limited availability of other resources. A good example is the Forensic Anthropological Foundation. It does not have the funds necessary to meet the demand for exhumations. When human rights organizations find it difficult to obtain local resources due to the sensitive nature of their work, donor funds are essentially the only means they have at their disposal to carry out their programs.

Initial efforts have been successful in bringing together the main national human rights organizations to form a National NGO Human Rights Network. The network's first initiative was to agree on the profile for the next Human Rights Ombudsman, and develop a common list of candidates for Congress to consider for the position. In May 2002, the Congress selected Sergio Morales, one of those recommended by the human rights community.

3. Findings on Program Impacts

Institutional-Level Impacts: USAID assistance was instrumental in establishing some organizations that have had important impacts on Guatemalan human rights. Support for the initial operations of the OHRO allowed Ramiro de León Carpio to highlight the importance of addressing human rights. Although the Office has not been as effective as intended for several years, the initial years of its operations were essential to keeping the peace process moving forward. More recently, even in the absence of national-level leadership, regional OHRO coordinators have carried out important work. The potential of the Office remains intact and may be exploited by the new ombudsman.

Conflicts over land are a major problem for Guatemala, and a source of violence and human rights abuses. Assistance provided to CONTIERRA and FONTIERRA has been important in helping to resolve land conflicts that could have degenerated into violence.

Within civil society, USAID assistance has been useful to human rights organizations in advocating reforms. The HRR project is assisting human rights NGOs to coordinate their actions at the national level, and may broaden the base of participants in the human rights movement.

Support for the Foundation for Anthropological Forensics of Guatemala (FAFG) has been key to the organization's work in discovering and identifying victims of the armed conflict. It is clear that without USG funding and political support, along with that of other countries, the Foundation would not have been able to function. Forensic groups use the information obtained from the exhumations to verify eyewitness reports of massacres – of which the CEH recorded 669 – and to determine those who may have been responsible. Forensic research and DNA testing have identified some of the remains. The forensic evidence also has been used in some criminal cases.

CONAVIGUA succeeded – with U.S. and Dutch support – in generating successful civil society-local government cooperation to deal with the extremely sensitive issue of public recognition of prior human rights killings. CONAVIGUA worked with mayors and local municipal councils to coordinate the exhumation of victims of the armed conflict. Local officials provided space in municipal cemeteries for burying the remains, and allowed public recognition of the

exhumation/inhumation program to promote reconciliation and justice. This is a good example of how citizens can build consensus and coalitions for public action.

The anti-lynching committees set up under the auspices of justice centers have provided civic and local government leaders and law enforcement authorities with an effective means of controlling mass violence and promoting respect for the rule of law.

Finally, USAID support to human rights organizations contributed to the creation of the Missing Children National Commission. This program helped implement one of the Truth Commission Report's conclusions and recommendations.

Individual-Level Impacts: Guatemalan citizens whose basic human rights have been reaffirmed as a result of actions taken by the organizations USAID has assisted are those who have been impacted as individuals. They have been many, but their number is not known. Two examples can be cited.

The work done on exhumations and mental health has helped to bring closure to many victims' families. This process has been essential to the fulfillment of the recommendations of the Historical Clarification Commission (HCC), and advanced national reconciliation.

The assistance provided to about 100 widows from CONAVIGUA to get adequate housing is another example.

Systemic-Level Impacts: USAID assistance for successful demobilization and resettlement following signing of the final Peace Accords enabled Guatemalans to complete an important first step in post-war reconciliation, without which efforts to advance human rights would not have been able to begin.

Although Guatemala still has a long way to go in advancing human rights, there is no doubt that the national dialogue about human rights issues has changed for the better. USAID assistance to implement measures called for in the Accords and to ensure the publication and dissemination of the HCC and RHEMI reports helped bring about this change.

4. Conclusions

Significance of Impacts Achieved

Helping to establish and strengthen public and private organizations working to improve human rights conditions has been USAID's most important contribution. Joining with other foreign governments to assist dedicated Guatemalans to carry out reconciliation and violence prevention initiatives pursuant to the Peace Accords has also been very important, especially in an environment where substantial numbers of elites still resist reforms and numerous average citizens still do not give high priority to respect for human rights. The success achieved by USAID/OTI in helping carry out the demobilization and resettlement program was very important and set the stage for ongoing reconciliation efforts.

Factors Affecting the Degree of Impact Achieved

External

A major obstacle to national reconciliation and reduction in human rights abuses is the apparent questionable commitment by the national government and some elites, particularly in the military, to deal with these issues. Earlier parts of this report have made it clear that Guatemala suffers from a legacy of violence and abuse of human rights that are ingrained in the national psyche. While the Peace Accords opened the possibility of dealing with this legacy, and advances have been made, the recent cases of intimidation and murder of human rights activists seem to be taking the country backwards. In this context, the continuation of USG and other countries' pressure on the GOG and Guatemalan elites – accompanied by support for beleaguered Guatemalan human rights organizations – has been crucial in keeping attention focused on important human rights issues.

Internal

USAID financial support, along with that of other governments, has helped human rights activists maintain their persistence in the face of intimidation by opposing forces.

One of the major factors explaining the USAID success has been its flexibility to shift emphasis when confronted by a lack of political will. For example, the unwillingness of the ombudsman to pursue cases of human rights violations, and his alleged involvement in corruption, led USAID to discontinue cooperation with the national Human Rights Ombudsman's Office. Nevertheless, support to departmental and local branches of the ombudsman's office was continued when they demonstrated the will to pursue human rights abuses.

Two other very important factors that have enhanced USAID program impacts are its supportive partnerships with local reformers and their organizations, and its productive cooperation with other donors committed to improving Guatemala's human rights conditions. Continued support from USAID and other donors will be necessary for years to come in order to bring about needed changes.

D. Civil Society Programs

1. Political Overview

Guatemalan Social Capital

Guatemala possesses a very low level of social capital, as indicated by the following factors.

Interpersonal Trust

Guatemala ranks low in terms of interpersonal trust. The most recent DIMS survey contrasts the 76 percent of Guatemalans reporting that they feel other people are not trustworthy with figures for El Salvador (39 percent) and Bolivia (51 percent). Guatemala is an atomized society where suspicion and fear reign supreme. Acute differences in welfare status, the long civil war, and continuing threats of violence underlie this atomization. Guatemalans keep to themselves, their immediate families, and some of those with whom they share ethnic, social, or income-related characteristics.

Leadership

Civic leaders possess, or develop, the capabilities and inclination to act in a non-polarizing manner to motivate skeptical fellow citizens to discuss common challenges and to cooperate in finding

solutions. Such individuals are not numerous in Guatemala. One of the factors accounting for this is the systematic murdering of leaders at community and national levels during the armed conflict. Leaders not killed left the country, and many never returned.

Citizen Participation

Discussion of public policy issues among people from different sectors of Guatemalan society is not common. Relative to other Latin American countries, one hears very little in Guatemala about the rights and responsibilities of citizens. Individuals operating in various sectors or interest groups do not commonly cooperate with each other for mutual benefit. One CSO founder interviewed for this assessment observed, "Guatemala is a democracy without citizens." Low levels of citizen participation have been shown in DIMS surveys carried out during the last decade.

Percentage of Guatemalans Reporting Participation Organizations

	1991	1993	1995	1997	2001
Political:					
Parties		5	7	11	5
Civic Committees		5	7	10	5
Social:					
Churches	49	56	51	54	56
Schools	37	42	44	42	37
Community Organizations	22	23	26	27	23
Occupation-Related:					
Professional	21	23	20	28	20
Unions	6	6	8	8	6
Co-ops	9	10	10	13	8

Commonly Held Societal Values

It was hoped by many that the signing of the Peace Accords signaled changes in attitudes about important aspects of Guatemalan society. Progress to date in changing the basic dynamics of Guatemalan society has been very slow in coming, especially relative to the lofty declarations included in the Accords. Slow progress is probably all that could have been realistically expected given Guatemala's history of ethnic and income disparities and its long civil war. However, it also reveals an underlying lack of agreement on the societal values and beliefs, as mentioned in the discussion on consensus in Section II.

Guatemalan Civil Society Organizations

Almost all Guatemalan civil society organizations (CSOs) – that is, NGOs whose mission focuses primarily or exclusively on democratic reform and/or citizen participation – originated in opposition to pre-Accords governments. Some began receiving support from foreign sources over 20 years ago, and all CSOs are still dependent on foreign donor funding.

As in many other countries, Guatemalan CSOs are not constituency-based organizations, even those that advocate actions favored by special interest groups. This is partly related to the fact that they have been able to rely on foreign funding, but it also reflects the disinclination among

Guatemalans to cooperate with others to address common challenges. Not surprisingly, given Guatemala's history, its CSOs have always focused more on promoting democratic reforms by government than on facilitating citizen participation. While the 2001 DIMS showed that only some 13 percent of Guatemalans would feel represented by what are called "popular groups" (unions, human rights organizations, etc.) in Guatemala, the "popular groups" were among the top three groups that Guatemalans felt represented their interests.

Guatemalan CSOs have tended to operate alone, or only within their sectors of interest. Until recently, they rarely presented a united front on issues of common interest. Ethnic divisions found in Guatemalan society also exist among CSOs and NGOs. Although some CSOs have begun to network with other organizations in recent years, most have found it difficult to cooperate among themselves, and with governmental agencies or business organizations. Attitudes prevalent in governmental and business circles contribute to this. Business elites, aware of the origins of most CSOs, do not trust them. Many governmental officials, as elsewhere, do not consider it one of their responsibilities to interact with CSOs, and find justification for that attitude in the fact that CSOs are not constituent-based.

Guatemalan CSOs began gaining "political space" during the peace negotiations. Initially, through participation in the *Asamblea*, CSOs were able to express views publicly on issues under discussion, but they recognized when the *Asamblea* dissolved prior to negotiation of the Final Accords that the agreements eventually reached would only be a product of negotiations between the UNRG and GOG. Once the Final Accords were signed and CSOs were again called upon to participate in commissions (and through other means) to help make decisions on how to reach objectives specified in them, CSOs faced the challenge of transforming themselves from opposition voices to civic organizations working within Guatemala's new democratic framework. At that point in time, even the concept of public policy advocacy by CSOs was unknown in Guatemala. National policy continued to be determined behind closed doors among representatives of interested elites and their political operatives. Governmental officials were not inclined to discuss, let alone negotiate, policy decisions with CSOs, and the country's extremely weak political parties were not viable targets for policy advocacy.

Status of Guatemalan Civil Society in 2002

As mentioned in the political analysis at the outset of this assessment, the development of a robust, vigorous, and effective civil society faces among the most severe constraints confronting Guatemala's democracy. The systematic repression of indigenous peoples and historical authoritarian governance have left a legacy of distrust and atomization that pervades Guatemalan society. Weak social capital continues to severely limit development of a broad-based civil society. More open discussion of public policies occurs than previously. Freedom of speech and freedom of assembly are now more respected, in spite of continuing prejudice and intimidation. Human rights, and especially the rights of indigenous peoples, are almost universally acknowledged in public, and indigenous leaders speak out in defense of "Mayan" interests more often than they did in the past. Some advances can be cited, such as the emergence of two public policy dialogue coalitions[38] of interest groups trying to dialogue with the current government, and the fact that even some members of the traditional economic elite are starting to see and act on the advantages of working within civil society. However, underneath the veneer of a more democratic society, the level of social capital in Guatemala is still low. Mistrust among citizens is still high. Effective community and interest group leadership is rare. In addition, many opportunities for citizen participation and cooperation are not exploited.

Improvements in the condition and capacity of civil society organizations (CSOs) are mentioned in numerous parts of this assessment. Guatemalan CSOs operating within civil society have evolved. Mostly due to the *Incidencia* program, CSO advocacy is now an accepted practice. Numerous organizations have developed skills needed to carry it out, and they have transformed themselves in the minds of much of the public from opposition forces to public policy advocacy organizations. The advocacy role of CSOs is now widely accepted, in contrast to the period before the Peace Accords. There are now numerous CSOs actively working on public policy issues.

A signal success of such advocacy was the recent election of the Human Rights Ombudsman.

This being said, however, CSOs have had very little success in obtaining public policy reforms. Why? The basic political conditions within which they operate have not changed, and neither have the organizational characteristics of CSOs themselves. Political decisions are still made behind closed doors – by different elites than those prevalent in the last government to be sure, but still without participation by CSOs, organizations those in power correctly perceive as not politically powerful. They know CSOs do not represent constituencies and are dependent on foreign governments for their survival.

2. Program Overview

USAID/G-CAP uses the terms "CSO" and "civil society" interchangeably in its program documents, but in fact, it has implemented both a narrowly focused civil society advocacy and policy reform program with CSOs (*Incidencia*) and a number of activities under its Peace Accords S.O. and other parts of its D/G program that more broadly address Guatemala's inadequate social capital. Please see Annex 4 for more discussion of the distinction. USAID has invested more funds in CSO advocacy and policy reform than in activities to develop Guatemalan social capital and broader civil society. This was decided in view of the expectation that CSOs would need to be take a leadership role in articulating and advocating how to carry out reforms called for in the Accords.

CSO Advocacy and Policy Reform

USAID made a competitive award to Creative Associates International, Inc. (CAII) in September 1997, for an amount that eventually reached $7,053,126. The cooperative agreement ended this year, and a new program focused on results related to policy process and oversight of public institutions was designed, which CAII is also implementing.

The original *Incidencia* program included activities in two broad areas: technical assistance and training designed to strengthen CSO capacities to carry out advocacy; and grants for advocacy projects. The program included some $260,000 to be allocated directly to *Accion Ciudadana*, a CSO USAID had already been supporting to carry out legislative monitoring; and $1.8 million for CSO activities to promote transparency and human rights.

Initially, some Guatemalan CSOs were not anxious to obtain USAID assistance to engage the GOG advocating reforms. They were not familiar with the concept of advocacy, and needed time to understand what was being proposed. Concurrently, many CSOs expressed reservations about cooperating with the USG in view of its prior support for Guatemalan governments they opposed. CSOs that participated in TA and training designed to strengthen their advocacy capacities and organizational management reported they were satisfied with the assistance they received, and that their organizations operated better because of it.

They also commented favorably on the results of CAII efforts carried out to promote networking among CSOs working in specific areas. CSOs working in human rights, transparency, and elections/political party reform formed alliances.

CAII's final report for phase one, issued in April 2002, stated: "Although there continues to be a certain degree of mistrust between Civil Society and the State, *Incidencia* considers that its most important achievement was its contribution towards creating ***a new relationship between Civil Society and the State*** [emphasis added] in the period following the signing of the Peace Accords." The report went on to cite examples of advocacy results, but the examples cited might be more accurately characterized as "inputs" and "outputs" to advocacy processes, rather than advocacy "outcomes" or reforms. Examples included (a) incorporation of indigenous proposals in constitutional reforms that were not passed by referendum; (b) proposals submitted by women's organizations for the Preliminary Draft of the Population and Social Development Law; (c) a diagnostic of the PNC (national police); (d) approval of a regulation to prevent, sanction and eradicate domestic violence, and establishment of a National Coordinator for the Prevention of Violence within Families and Against Women; and (e) creation of a coalition of organizations to promote state policies on criminality and citizen safety.

USAID's new Civil Society Program (CSP) continues the Mission's focus on CSO policy reform advocacy has been continued, but the program is now intended to give first priority to achievement of results related to the policy process and oversight of public institutions rather than improvement of CSO capacities, as turned out to be the case during *Incidencia*. The results USAID wants to help CSOs achieve are to be in areas USAID has already identified through a consultation process with civil society (transparency/anti-corruption, combating ethnic discrimination, public security and congressional oversight), taking into consideration interests of local CSOs and USG priorities. Given the heavy focus on results, it could be argued that the new USAID Civil Society Program is therefore more of a policy reform and social auditing program than a social capital and broader civil society development program, although it does call for significantly more efforts at coalition and constituency building among CSOs and with other organizations. However, many of the results to be achieved are not just in the policy area (e.g., reduction in crime in targeted communities, creation of social auditing institutions, creation of an indigenous consultative body, police reforms).

The decision to continue the program was made following an outside evaluation of the program completed by MSI in December 2001. At the time of the evaluation, the expected results of the *Incidencia* program were stated as follows:

1. Increased effectiveness of CSOs in advocacy and monitoring of public policy issues, particularly those related to GOG commitments established in the Peace Accords.
2. Improved capacity of CSOs in the formulation of public policy proposals.
3. Increased opportunities for State-Civil Society dialogue.
4. Strengthened capacity of CSOs in strategic planning, administration, and other organizational skills.
5. Improved citizen awareness of rights and responsibilities in a democracy.

The evaluation team concluded, "The five results expected from the Project have been energetically pursued and accomplished to a large extent within client organizations. However, due to deficiencies in the monitoring and evaluation system (which relies on self-assessments using five indices to measure performance), and the failure to incorporate grant-level results in the central

database, it is not possible accurately to assess overall performance or the degree of impact achieved." On the basis of interviews with participating CSOs, MSI felt more progress had been made in meeting the first and last expected results than the middle three. The team found that "*Incidencia* staff have been successful in creating critical 'spaces' for networking among client CSOs, as well as dialogue within the broader civil society community and between that sector and key representatives of the government and the business community." This indicates that the *Incidencia* program had succeeded in making a contribution to broader civil society development by successfully assisting CSOs to begin articulating themselves within Guatemalan society – a program component that has been given even greater emphasis in Phase II.

Broader Civil Society Development

In addition to the *Incidencia* program, USAID/G-CAP supported a good number of activities over the years addressing factors (interpersonal trust, civic and voter education, citizen participation, etc.) that have had an impact on broader civil society development and the quality of social capital. These activities were funded under the special objective to support the Peace Accords and as part of other programs. The fact that USAID's decisions to undertake these initiatives were not specifically made with civil society in mind does not negate the contributions they made to its development. The activities that merit attention are:

Guatemalan Peace Scholarship Program

Between 1991 and 1997, hundreds of Guatemalans were trained in the United States. From 1991 to 1994, emphasis was put on training community leaders, mayors, and other local officials in 52 communities. From 1994 to 1997, the focus was on training individuals involved in governance institutions with which USAID was cooperating, especially the courts and the Electoral Tribunal. Hundreds of individuals were trained, many of whom participated in reform efforts later supported by USAID.

Citizenship for Mayans

Under the Peace Accords special objective, USAID carried out a number of activities designed to improve opportunities available to indigenous citizens to participate more fully in Guatemalan political life. These included adult literacy programs, activities to provide citizens with official documents needed to vote and pursue other matters with the government, Mayan leadership development programs, and university scholarships.

Civic and Voter Education Efforts

USAID sponsored two major activities in this area. The first was carried out in 1995 by the Americas Development Fund, a general civic education project that was terminated by USAID because it was attempting (unsuccessfully) to carry out civic education activities without connecting them to citizens' felt needs. The second activity was more focused on voter education for the 1999 elections, and involved efforts under both the *Incidencia* and Nexus programs to influence party platforms.

Public Policy Discussions

CAII sponsored what it called "political analysis sessions" in conjunction with the *Incidencia* program, at which CSOs, government officials, and private sector representatives publicly discussed topical public policy issues.

Justice Centers

Justice centers are some of the most effective initiatives supported by USAID involving civil society in departmental capitals. Involvement of local civil society leaders, along with law enforcement and local government officials, in the governance structure of justice centers helps ensure that the centers operate in ways that respond to community needs, and promotes collaborative civil society-public sector actions to address conflict resolution and law enforcement needs. Two of the keys to the success of this initiative are (1) it involves individuals and organizations that **do** have a constituency; and (2) it engages individuals and their organizations in carrying out tasks in which they share interests, and for which they need the cooperation of others to be successful.

NEXUS Local Governance

As explained below, a major objective of this program is to involve citizens more directly with municipal officials in establishing and monitoring local development priorities.

3. Findings on Program Impacts

Individual Level

- Many civic leaders learned policy advocacy skills.
- Many civic leaders now have better contact and working relationships with colleagues active in their areas of interest.
- Guatemalan Peace Scholarship recipients were exposed to democratic values and contributed to strengthening Guatemala's democracy.
- More indigenous citizens are now able to exercise their democratic rights.
- Civic leaders in departmental capitals and other cities should be better able to exercise their leadership because they have structures within which to operate (justice centers and NEXUS organizations).

Institutional Level

- CSOs participating in the *Incidencia* program now know how to develop and carry out public policy advocacy campaigns.
- CSOs participating in the *Incidencia* program improved some aspects of their organizational management and performance.
- A number of CSO coalitions were formed.
- Some CSOs are now more adept at networking and cooperating with governmental and private sector organizations (e.g., with Supreme Court on indigenous law, with Controller General on transparency).
- *Incidencia* Political Analysis Sessions contributed to increasing public discussion of policy issues among representatives from various sectors and interest groups.

Systemic Level

- The legitimacy of CSO advocacy is now a recognized element of Guatemalan politics, although it is not yet a significant factor in political decision making.
- The success that human rights NGOs experienced in the selection of the next Human Rights Ombudsman sets an interesting precedent for possible civil society participation in selection of other special government officers (Controller General, *Ministro Público*, etc.)

4. Conclusions

Significance of Impacts Achieved

As noted above, Guatemalan civil society, broadly defined, has only just begun to develop since the mid-1990s, and social capital remains low. Among the various USAID-sponsored activities that have impacted on broader civil society development, those which improved indigenous peoples' capacities for participation in civil society, and society in general, were probably the most important, but absent a more aggressive stance by the GOG to improve the socioeconomic status of indigenous peoples, the level of impact achieved relative to needs was small.

The initial success achieved in promoting more networking among CSOs and with other organizations has also made a significant contribution to broader civil society development, one that can be expected to grow. The Mission objective – to support productive engagement of civil society in key policy discussions growing out of the Peace Accords – was achieved, but real influence on policy was minimal.

The fact that civil society advocacy is now accepted as a common phenomenon, however, is significant.

The Guatemalan CSOs that participated in the *Incidencia* program appear to be stronger, having made the transition from opposition groups to participants in democratic society, and improved their advocacy skills and some organizational capacities, but they are still weak politically. They do not represent grassroots constituencies, and they still depend on foreign government funding to survive. GOG officials at the national level remain reluctant to deal with them. Some success has begun to be achieved in CSO-advocated policy reform, most notably successful participation by indigenous groups supported by *Incidencia* in the *Comisión paritaria para Reforma y Participación* that resulted in a new *Ley de Consejos* and *Codigo Municipal*, and the successful lobbying done by human rights organizations for the new ombudsman. However, these successful advocacy results have been the exception rather than the rule.

Factors Affecting the Degree of Impact Achieved

External

- Low social capital impeded progress both in advocacy/policy reform and broader civil society development.
- GOG failure to fulfill Peace Accord commitments to improve the socioeconomic status of indigenous peoples impeded broader civil society development.
- The Guatemalan political environment does not provide favorable supply-side access for CSOs to involve themselves in political decisions. So far, the Executive Branch has been unwilling to cooperate with CSOs. Political parties are weak, and neither they nor the legislature they

control are amenable to principled arguments in favor of particular policy reforms. Perhaps worst of all, many Guatemalans do not see CSOs as effective mechanisms to represent their interests.
- CSOs are not yet strong organizations.
- USAID involvement in CSO advocacy has been heavily influenced by the level of support from successive U.S. ambassadors.

Internal

- USAID's decision to put priority on improving CSO advocacy capacities and bringing about policy reforms – in the face of Guatemala's extremely low level of social capital, and the initially poor capabilities of Guatemalan CSOs – has produced meager results to date on both counts.
- On the other hand, given the low level of social capital, much more is needed before significant results can be expected – either with CSO advocacy or broader civil society development.

E. Local Governance

1. Political Overview

The main challenges facing USAID as it began to develop its local governance program were:

- A complicated Guatemalan municipal governance structure, one that blurs lines of authority and leads to inefficiencies.
- An inadequate legal and regulatory framework for decentralizing governance.
- The limited financial capacity of Guatemalan municipalities, due to their inability to tax, their disinclination to charge fees for services adequate to cover costs, and the political manipulation of central government resources due to be distributed to municipalities.
- Lack of experience by citizens in participating in municipal development decision making.
- Administratively weak municipal governments.
- A weak and politicized national municipal association (ANAM).

Municipal governments in Guatemala are structured around municipal corporations (*Corporaciónes Municipales)* composed of the mayor, *sindicos* (who represent the interests of the municipality in judicial matters and with administrative offices), elected councilman who serve as members of various commissions into which the municipal corporation is organized (i.e., water, public works, education), and the municipal secretary. Municipal authorities in Guatemala have been elected since the 1945 constitution, but between 1954 to 1985, under military-led regimes, municipal elections were manipulated by the central government.

Decentralization laws passed in 1986, following adoption of the 1985 constitution, created a system that is structurally complex and open to politicization. The system operates at five levels: national, regional, departmental, municipal, and community. At **each** level, there are development councils whose mission is to promote citizen participation in the elaboration of development policies, and to serve as vehicles for cooperation among private and public entities. The law stipulates the membership of development councils at each level.

Prior to the 1980s, local governments lacked the financial resources to perform even the minimal functions assigned to them by law. The process of decentralization began to take shape after the adoption of the 1985 constitution that established a mandatory transfer of 8 percent (raised to 10 percent in 1994) of the national budget to municipalities.

Mandated transfers from the central government, and allocations from social development funds, financed by donors and under the control of Congress, provide the only funds available to municipalities beyond nominal fees charged for services. Although mandated transfers of a portion of national tax receipts to municipal governments potentially provide for some stability in resource availability, the transfers serve as a disincentive to municipal officials to press for authority to tax locally. This tends to create an unproductive dynamic between local officials and citizens that complicates their reaching agreement on community development priorities because those demanding services are not paying for them, and those providing services are not able to temper demands with reminders that after a certain point they can only be met with additional taxes.

Donor-financed social development funds are also problematic for municipalities because they are routinely manipulated by congressional deputies for partisan purposes. Mayors often commit their municipalities to funding particular projects assuming resources will be available, only to find out later that deputies altered allocations to fund different projects.

The transition to democracy saw a proliferation of NGOs whose missions involved organizing communities around local problems. Before the laws providing for citizen participation in local governance were passed, the concept of transparent and public discussion and agreement of municipal development priorities among citizens and local authorities was foreign to most Guatemalans. NGOs have had success in mobilizing citizens to confront issues such as lack of basic services and infrastructure.

The Peace Accords emphasized the participatory role of the various development councils in the formulation of local and departmental investment plans. Additional funding to be available from social development funds led to increased expectations and a boost in trust in municipal governments. The DIMS survey in 1997 indicated that municipalities received the highest level of support among all government institutions: a mean support level score of 58 on a 0-100 scale. However, by 1999 that score had decreased to 51, and by 2001, municipalities received a score of 48. This reduction may result from unmet expectations. While municipalities did receive more money, the needs of local citizens far exceeded resources available. In addition, political manipulation, lack of coordination among the various levels of local government, and lack of technical capacity all limited the capacity of municipalities to respond to citizens' demands.

Finally, the National Association of Municipalities of Guatemala (ANAM) was unable to fulfill its responsibilities to foment cooperation between municipal authorities and represent the interests of municipal governments vis-à-vis central authorities. This was due to a tradition of its being manipulated by the ruling party, a lack of technical capacity, and limited financial resources.

2. Program Overview

The program strategy USAID adopted to address these constraints responded to the priorities expressed in the Peace Accords for decentralization of government services, strengthening of municipal governments, and participation of local communities in development decisions. The strategy called for a focus on improving the planning, decision-making and collaboration capacities

of community citizen groups and municipalities, complemented by gradual attention to improving the policies governing decentralization and local government in Guatemala. Given that resources were available to municipalities through the allocation of central government revenues and the social development funds, USAID's program did not include financing for the local development projects citizens and their elected officials would agree to implement using planning and decision making procedures installed under the program. USAID recognized that the Guatemalan policy environment for decentralization needed improvement, and decided to address that through gradual consensus building and improvement of ANAM's capabilities.

USAID's local governance program, initially known as *NEXUS Municipal* (now known as the Local Governance Program), was initiated in 1998. It seeks to improve democratic governance at municipal levels through increased collaboration between citizens and government officials in decisions on local development agendas and budget priorities. The program was implemented by Development Alternatives Inc. (DAI) until mid-2002, when it was taken over by Research Triangle Institute.

In line with its desire to support the Peace Accords, USAID decided to focus NEXUS activities in the Zonapaz, both because of the imperative of assisting those most affected by the long civil war, and because it was intended that development in the Zonapaz would benefit from the synergies arising from the number of donor-financed activities being carried out there. NEXUS worked with municipalities and citizen groups in all 21 municipalities in the Department of Quiché and 20 municipalities in different parts of Chimaltenango, Sololá, and Quetzaltenango. The Mission was aware that it might be easier to pilot NEXUS planning and collaboration methodologies in municipalities more widely dispersed throughout the country, ones specifically selected because they possessed characteristics amenable to improved planning and citizen participation, but it expressly decided not to adopt that approach given the imperative of improving conditions in the Zonapaz. While it is possible39 this decision resulted in more or improved development in some areas of the Zonapaz, combining attention to Peace Accord goals for Zonapaz regional development and increased citizen participation in local government significantly increased the difficulty of success in the latter area. This was so because of the relative underdevelopment of Zonapaz regions and the fact, at least in the Department of Quiche, that municipalities were pre-selected rather than qualified for participation in the NEXUS program.

The NEXUS program includes three components: citizen participation, municipal government strengthening and policy development.

Citizen participation: Technical assistance and training are provided to citizen groups by Guatemalan NGOs subcontracted by DAI. The groups include community improvement committees, indigenous organizations, women's groups, development councils and base groups. The assistance is designed to help them collaborate with municipal governments in defining development priorities and monitoring compliance with what municipalities agree to do. The mechanisms for accomplishing this collaboration and oversight were developed by DAI subcontractors and include:

- *Citizen Agendas*: Citizens are introduced to the roles of municipal governments and their community groups in local government decision-making. Representatives from various communities decide together how to prioritize projects and potential investments each has identified.

- *Mesas Ciudadanas* (citizen roundtables): These bodies are established in municipal capitals. They provide an ongoing forum for citizens to work with municipal officials to prioritize investments, agree on development decisions and monitor actions taken.
- *Accountability Sessions* at which municipal authorities provide community members information about development projects. Accountability sessions are intended to promote transparency and accountability.

Municipal Government Strengthening: Technical assistance and training for municipal governments is aimed at municipal planning offices and selected information and management systems. Municipal planning offices help the municipal corporation do its work by establishing procedures and systems for planning and monitoring development projects. The offices work closely with the mayor and sector-specific commissions, and collaborate with the *mesas ciudadanas*.

Of the 41 municipalities where the program has been operating, 32 have been offered municipal strengthening assistance – all 21 Quiché municipalities and 11 in Chimaltenango. Of these, 20 in Quiché and 5 in Chimaltenango have set up planning offices. NEXUS cooperates with municipal planning offices by training staff and helping develop policies, procedures, and computerized records. Technical assistance strengthens planning, reporting, and monitoring work with a gender-inclusive perspective.

Assistance has also been provided to municipalities to improve certain administrative systems, including civil registries, local tax rolls, property registries, and financial management procedures. The civil registry is the mechanism by which local governments record vital statistics, such as births, deaths, marriages, and divorces. Historically, the registries were organized in large leather-bound books where entries had to be made by hand. NEXUS provided assistance to 11 municipalities to computerize their registries, with 6 being fully automated by the end of 2001.

In cooperation with 20 municipalities in Quiché and 3 municipalities in Chimaltenango, as well as the Supreme Electoral Tribunal, the NEXUS program registered over 4,000 people covered under the Special Documentation Law, including refugees and repatriated individuals, and ex-guerrillas. This was needed in order to allow those citizens to vote and carry out business with municipal authorities.

USAID helps fund a development technical degree program at Landivar University in Santa Cruz de Quiché, in which 75 planning office staff and other municipal leaders have participated since 2000. Staff members of local partner organizations have also benefited from training, particularly an eight-week videoconference course with the Monterey and Landivar Universities in municipal management.

Finally, the program provided technical assistance in the elaboration of radio programs and bulletins used by municipal authorities to inform the public about what they do.

Policy Development: Workshops were sponsored to stimulate debate, discussion, and analysis of public policies and practices affecting decentralization – among citizen groups, among municipalities, and sometimes among both. The objective was to formulate consensus-based proposals for new or reformed public policies, especially those called for in the Peace Accords dealing with municipal development, local finances and taxation, transparency, and participation. A number of specific outputs were produced for use in policy making and drafting laws:

- A proposal for a new national budget law (the law that establishes the level of constitutional transfers to municipalities).
- A study on the impact of decentralization of property tax administration to municipalities.
- A municipal indebtedness study for the Law on Municipal Debt.
- A proposal (co-sponsored with GTZ) for reform of the Development Councils Law and the development of a Municipal Tax Code.
- An analysis of proposed reforms to the Municipal Code.
- An analysis of proposed reforms to the Decentralization Law.
- A study of reforms to the inter-governmental (municipal) transfer system.

In early 2002, Congress and the President approved new and important revisions to three laws that provide a framework for increased citizen participation in local government: the Municipal Code, the Law of Decentralization, and the Law of Urban and Rural Development Councils. NEXUS program contributions to revisions in these three laws were significant. It is hoped they will clarify the authority of departmental and municipal governments, facilitate procedures for coordination with other layers of government, and improve opportunities for citizen participation, especially by indigenous citizens.

As part of this activity, NEXUS also assisted ANAM to revitalize itself. Significant assistance was provided to reorganize ANAM as an association of 22 departmental municipality associations, and to reflect this change in its statutes. As a result, ANAM leadership changed, and it has been empowered to negotiate on behalf of its members on a number of ongoing issues, such as work on the Municipal Tax Code (that will regulate municipal taxing authority). ANAM now has a larger operating budget and derives revenue directly from its membership. Additionally, NEXUS worked to strengthen regional and departmental associations with board development, improved negotiation and political advocacy skills.

3. Findings on Program Impacts

Consideration of impact needs to be tempered by considering the relatively short time the local governance program has been operating, and its geographically limited range, in contrast with the significant challenges to decentralization faced when the NEXUS program began.

Individual-level Impact

Documentation of over 4,000 people, over 70 percent of whom are women, has enabled them to participate officially in community and political life. Citizens in the program's geographic focus area are now able to participate in local investment and development decision making.

Institutional-level Impacts

Municipal Planning Offices: Of the 32 municipalities where municipal strengthening assistance has been offered, 25 have set up planning offices. Of these, five are developing manuals for their operation, and two have automated databases of municipal projects and related investments.

In municipalities where planning offices were not set up, it was decided to provide training in municipal administration, finances and service provision, and to share positive experiences from

other municipalities where offices were established, with a view to encouraging authorities in those municipalities to set up planning offices and improve management.

During the team's visit to a few municipalities participating in the NEXUS program, some anecdotal information was provided by municipal officials to the effect that assistance to municipal planning offices, and with civil registries, had resulted in improved provision of services. In other municipalities, however, there were reports of political conflicts between mayors and planning office directors, or indications it might be difficult to sustain planning offices without continued donor funding. (With one exception, USAID did not provide funding, but some other donors have.) The sorts of growing pains indicated in a few cases are normal when new procedures and personnel are introduced in any organization. Apparently, a consensus exists among municipal governments and the central government on the utility of planning offices because they are now **required** in the revised Municipal Code. Nevertheless, the pace at which new planning offices will be established will depend on the availability of funding for them from municipal budgets and whether mayors and municipal corporation members feel the offices help them meet their responsibilities and political needs.

Participation Mechanisms: Thirty-five of 41 municipal governments participating in the program are regularly holding accountability sessions. Over 50 percent have established mesas ciudadanas. Thirty-one municipalities have up-to-date citizen agendas. One municipality established a Women's Municipal Commission. In 12 municipalities, women have begun to play a role in municipal decision-making. In three of these municipalities, gender has been included as a consideration in development plans. It is still too early to tell whether the mechanisms for citizen participation developed under the NEXUS program will be widely institutionalized.

Special Documentation Law: NEXUS assisted the Supreme Electoral Tribunal to develop the Special Documentation Law, which could become a model for increasing electoral and political participation.

System-level Impacts

Policy Development: Policy dialogue and legal reform activities carried out under the program have been very successful, both in making contributions to revisions in the three important laws mentioned above and in improving the capacity of ANAM and its chapters to represent the interests of municipal governments. Together with other donors, USAID put pressure on the GOG to accelerate and deepen the process of decentralization, thus helping to nurture political will. The National Forum on Modernization of Municipal Finances produced a municipal finance agenda and proposed methods for moving action on them forward. Work also proceeded on preparation of a Municipal Tax Code.

Citizen Participation: A NEXUS program report states that the "interaction between citizens and local government around information sharing and accountability sessions has strengthened local governance, enabling local consensus to be established around community needs, local government spending priorities, and final destination made of municipal finances, preventing ultimately outbreaks of violence at the local level which are cropping up in other areas of Guatemala."

Unfortunately, the Mission's survey data does not reflect such positive impacts at a more aggregate level. While there are signs that citizen participation has increased as a result of the program - such as numerous community meetings - data from the DIMS indicate that citizen participation in the

Quiché Department as a whole has not increased significantly. Sixty-nine percent of respondents in 1999 and 73 percent in 2001 indicated they had **not** "made demands" to their municipalities. The percentage of respondents who said municipalities had **not** kept them informed rose from 44 percent in 1999 to 53 percent in 2001. The percentage of those who said their municipality kept them "very well informed" decreased from 8 percent to 5 percent. Finally, there was no significant difference between Quiché Department and the national sample on "satisfaction with municipal services": 51 percent in the national sample and 50 percent in Quiché say they are satisfied with the services provided by their municipality. It is thus difficult to make generalizations about program impact beyond the limited scope of the NEXUS sites.

One discouraging aspect of Guatemalan decentralization efforts to date is the reported continuation of the politicization of decisions on the allocation of constitutionally mandated transfers and social development funds. Without assurance that funds from these sources will be available, municipal officials and citizens are very unlikely to carry out the efforts needed to sustain the participatory planning processes promoted under NEXUS.

4. Conclusions

Significance of Impacts Achieved

The policy development efforts and the strengthening of ANAM, although not initially the highest priority of the NEXUS program, have had the most significant impact to date. It will be important for ANAM to help ensure that the new, more beneficial decentralization laws are followed.

It is still too early to tell whether the municipality strengthening activities and citizen participation mechanisms will obtain their intended results, even in the limited geographical regions where they are being introduced. Outcome data needs to be collected. Initial data on citizen participation practices provided by DIMS is not encouraging.

Factors Affecting the Degree of Impact Achieved

External

- Lack of GOG decentralization strategy for donors to use as a framework for provision of assistance.
- Extremely complicated and politicized structure in place for decentralized governance.
- Very limited availability of municipal resources, tied to political manipulation of central government resources, legal and cultural constraints.
- Spotty donor coordination.

Internal

- The program strategy adopted by USAID assumed that with technical assistance, citizens and municipal authorities would possess sufficient incentives to participate in the recommended planning and monitoring procedures once they saw how much better resources made available from the central government were used. However, resource allocations to municipalities have not always been made as expected.
- The decision to focus the NEXUS program in the *Zonapaz* may have limited the program's potential for achieving more profound impact (though this impact would not then have been in the *Zonapaz*, the area of USAID's strategic focus). A target-of-opportunity approach was considered but not followed, in part due to the desire to focus on a geographic area targeted by

the Missions' larger strategy in support of the Peace Accords, and in part to develop synergies and economies of scale from working throughout key departments.

- USAID's decision to pay close attention to policy reform (and revitalization of ANAM) has had beneficial impacts.
- USAID's monitoring and evaluation system for the NEXUS program has focused primarily on whether outputs (e.g., number of planning offices, *mesas*, citizen agendas, and accountability sessions) were produced rather than on generating outcome data (e.g., citizen participation levels and attitudes, municipal government performance, etc.)
- Funding constraints did not allow USAID to undertake a larger program, either geographically or substantively. Whether the level of resources dedicated to reaching the local governance objectives sought is sufficient remains a question, especially in view of the more limited future availability of D/G funds for Guatemala.
- Problems with contractor performance, especially the frequent turnover in the chief of party position, may have been a factor in the level of achievement thus far.

Section

V

Conclusions

The team reviewed the external and internal factors that influenced the degree of impact achieved by USAID D/G programs in the five sectors assessed in order to arrive at conclusions for the Guatemala D/G program as a whole and suggest lessons learned.

A. External Factors Affecting Program Impacts

1. Actions of Local Political Actors

The basic long-term political impediments to Guatemalan democratic development outlined in Section II help explain the reasons behind Guatemalan decisions and actions that greatly complicated implementation of USAID D/G programs.

Longstanding socioeconomic inequality between Ladinos and indigenous peoples, combined with institutionalized discrimination, guarantee that human rights and democratic progress will only be achieved slowly.

Incomplete consensus in favor of democratic governance is at the root of Guatemalan decisions that continue to impede progress in various D/G sectors; for example:

- Rule of law - low number of criminal prosecutions, inadequate resources for law enforcement and judicial organizations.
- Human rights - continued intimidation of HR leaders.
- Legislative strengthening - lack of political party reform.
- CSO advocacy and civil society development - disinclination of those in power to share decision making, inadequate efforts by the GOG to improve living conditions of indigenous peoples.
- Decentralization - political interference in resource allocations.

Inadequate social capital has undermined the potential for rapid short-term democratization in all the areas in which USAID assistance has been provided.

By far, however, the single most influential factor affecting the environment for USAID- supported democratic development was the civil war and its aftermath. All during the period of USAID involvement in D/G programs, Guatemalans were either engaged in the civil war, or trying to recover from its devastating effects. In the absence of basic peace, democratization efforts could begin, but not progress far. Once the long war ended, USAID support for efforts to promote at least minimal reconciliation and more normal levels of dialogue and cooperation among Guatemalans from different sectors had to accompany democratization efforts.

As a result of the long internal conflict, identifying Guatemalan reformers with whom to partner and cooperate was more difficult than in many other countries for several reasons. Thousands of natural leaders were killed or left the country during the war. Given the atomized nature of Guatemalan society, even when reformers could be identified, they had little or no practice with democratic consensus and coalition building, and had to learn new skills.

The Peace Accords provided reformers and their foreign government supporters with an extremely useful framework for many of the D/G reform efforts they undertook and enabled them to claim publicly that they were working in favor of goals already agreed upon by the Guatemalan people. Another significant document that provided a framework for reforms and helped guide reform efforts was the Criminal Procedures Code.

2. International Pressures for Reform

The synthesis study mentioned that the focus of the international community on "elections as the fundamental element of democracy has created a powerful incentive for the establishment of competitive electoral systems."[40] In Guatemala, international pressure was much more broadly applied. Without international pressure, to complement the efforts of brave and dedicated Guatemalan democratic reformers, it would be difficult to imagine Guatemalan democratic development progressing as it has. Both foreign pressure on political elites to democratize, and foreign support for Guatemalans leading reform efforts, have been very important.

In view of the key role international pressure and support for local reformers has played in bringing about Guatemalan democratic reforms, one wonders if ways could not have been found to augment those pressures in the face of Guatemala's stalled, and sometimes retrogressing, democratization.

3. Other Donors

The United States and other countries complemented their political pressure for democratization reform with significant, long-term financial, technical and political support for Guatemalan leaders.

4. USG Political Will and Possibilities for Action

This has been a very positive factor in the successes achieved under USAID programs. The USG's proactive stance on democratic reforms has served as a key component and motivator of the international pressure cited above. Other U.S. Embassy officials, especially the current U.S. Ambassador, and USAID have successfully combined assistance and diplomatic actions to magnify the effects of both.[41]

Recent diplomatic actions taken by the State Department, such as the canceling of visas of high-level officials, made clear the importance with which the USG views democratization and good governance, and may improve the environment for implementing USAID D/G programs. There is no certainty this will be the case, but in countries where other USG interests prevent the taking of such stands, the environment for USAID-supported D/G activities suffers.

B. Internal Factors Affecting Program Impacts

1. Taking Account of the Political Nature of D/G Programs

The first remark Ambassador Prudence Bushnell made to team members when she welcomed them to Guatemala was "USAID tends to use developmental models to do political work." She based this observation on experience going back to her assignments as Africa Bureau DAS and Ambassador to Kenya, and by it meant to say that whereas USAID had grown accustomed to dealing technically with economic development challenges, it also needed to pay attention to political factors when carrying out D/G programs. She was speaking about USAID as a whole, of course, but the team believes she put her finger on the principal factor responsible for USAID D/G program impact when it has been achieved: *Priority attention was given by USAID program managers and contractors to political factors influencing program success.*

As explained further in Annex 6, this meant understanding the political context within which D/G programs were being carried out, taking account of stakeholders' incentives, maintaining the flexibility to take advantage of reform opportunities as they arise, assisting local partners to promote consensus and build constituents for reforms, and combining USAID assistance with USG diplomatic initiatives.

With regard to knowledge of political context, USAID/G-CAP officers working in Guatemala between 1993 and 2002 were very aware that pursuing democratic reforms brought the Mission into contact with sensitive political issues. The Mission demonstrated the importance it attached to understanding underlying Guatemalan political realities by contracting for bi-annual DIMS surveys that have provided very useful information on Guatemalan attitudes, beliefs, and practices affecting democratic development.

The synthesis study had the following to say about stakeholder incentives: "Evidence from the three cases reaffirms the importance of understanding the rules of the bureaucratic or political game and the behavioral incentives and disincentives those rules create in designing any assistance program." Among the conclusions regarding this point included in the report were: (a) "USAID programs that ran across the grain of institutional design had limited impact" and (b) "When the likelihood of restructuring incentives through direct reform was small, innovative approaches that by-passed the actual constraints sometimes offered an avenue for securing changed behaviors."[42]

The Guatemalan governmental organizations involved in law enforcement and decentralization are particularly complex and characterized by perverse behavioral incentives and disincentives. USAID/G-CAP paid attention to those political realities when designing the justice center and clerks' office initiatives. Rather than attempt to reform or add on to existing organizational structures, new ones were established successfully, paying adequate attention to behavioral incentives and operating dynamics. USAID has been trying to implement the same approach (i.e., establish new entities) in its local governance program, but may need to pay additional attention to incentives and operating dynamics as the program proceeds.

With respect to flexibility, USAID and its partners often made sure they were prepared to respond to unanticipated opportunities for initiatives, by using contracting arrangements that were flexible enough to allow for financing of new activities. For instance, in the case of contracts with DAI for the NEXUS program and with CAII for the *Incidencia* program, USAID was able to include new activities during the 1999 elections.

USAID/G-CAP has had particular success implementing the above practices to take account of political realities in its ROL and human rights programs. The Mission is fortunate to have been able to identify "champions" for particular reforms in those two sectors, persons whose leadership efforts it has supported as they challenged political obstacles to reform (e.g., OAV, Clerks' Office, and exhumation projects among others).

2. Partnering Practices

USAID/G-CAP's approach to partnering with local counterparts has been a critical factor influencing the degree of impact obtained.[43] Further study, and comparison with other country programs, should be focused on this topic. The principal issues for examination appear to be (a) how reliable and dedicated local partners are identified and then engaged in a process of policy reform or institutional strengthening; (b) the degree to which these partners are able to navigate successfully in a difficult and even dangerous political environment to achieve key objectives, and how USAID can best support them in that process; and (c) whether the initial push for a particular reform initiative comes from the local partner or USAID (e.g., often through observational visits or forums and seminars involving technical experts) and whether that locus of initial decision making makes any difference in the degree of achievement.

With respect to the first issue, USAID/G-CAP nurtured and ultimately selected the partners with which it cooperated in its ROL, human rights, and civil society programs. This was also the case in the legislative strengthening program, but the Mission was not successful in ensuring all political parties had a stake in the program. The Mission and DAI selected the local NGOs with which they cooperated in implementing the local governance program, with consideration given to their capabilities for the work to be carried out. However, the municipalities where the program operates were not selected on the basis of their capabilities and commitment to the program.

With respect to the second issue, the Mission notes that political will (or its absence) is not monolithic – even in a situation with a government that generally demonstrates very little political will to pursue democratic reforms, there are pockets of political will that can be identified and offer potential for progress when managed by adept local partners. Sometimes those pockets of political will are the direct result of USAID efforts to nurture key counterparts and expose them to reform efforts elsewhere or to technical experts. USAID's financial and diplomatic support is often critical to their success and protection, with USG involvement an important factor in altering the political calculus of partners regarding the costs and benefits of their involvement in reform efforts.

Regarding the third issue, the reality is that most reform initiatives emerge through a process involving both USAID and local reformer interests. For example, the process of developing a critical mass of reformers to support a new Criminal Procedure Code and move toward an oral adversarial justice system involved significant USAID efforts to demonstrate the benefits of such a system and convince key local actors to buy into this reform effort. Yet the success of this reform effort is largely due to the political acumen and commitment of local reformers. This same kind of process can be seen in USAID efforts to move forward the Peace Accords' decentralization agenda with local partners (i.e., ANAM, AGAAI [the association of indigenous mayors]) and in other key reform areas.

3. Decisions on Program Strategy

USAID's decisions regarding program strategy were pivotal determinants of the degree of program impact achieved. This was true for the USAID D/G program as a whole and within each D/G sector.

After such a protracted period of conflict, and in the absence of at least minimal reconciliation and more normal levels of dialogue and cooperation among Guatemalans from different sectors, USAID recognized it would not be possible to carry out traditional D/G programs without also paying attention to healing longstanding social scars. Following the final Peace Accords, USAID carried out numerous programs aimed at reconciliation and promotion of conditions necessary for both political and economic development.

As noted in Section IV, some decisions on program strategy heavily influence the results achieved. Some of those decisions were:

> **ROL** – Using the CPC framework, deciding to decentralize administration of justice; involving civil society in the governance of justice centers.
>
> **Human Rights** – Combining assistance for human rights organizations with diplomatic support; ensuring implementation of important elements of the Peace Accords.
>
> **Legislative Strengthening** – Deciding to implement the program in the absence of efforts to improve political parties; emphasizing a short-term objective (quality legislation to implement the Peace Accords) by focusing on improving technical capacities rather than a longer-term institutional objective that would require building consensus among stakeholders for improving Congressional performance.
>
> **Civil Society** – Putting primary emphasis on CSO advocacy capacity to address short-term policy reform efforts growing out of the Peace Accords, leaving less opportunity to address long-term fundamental issues such as constituency building and financial sustainability in a country with such weak social capital.
>
> **Local Governance** – Including policy reform initiatives in the program; deciding to focus work in the *Zonapaz*; moving forward more quickly with participation efforts at the local level and therefore creating demands without having balanced that effort through greater emphasis on municipal resource constraints.

Finally, USAID experience in Guatemala provides more data on the utility of pilot projects, an issue that was brought up in the synthesis study. Both the justice centers and municipal planning activities carried out to date can be considered pilot projects.

Justice centers have already proven that they can be effective in increasing access to justice and improving system efficiency. Elements that have helped make those pilots successful are the involvement of local stakeholders in their governance structure, a coordination mechanism that is acceptable to all participating law enforcement organizations, and the sense of ownership and empowerment participants in departmental capitals have been able to develop under the tutelage of talented USAID contractor personnel.

The initial places where the NEXUS program has operated may not be good examples of pilots because the municipalities themselves were not selected on the basis of any criteria except geographic location, and experimentation with structure and operations was not originally contemplated. In addition, at least to date, less local ownership has been exhibited. However, a number of the practices pioneered by the NEXUS Program (e.g., accountability sessions, municipal planning offices) have now been codified in recent legislation and all municipalities are paying for the full operations of their planning offices.

4. Determining Program Objectives and Monitoring/Evaluating Program Results

The R4[44] program planning and review exercises used to set objectives and monitor progress provided only minimal utility to program implementers. This was because, as in other missions, outcomes were often expressed as abstract ultimate goals, and indicators often dealt with outputs rather than outcomes and did not take account of underlying political conditions.

Though indicators of political change were consistently measured through the DIMS survey information, and some DIMS data was used as R4 indicators, this data proved not to be particularly useful for determining the progress or impact of the USAID program. In part, this was due to the level of the survey information (primarily national-level data) in relation to limited or focused USAID interventions and also to lags between changes taking place and public recognition of those changes. DIMS data, however, has been used extensively to orient USAID programming decisions and strategy development.

USAID/G-CAP agreed that its ultimate program goals were often expressed abstractly and were used only minimally to guide implementation monitoring, but said doing so was a bureaucratic necessity for Washington. It admitted reluctance to include political changes among objectives because the Mission would not be able to control fully their attainment. Objectives statements at lower levels in the strategic framework, however, were used consistently to guide decision making and implementation monitoring.

Finally, the Assessment Team found that few formal evaluations of D/G programs were carried out, which limited USAID's opportunities to cooperate with local partners in participatory monitoring and evaluation learning exercises.

5. Coordination with Other Donors

This did not appear to influence impact achievement much. Bilateral donor coordination seemed adequate.

One area of USG coordination that may offer possibilities for greater synergies involves coordination with the International Financial Institutions. In-country coordination with the World Bank and the IDB was satisfactory, but opportunities for coordination through Treasury and the U.S. Representatives' Offices could have been exploited further.[45]

6. Decisions on the Level, Stability and Longevity of USAID Funding

Due to the priority given by the USG to supporting the Peace Accords, the funding made available for USAID D/G programs was ample. This enabled the Mission to carry out a broad D/G program. The Assessment Team believes the level of funding available, and the period of time USAID was

able to sustain funding was a very important element in the success achieved in some D/G sectors, such as ROL. The same levels of funding and years of attention have not yet been devoted to D/G programs in other areas, and it now looks unlikely USAID will be able to do so. New funding for D/G programs will be much more scarce, and the Mission is already making decisions on where to cut back. This calls into question whether USAID should have decided to get involved in as many D/G sectors as it did.

Mission personnel note that the decision to move into new sectors where long-term funding was not ensured was justified based on USAID's potential to provide leadership in fields where it has substantial institutional experience and more ability to take on difficult political issues than other donors. They believe that USAID's recent involvement in the areas of civil society and human rights, even if it cannot be maintained beyond the current strategy period, has allowed the USG to play a leadership role in key areas and has had important impact on the way other donors are approaching these topics. Nonetheless, a key lesson learned from the Guatemala experience is that USAID's greatest impact has been in areas where significant resources were focused over an extended time period.

C. Lessons Learned

The Assessment Team offers the following lessons learned for further discussion with the Mission and the Office of Democracy and Governance. Suggested issues for future D/G assessments are contained in Annex 6.

- Sustained international pressure, combined with reliable technical and financial support for Guatemalan reformers over significant periods of time, has been a necessary condition for the progress made in Guatemalan democratization to date.

- The consensus framework of goals for democratic development provided by the Peace Accords was very useful to Guatemalan reformers and their.

- Assistance to address post-conflict conditions had to accompany more traditional D/G programming for the latter to have a chance of succeeding.

- Impact was greatest when USAID gave priority attention to political factors affecting democratization progress in specific D/G sectors.[46]

- USAID had to work especially hard to identify and nurture capable and dedicated Guatemalan reformers with whom to cooperate. The more USAID was able to develop and partner with trusted local reformers who could take the lead in selecting and implementing program initiatives, the more impact was achieved and sustained.

- Very careful attention to program strategy choices by USAID and its local partners is important.

- The availability of significant funding over several years enabled USAID/G-CAP to achieve impacts in some D/G areas. Without it, the likelihood of achieving impacts in other D/G sectors is reduced.

- Coordination of assistance with diplomatic initiatives has magnified the impact of both.

- Ensuring flexibility exists to modify program strategy choices on the basis of experience, and when political conditions change, can help improve impacts achieved. Flexible program design and contracting arrangements implemented by the Mission have been instrumental in allowing USAID/G-CAP to take advantage of reform opportunities as they arose, and to cancel programs when they failed to make progress.

- Frequent, participatory program monitoring and evaluation is advisable, as are efforts to identify and stay abreast of basic political factors affecting democratization, through the use of DIMS-type surveys and expert analyses by political scientists.

Annex 1

ENDNOTES

[1] USAID's recommended partnering stance is to allow local leaders it selects or agrees to support to take responsibility for reform efforts it decides to carry out, and with which USAID agrees, with USAID providing agreed assistance and holding them accountable for obtaining agreed-upon objectives. Joint analysis, program planning, monitoring, and evaluation are called for.

[2] Now discarded by USAID.

[3] For example, on rule-of-law programs.

[4] Carter, Lynn, MSI, *A Synthesis of Findings from Three Case Studies*, USAID Office of Democracy and Governance, Oct. 2001.

[5] The factors considered in each area overlap. They are:

- *Consensus*: agreement on societal boundaries, degree of agreement on democratic beliefs and values (and in the case of Guatemala, their expression in the Peace Accords), degree of agreement on democratic "rules of the game," agreement on relation of individual to the state, and level of social capital (interpersonal trust and participation).
- *Competition*: political parties, elections, legislatures, civil society (non-governmental forms of public participation), free media, and diversification of elites.
- *Inclusion*: degree of ethnic division, and socioeconomic disparities.
- *Rule of Law*: protection of basic human rights and democratic political liberties, personal security (crime and/or state violence), fair law enforcement, functioning independent justice system.
- *Governance*: exclusion of military from domestic affairs and civilian control; separation and decentralization of political authority, transparency and accountability, and degree of efficiency in delivery of public goods by public sector.

[6] The scale of the Freedom House Rating goes from 1 (most free) to 7 (least free).

[7] Census data and surveys conducted by USAID, using self-identification criteria, find that two-fifths of Guatemalans identify as indigenous, whereas other studies claim figures as high as 60 percent.

[8] Guatemala is second to Brazil in income inequality in Latin America.

[9] One of the key tax reforms called for in the Accords was a change in the property tax law that would have made collection more progressive, and thus hit large rural landowners (the traditional business elites). The reform was approved by Congress in 1997, but it met with a storm of protests, much of it coming from the indigenous population itself led by Nobel Laureate Rigoberta Menchú. There was concern that the law would somehow reduce local autonomy and strengthen the central government. The protests became so widespread President Arzú requested that Congress repeal the law.

[10] This understates the problem since it ignores Guatemala's extremely low levels of local government revenues.

[11] Gen. Mejía Víctores assumed the presidency on August 8, 1983, ousting Gen. Ríos Montt.

[12] Movement composed of guerilla groups formerly operating separately.

[13] Civil Defense Patrols (PACs) were established by the military in the early 1980s to control rural communities. All males over 16 were required to serve in the PACs, which monitored civilian movements and cooperated with the military in periodic sweeps of the local countryside to search for guerrilla units. The PACs aggravated divisions and suspicions within indigenous communities.

[14] USAID private sector development programs in the 1980s were instrumental in the growth of this business sector.

[15] Political party of former dictator Rios Montt and then soon-to-be-elected president Alfonso Portillo.

[16] Conducted jointly by the University of Pittsburgh Latin American Public Opinion Project and ASIES, a Guatemalan think tank.

[17] The 2001 DIMS report compares levels of interpersonal trust in Guatemala, El Salvador, and Bolivia. The percentages of respondents who say people are not trustworthy are 39 percent in El Salvador, 51 percent in Bolivia, and 76 percent in Guatemala. Low levels of trust in Guatemala are not confined to the indigenous population. There are no significant differences between Ladinos and Indians, suggesting that the problem of low trust is society-wide.

[18] The direct involvement by the USG in overthrowing the elected Guatemalan government in 1954 made USAID democratization efforts that began years later suspect in many Guatemalan circles. The U.S. intervention ended a 10-year period of major social reforms - one that included new labor laws, social security protection, and agrarian reforms - and replaced it with a regime that was harsher than those of previous periods and set the stage for the protracted civil war. This reality cast a long shadow over later democratization efforts that always needed to be factored in when programs were planned and implemented.

[19] Support to the Supreme Electoral Court was also provided in 1999, especially for computer upgrades. Voter education programs were also carried out.

[20] For purposes of this paper, the authors defined "rule of law" to be the consensus among the citizens of a country to live in accordance with democratically determined laws that protect individual and corporate rights, specify legal responsibilities, and provide the authority for the state's law enforcement organizations and courts to apprehend and prosecute criminals and to intervene in the resolution of civil disputes.

[21] Steven E. Hendrix, *Innovations in Criminal Procedure in Latin America: Guatemala's Conversion to the Adversarial System*, Southwestern Journal of Law and Trade in the Americas, Vol. 5, No. 2, Fall 1998.

[22] The PNC now includes 20,000 officers stationed around the country, but they could be much better trained, and have to operate without adequate material and logistical support.

[23] Now present in every municipality for the first time.

[24] Community-based mediation centers are now resolving ¾ of the cases submitted to them. For most, if not all, citizens using them, this is their first experience with the formal justice system.

[25] Guatemala's murder rate has been estimated in the recent past at 4 to 7 times that of the U.S. . . Some 95% of murders are not even investigated. Intimidation of human rights workers is still common. Drug

transiting, money laundering, illegal aliens, organized crime, tax evasion, child labor[25], domestic violence, and prison breaks are all recognized to be serious criminal problems in Guatemala.

[26] Clearly, justice centers are designed to improve the efficiency with which law enforcement entities and the courts operate (and to do so in collaboration with civil society and local government authorities), but for the sake of classification, they are included here under "access" activities.

[27] Four examples of the first principle were: (1) sponsoring a trip to Dade County by future Institute leaders when USAID's support began so that they would form their own ideas for the Institute's development; (2) promoting continual contact with public defender services from other Latin American countries; (3) funding frequent short-term assistance to the Institute over the last several years by Alvaro Ferandino, former *Defensor Público* of Costa Rica (He provides advice on standards for dealing with specific types of cases and on Institute administration.); and (4) providing a scholarship to Rafael Landivar University to the Institute's current Deputy Director for a master's degree in public policy. The principal example of promoting cooperation with other donors has involved facilitating cooperation by the *Instituto* with the IDB, which has agreed to become the primary source of ongoing assistance for the development of the public defender service (but has delayed in doing so).

[28] The key elements of the Justice Centers are:

- organizational and administrative structures that reduce delay, minimize exposure to corruption, and create accountability;
- improved functioning of key actors in their assigned roles and management structures, and techniques that promote team approaches;
- use of standardized, user-friendly forms;
- user-friendly case management and records systems that reduce opportunities of corruption, improve the quality of case supervision, and generate accurate statistics;
- interpreters and culturally appropriate outreach and education programs in local languages to make the system truly accessible to non-native Spanish speakers; and
- promotion of alternative dispute resolution, plea bargaining (*criterio de oportunidad)*, stay of prosecution *(suspensión condicional)*, and other methods to settle cases identified through improved case intake and diversion programs.

(Steven Hendrix, *Guatemalan Justice Centers: the Centerpiece for Advancing Transparency, Efficiency, Due Process, and Access to Justice*, American University International Law Review, April 2000.)

[29] Twenty-five individuals are currently enrolled, including judicial officials from the courts, MP and IDPP, NGO personnel, Mayan priests and human rights advocates. It is too early to tell whether this initiative will bear fruit.

[30] Ninety-five percent of all law students, and the majority of justice sector officials are graduates. Was decimated in 1980s when many faculty members were executed or fled the country.

[31] Fundación Myrna Mack, FAFS, CALDH, and IECCPG.

[32] This activity involved coordination with other USG agencies concerned with criminal justice.

[33] One example involves domestic violence committees organized by the executive committees of several justice centers. The committees have served to mobilize civil society and public sector collaboration to raise public awareness, provide practical advice to women, agree on procedures for case reception and management, and coordinate services available from hospitals and other community entities. These committees are good examples of the involvement of citizens and NGOs in the public sphere that is resulting from the structural connection of justice centers with the communities they serve. The contrast between the citizen energy evident in the various intra-family violence committees and the constituency problems experienced by some of the CSOs supported by USAID under the *Incidencia* program is worth noting (i.e., the difference in levels of activities and accomplishment by citizen leaders who decide to mobilize themselves to actively tackle problems that affect their daily lives, versus those by CSOs trying to get citizens to take an interest in influencing elected officials to change national public policies).

[34] Justices of the Peace now serve in all 300+ Guatemalan municipalities, thanks to assistance from Spain and the UNDP.

[35] The church's *Recuperación de la Memoria Histórica* project was a three-year study of the conflict. Its 1998 report, *Nunca Más,* documented 55,000 cases of human rights violations, and attributed 50,000 of them to the Guatemalan armed forces and their civilian allies. The CEH studied a sample of 42,000 abuses, including 29,000 extra-judicial executions or "disappearances." It concluded in its 1999 report, *Memoria del Silencio*, that more than 200,000 people suffered violations in the course of the conflict, and that 93 per cent of the abuses had been carried out by official security forces and the paramilitary groups affiliated with them.

[36] Report for the Consultative Group meeting for Guatemala, United Nations Verification Mission in Guatemala (MINUGUA) Guatemala, 18 January, 2002, p. 5.

[37] The SAE is intended to assist the president in developing national security policies without the need to rely on military intelligence. The SAAS is to replace the EMP in protecting the president, the vice-president, and other important dignitaries.

[38] Foro Guatemala, some of whose members benefited from training under Incidencia, and Grupo Barómetro.

[39] The team was not charged with assessing this.

[40] Carter, *Ibid*, pg. 33.

[41] The impact of diplomatic pressures will be limited, however, if not fully and enthusiastically supported in Washington. Governments like Guatemala's know when Washington agencies are paying attention to their country and when they are not.

[42] Carter, *Ibid*, pg. 34.

[43] USAID's recommended partnering stance is to allow local leaders it selects or agrees to support to take responsibility for reform efforts it decides to carry out, and with which USAID agrees, with USAID providing agreed assistance and holding them accountable for obtaining agreed-upon objectives. Joint analysis, program planning, monitoring, and evaluation are called for.

[44] Now discarded by USAID.

[45] For example, when the IDB offered assistance to the National Legislature when USAID was deciding to cancel its program.

[46] Suggestions on ways to take account of political factors in D/G programming are included in Annex 5.

Annex 2

GUATEMALA DESK STUDY: BACKGROUND SECTION[1]

At least since Einstein, we have known that the conclusions one draws depends upon where one sits. In evaluating progress on democratization in Guatemala, it is vital to recall this important dictum. If one looks back twenty years the magnitude of positive change in Guatemalan democratization is hard to overstate. This is a country that has experienced nothing short of a breathtaking shift, from decades of coups, repressive military regimes, and protracted civil war to the establishment of electoral democracy, which began in 1986 and culminated with the signing of the final peace accords in 1996. Regular, free, and fair elections are today the rule, and former guerrilla leaders hold elected office at both the local and the national level. Moreover, indigenous groups have emerged from the shadows and are in the process of forging a new Mayan ethnic identity.

If we rely on Przeworski's (Przeworski, et al. 2000) minimalist definition of democracy as one in which "parties lose elections," Guatemala has been democratic since the mid-1980s. Furthermore, if we also accept the three key features of electoral democracy that Przeworski and his colleagues have established (p. 16), namely "ex-ante uncertainty," "ex-post irreversibility" and "repeatability," Guatemala is also clearly democratic. Only once since that period has there been a serious coup attempt (in that case, by the elected president of the country) and it failed. Elections are competitive, they are not reversed and they go on with predictable regularity.

There is no room here in this short study to review the long, sad political history of Guatemala, but for many observers, the defining moment was the period 1944-195 when elected, reformist governments came to power only to be overthrown by an invasion force armed and trained by the United States. The aftermath of the invasion brought with it unspeakable repression and violations of human rights, giving rise to anthropologist Richard Adams' (1970) classic and aptly titled monograph, *Crucifixion by Power.* In this context, guerrilla movements developed, which gave the army the justification it needed to apply a scorched earth policy that was largely directed at indigenous communities in the highlands. The general context of the Cold War continued to justify the repression, which increased in intensity after the Sandinistas took over Nicaragua in 1979 and full-scale civil war broke out in El Salvador at about

[1]This study draws on several of Seligson's published, unpublished and forthcoming works.

the same time. Probably the darkest period occurred in the early 1980s when massacres of Indian villages became commonplace.

Despite these negative events, Guatemala proved not to be insulated from the broader Latin America-wide pattern of a transition to democracy in the late 1980s. The democratization process took place in three basic stages. First, in 1985, competitive elections were held and the elected President, Vinicio Cerezo, was able to serve out his term. As he was leaving office in 1991 the Sandinistas had been voted out of power in Nicaragua and peace was coming to El Salvador's decade-long conflict. Those two changes took place in the context of the fall of the Berlin Wall and the greatly reduced East-West tensions. All of these factors together began to deprive the Guatemalan military of the justification for its repressive policies and enabled normal electoral processes to take root.

The second stage in the democratization process began inauspiciously in 1993, when President Jorge Serrano, victor in the 1991 elections, attempted to stage an executive coup to resolve a series of problems he was confronting, but found that his actions were resisted by the international community, now firmly committed to democracy, and sectors of the Guatemalan elite and public. In contrast to its long-standing interventionist tradition, the military in this case opted not to support the coup and allowed the Congress to appoint none other than Ramio de León Carpio, who had served as the Guatemalan human rights ombudsman. This was certainly a landmark event in that it seemed to ring the death knell of irregular transfers of power that had been so common over the centuries in Guatemala.

The third stage in the democratization process began in 1994 when the government signed the first of what was to be several peace accords with the guerrilla movement, now fused into the Unidad Revolucionaria Nacional Guatemalteca (URNG). Without an end to the 30-year long civil war, the consolidation of democracy was clearly an impossibility. International pressures to do something to end the war were growing, including pressure from other countries in the region, led by Nobel Peace Prize laureate Oscar Arias. Those negotiations were protracted because motivations to grant concessions to the other side were very limited. On the one hand, it was clear to the government that militarily the guerrillas had been defeated and had no prospect of receiving extensive international support to continue their struggle. Major concessions to the URNG did not seem necessary. On the other hand, the guerrillas knew that the government needed to put the civil war behind it, or face the prospect of a continued, albeit low-intensity conflict, and therefore they sought the upper hand in the

negotiations. Detailed discussion of the give and take of those negotiations is beyond the scope of this desk study, but have been covered by Jonas (2000a) and Azpuru (1999b). Suffice it to say, that the accords were developed piecemeal, with a series of them being signed, culminating in the final signing in December 1996.

Beginning in 1997, then, all of the elements were in place for a deepening of democracy. The terms of the Peace Accords specified a multitude of steps that were to be carried out over the next several years that, if realized, would both reign in the military and establish durable democratic rights for Guatemalan citizens, especially its indigenous population. Free and fair elections had already become routinized and key sectors of the military seem prepared to accept a far more limited role in politics than they had enjoyed for over a century. In addition, opposition groups were now able to organize and run candidates for local and national office. In effect, these advances in democracy led to an opening of the political process, such that dissident voices were no longer immediately accused of being disloyal or subversive voices. The press gained previously unrealized freedom to report on taboo subjects, especially criminal acts alleged to have been committed by members and former members of the armed services. In addition, reports of corruption by elected officials became commonplace. For the first time, the heretofore consistently pusillanimous office of the state prosecutor found the courage to take on a limited number of controversial cases involving the military, and in a small number of very high profile cases the judiciary actually convicted them. Sadly, however, many of the judges who stood firm and convicted these military men, later had to flee the country because of multiple threats on their lives. Finally, forensic pathologists began the gruesome task of exhuming the mass graves of victims of massacres of civilians, largely Indians, which had taken place during the long civil war. This process not only convincingly demonstrated the culpability of the military in these violations of human rights, it helped to bring cloture to the open wounds of thousands of families whose relatives had disappeared in the dark of night never to be seen again (Sanford, 1999).

The transformation of Guatemala from an authoritarian, war-wracked society into an electoral democracy in which the guerrilla war is a fading memory, has been impressive and largely unpredicted by many of the social scientists and observers who study the country. Yet, these achievements have simultaneously created new challenges, which thus far have proven largely unmet. Specifically, the peace accords, the very centerpiece of the democratization process, officially recognized that the long period of authoritarian rule was a product of deep structural problems in Guatemalan society that needed to be remedied if democracy was to take permanent hold. As will

be detailed in the pages that follow, Guatemalan citizens were promised a great deal by the accords, but many of the concrete steps needed to deliver on those promises have not been taken, while at the same time, important new challenges to depending democracy have emerged. The result is that key elements of the peace accords democratization process have become frozen, producing the risk that gains from the peace process may be eroded by a growing impatience with unfulfilled promises.

How Democratic is Guatemala? Some Quantitative Estimates

We begin the analysis by situating Guatemala's democracy in the regional and international context. We can do so with a number of measures that are at hand. The Freedom House measures are well known, and their strengths and weaknesses have been widely discussed. Guatemala in the most recent rating, 2001-2002, scored a "3" on Political Rights and a 4 on Civil Liberties. The scale ranges from a high of 1 to a low of 7, with the range of 4-5.5 being considered "Partly Free." By that rendering, Guatemala scored the lowest in Central America.

Perceptions of experts can be taken as another data point to guide our thinking. The "Fitzgibbon-Johnson Index of Democracy in Latin America," a ranking carried out regularly since 1945, giving the average perceptions of over 100 U.S-based academic experts on the region. The ranking, like all others, carries with it numerous biases, and is a measure of *perception* rather than an actual measure of democracy.[2] Moreover, it is a ranking, and therefore one country will always end up at the top and another at the bottom, even if in absolute terms all have become more democratic. Yet, the index is an excellent way to learn about expert views as to how democratic Guatemala is *relative* to other countries in the region. In 2000, Guatemala ranked nineteenth out of twenty countries on the Fitzgibbon-Johnson Index. Only Haiti ranked lower (Kelley 2001). Indeed, Guatemala's ranking among Latin American countries today is far lower than it was in the 1950s, 1960s, and 1970s, when it ranked between tenth and thirteenth out of twenty. Although Latin America as a region has seen great advances in democracy since the 1970s, Guatemala's *relative* advance is viewed, on average, by this large panel of experts, as having done less well than its peers.

[2]One obvious bias is the inflated democracy ranking of leftist regimes, such as Cuba, a problem exactly opposite from that of the Freedom House measure, which tends to give higher ratings to right-wing regimes.

Another regional view is obtained from the World Bank, whose database does not take us into 2002, but their most recent assessments are even more pessimistic than these data indicate. The World Bank focuses on what it calls "governance," and it situates Guatemala in both the Central American and Latin American context. The rankings are shown in Table 1 below. The World Bank data base is composed of some 300 governance indicators, yielding six key clusters of composite measures: voice and accountability, political instability, government efficiency, regulatory burden, rule of law, and corruption. The low score on political instability might surprise some, but the World Bank notes:

> Although the country is currently experiencing its longest effort at sustaining a democratic system, which was bolstered by the Peace Accords, political instability remains a pervasive feature. Indeed, Guatemala still ranks among the top 20% of most politically unstable countries in the world. Within LAC, only Colombia and Haiti rank worse than Guatemala for this indicator. Recent confrontations between the government and private sector, divisions within the ruling party, a series of corruption scandals, various allegations of unconstitutional modifications of laws, weak management of public finances, protests and strikes in response to increases in the VAT, and perceived inadequate response to economic shocks and natural disasters have all contributed to a current climate of heightened instability. Indeed, Guatemala maintains a score of "D" on the Economist Intelligence Unit's political risk ratings (with "E" being the highest risk), though the EIU does not forecast the risk of a military coup as likely.

Table 1. Composite Governance Indicators, International Comparisons

World Rankings (lower is better), Numbers in parentheses refer to Guatemala's ranking out of LAC countries

	Voice and Accountability	Political Instability	Government Effectiveness	Regulatory Burden	Rule of Law	Corruption
Guatemala	117 (22/25)	121 (23/25)	85 (14/25)	56 (14/26)	149 (25/26)	126 (22/25)
El Salvador	89	81	87	2	117	91
Honduras	86	99	100	94	138	138
Nicaragua	73	97	110	105	124	127
Panamá	52	69	89	11	101	98
Costa Rica	21	29	42	16	48	37
CA Median	80	108	88	36	121	112
Number of Countries (N=)	173	155	156	166	166	155

Source: Kaufmann, Kraay, and Zoido-Lobatón (October 1999). Database and definitions can be accessed at the following Web site: http://www.worldbank.org/wbi/governance/wp-governance.htm

Factors Limiting Guatemalan Democratization

The ending of military rule and the establishment of electoral democracy was a crucial first step in the democratization process. But electoral democracy alone, which is the focus of the Przeworski *et al.* definition cited above, is insufficient to guarantee long term democratic stability. A narrow view, focused on elections alone, threatens to become reductionist by avoiding key questions of class and ethnic exclusion that are so central to the Guatemalan case. As Diamond (1999: 9) has argued, even when definitions of electoral democracy are corrected to exclude cases in which true power continues to reside with the military, "such formulations may still fail to give due weight to political repression and marginalization, which exclude significant segments of the population–typically the poor or ethnic and regional minorities–from exercising their democratic rights."

The news of late in Guatemala on the democracy front has not been encouraging. Consider the first quarter of 2002, the period in which this desk study is being written. On January 29, anti-narcotics police occupied a rural village in Izabal for three days, firing indiscriminately on civilians, killing two of them. A key witness to the use of the national printing offices (Tipografía Nacional) to print thousands of flyers vilifying a private business man, an action apparently ordered by the Vice President of the country, was assassinated. The President of the Central Bank (Banco de Guatemala) was kidnapped, but released two days later unharmed. In Nebaj a key church building was set on fire and burned down, along with the destruction by fire of files of the work of the Guatemalan Forensic Anthropology Association (FAFG) that0 has been exhuming bodies of those who perished in the armed conflict. Several bank accounts belonging to the President of Guatemala, Alfonso Portillo, his Vice-President and other key members of his administration, were discovered in Panama, resulting in a major national scandal and calls for his resignation. Finally, an activist leader of the Partidio Patriota (PP) was assassinated.

These events reflect daily realities in which violence, threats, corruption, kidnappings and disappearances are a way of life. The specific events themselves, however, are a reflection of deeper, more serious problems with the democratization process that has been underway in the country. In the pages that follow, this desk study will attempt to highlight what seem to be the major problems, or challenges that collectively are threatening to undermine the democratization process. These follow the research protocol established by USAID:

1. The Formation of a "usable state": the dilemma of the peace accords that do too much
2. The Challenge of State coherence
3. Political society: the ethnic challenge
4. Challenges in the rule of law
5. Civil Society: The difficulty of building institutional democracy unsupported by a democratic political culture.

We need to examine each of these challenges in terms of the obstacles they present to long-term democratic stability.

The Formation of a "Usable State":
The Dilemma of Peace Accords That Do Too Much

Guatemalans who came to the table to negotiate the accords for their country in 1994 sought much more that was won by their Salvadorans neighbors when they signed their accords that ended a decade of civil war, but, ironically, they got much less. When finally approved, the Guatemalan accords were drawn so broadly, and promised to do so much, that in many respects their goals were unrealistic, especially in the context of a state committed to neoliberal economic policies, as will be described below.

It is hard to overstate the breadth of the Guatemalan accords (Azpuru 1999b). The number of commitments exceeds 300[3]. Agreed to over a period of several years, the Guatemalan accords began with the human rights accord signed in March 1994.[4] This document created the UN Verification Mission, known as MINUGUA, and charged it with monitoring and documenting human rights violations in Guatemala. A truth commission was also approved in June, 1994, but its effectiveness was largely undermined by the granting of amnesty for crimes that occurred during the protracted period of internal warfare. In addition, unlike the Salvadoran truth commission, the corresponding one in Guatemala, while it did clearly convey the message that the military bore the large share of the blame for the human rights abuses committed during the war, it was not able to name names, and thereby allowed the guilty on both

[3]According to one source, the commitments number 317 (Gallego, 2001:29), but others have argued that the number exceeds 600.

[4]See Jonas 2000a, 2000b for an extensive review of the accords.

sides to remain comfortably anonymous.[5] This accord was followed with the Agreement on the Resettlement of Populations Uprooted by the Armed Confrontation. This accord provided for the peaceful return of internal and international exiles (many living in Southern Mexico).

In March 1995, the Accord for the Identity and Rights of Indigenous Peoples was signed that redefined Guatemala as a "multiethnic, multicultural, and multilingual nation." This recognition was a crucial step forward in dealing, at least in theory, with the problem of a nation divided along ethnic lines. From the perspective of many ladinos, a view classically incorporated into the public education system, Guatemala was a Catholic, European society in which the indigenous population was an unwelcome guest.

Many see the next accord, signed in September 1996, as the most important, because it limits the role of the army to defending the nation from external attacks, while also eliminating the civilian self-defense patrols. At the same time, it mandated the consolidation of the several existing police forces into a "National Civilian Police" force, which was to be professionalized and trained in a national police academy, and have no fewer than 20,000 members. This agreement, called "The Accord on the Strengthening of Civil Power and the Functioning of the Army in a Democratic Society," clearly linked the reduction in the role of the military to democratization of the Guatemalan political system. The accord also abolished the so-called "civilian patrols," which was little more than a highly effective system of military social control at the village level, extending down even to the level of the family. This accord also cut the size and budget of the army by one-third.

The September 1996 accord went far beyond the issue of the military, however, and concerned itself with the legislature and the judiciary as well. It demanded, for example, that the Constitution be amended to prevent deputies from holding more than two consecutive terms, in effect establishing term limits for office. But most of the other changes required were set out in such broad terms that it is difficult to see how they could be practically implemented. Consider article II 6b of this accord, which reads, that there will be given priority to:

> Regular use of measures provided by the Constitution to control the Executive Branch to ensure public policies are sufficiently clear;

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[5]Another report, issued in 1998 by the Catholic Church, did name names, but this second report was not the official truth commission report.

> verification of the consistency of programs; ensure honesty in the programming and implementation of the nation's budget; examination and evaluation of the administrative actions or omissions of ministers of state and other top officials to determine their responsibilities; following up on government actions to safeguard the general interests of the population and to preserve the legitimacy of institutions.

When it came to the judiciary, similar language was used in Article III 10:

> A priority in this area is the reform to the administration of justice in order to reverse ineffectiveness, eradicate corruption, guarantee free access to justice, its impartial application, judicial independence, ethical authority, the probity of the system as a whole, and its modernization.

This accord then mandated some specific changes to the Constitution, such as the following:

> Art. 203: The article should have an initial reference to the guarantees for the administration of justice, and as such, should include: free access to it in the native language; respect for the country's multi-ethnic, pluricultural, and multilingual nature; defense for those unable to pay for it; the judge's impartiality and independence; reasonable and prompt solution of social conflicts and the opening of alternate mechanisms to settle conflicts.

Implementation of such constitutional changes was left to legislative debate, to be followed by a national referendum, about which more will be said later in this desk study.

A key difference between the Guatemalan and Salvadoran accords may be found in the 1996 agreement on “Socioeconomic and Agrarian Issues.” This agreement goes far beyond the goal of ending the war because it seeks to make fundamental transformations in Guatemalan economic policy. The accord rejects the long-standing laissez-faire role of the state and seeks to replace it with an acceptance of responsibility for its citizens’ social welfare. Specifically, the accord requires an increase in tax revenues from the traditional 8-9 percent level to 12 percent by the year 2000.

In addition, the accord on socioeconomic and agrarian issues established a number of other far-ranging economic objectives. Economic growth, for example, was to achieve an annual rate of 6 percent by the year 2000. This contrasts with a growth

rate of 1.0 percent in the period 1980-1989, and 3.9 percent for 1990-1996 (World Bank 1997, Statistical Appendix Table 1). By 2000, public spending was to have increased by 50 percent over 1995 levels; public health expenditures were to be shifted from curative to preventive; and 1.5 percent of tax revenues was to be spent on low-income housing beginning in 1997.

The accords went even further. They specified an annual public investment program on rural development of Q. 300 million a year (about $43 million), the provision of at least three years of primary education to all children between the ages of seven and twelve, and an increase in literacy to 70 percent of the population by the year 2000. In addition, infant and maternal mortality were to be cut by 50 percent, and poliomyelitis and measles were to be eradicated, by that year.

These illustrations are sufficient to give the reader a sense of the extensiveness of the Guatemalan peace accords. While there have been undeniable successes emerging from those accords--not the least of which is the cessation of armed conflict--and the size of the military budget and the armed forces have in fact been trimmed to levels established by the accords, the many failures significantly complicate the road to democratic consolidation. First is the stark difference between the role of the army in post-peace El Salvador and Guatemala. In El Salvador, not only was the army reduced in size, but it also went through an extensive process of "purification" in which a great number of senior military men (most belonging to the infamous *tandona*) who were held to be the fundamental driving force behind repression, were cashiered, and the key battalions that had been responsible for a long list of massacres and human rights violations were abolished. In Guatemala, however, the army, while smaller, remains largely unaltered in its role and mission as an institution.[6] Indeed, the Guatemalan army sees itself, and is seen by many Guatemalans, as having won the war against "communist insurgency," having beaten the guerrillas largely without assistance from the United States. Many of the men who led the army at the height of its human rights abuses, are still in place, while the 1999 election brought to civilian political power "former army officials who had been key players in the scorched-earth 'dirty-war' of the 1980s, not to mention [Efraín] Ríos Montt himself, who was to preside over Congress" (Jonas 2000b, 31).

[6] President Portillo did manage to retire over 100 officers shortly after he took office, but the impact on the military of that effort is unknown.

Another major problem of the peace accords emerged when a series of constitutional reforms specified by them was rejected in the *consulta popular* of May 1999. The peace accords specified changes to be made in the Guatemalan Constitution, which, if approved, could have redefined the political system in many vital ways. Some of these changes were noted in the preceding discussion on the accords. Others of them dealt with the way the legislative and judicial branches of government were organized. These reforms were debated by the legislature for over a year and finally won legislative approval in late 1998. Unfortunately, the reforms had become complicated by many other issues, which meant that by the time they came before the public some fifty different reforms, divided into four major categories, were to be voted upon. These categories were: 1. The rights of indigenous people; 2. Reforms of the legislature; 3. Reforms of the executive, and 4. Reforms of the judiciary. Some of these reforms were only tangentially related to the peace accords and democracy (such as establishing worker's compensation rights for dismissed government employees), while others were central to the democratization process. Among the key reforms was the recognition of the multilingual, multi-ethnic nature of the Guatemalan nation including the granting of official status to a long list of indigenous languages and recognition of indigenous law in certain cases, and the imposition of the requirement that when legislation is considered that would affect the indigenous population, they would be consulted directly. The reforms also required the professionalization of the judiciary, setting new requirements for minimum levels of training for judicial officials.

The entire *consulta* process proved to be confusing even to highly educated members of the public, let alone the great bulk of the Guatemalan population who, on average, have less than four years of education. Partially as a result of this confusion, only 18.5 percent of registered voters cast their ballots in the referendum. But, most important the constitutional reforms were defeated 55 to 45 percent, leaving the key elements of the peace agreements noted above in suspended animation (see Arnson 1999). While the more general principles of the agreements, such as recognizing the multiethnic nature of Guatemalan society stand on their own as part of the peace accords without the constitutional revisions, most of the others could not. For example, the changes in the judiciary and the military require constitutional revisions, as does the requirement that indigenous languages could be used for official transactions. Without a constitutional reform, these important elements of the peace agreements that would have reined in the military and helped level the playing field for the indigenous population have been left as hollow achievements of the peace process.

Analysis of the vote, based on a 1999 national probability survey of 1,200 Guatemalans (conducted jointly by the University of Pittsburgh Latin American Public Opinion Project and ASIES, a Guatemalan think tank), found that the uneducated rural poor were more supportive of the changes than more highly educated and urban Guatemalans. Yet, even among the poor and uneducated, however, support barely reached 50 percent. This is clear evidence that as late as 1999, majorities of Guatemalans were not yet ready to accept the key transformations required by the peace process.

Support for the constitutional reforms was also analyzed by ethnicity using the same database. Among the indigenous population, 42% of those who cast a vote supported the reforms, compared to 32% of the ladinos who supported it. Thus, it is clear from these data that Guatemala's poor and indigenous people are significantly more supportive of the reforms established by the peace process than are the non-Indian population. Put in other terms, however, irrespective of the level of education, nation-wide, no more than one-third of nonindigenous Guatemalans support the reforms that are so crucial to the far-reaching transformation of Guatemalan society agreed to in the peace accords. Moreover, even among the indigenous population who cast a vote, the majority opposed the reforms. In light of these results, it is difficult to see how public support can be generated to make the changes required by the peace accords.

So much of the success of the commitments made in the economic portion of the accords depends upon expanding state capacity by expanding state revenue. The accords mandated that increases in spending on social programs were to be accomplished largely through increased tax revenues rather than cutbacks in other areas (the reduced military budget notwithstanding). One key mechanism was to have been a change in the property tax law that would have made tax collection more progressive in that reforms were mainly directed toward large rural landowners. The reform was approved by Congress in 1997 but was met with a storm of protests, much of it coming from the indigenous population itself and led by Nobel Laureate Rigoberta Menchú. There was concern that the new tax law would somehow reduce local and municipal autonomy and strengthen the central government. The protests grew so loud and widespread that the government of President Arzú, in February 1998, had the law repealed by the Guatemalan Congress. This action undermined yet another element of the peace accords.

An overall assessment of goals and accomplishments through the year 2000, the year in which the main goals of the peace accords were to have been met, appears in Table 2 below. The results are mixed, with some notable successes. For example, the military police have disappeared, the army has been cut from nearly 47,000 troops to just over 31,000, and the civil patrols and forced military conscription have been abandoned, although some still operate without government approval. The literacy target of 70 percent seems to have been nearly achieved, an almost 6 percent increase since 1995 (although percentages for the most recent years are estimates and many are skeptical of the quality of those numbers). Gains have been made in education, with increased coverage of the population. Infant mortality appears to have come down, from nearly 40 per 1,000 to 33.5, but the entire data series for 1997-2000 are estimates, so one does not know how much of these figures are wishful thinking and how much is reality. For example, the most recent World Bank data (2001a: 20), lists a 1999 infant mortality rate for Guatemala of 40, showing no decline at all. These signs are evidence that the quality of Guatemala's human capital is improving.

Guatemala's macroeconomic program, the sine qua non for generating the funds necessary to increase and sustain social spending has not done nearly as well. The improvements reported above have largely been made possible by the flood of international donations that were made to support the peace process. Those donations, however, are not long-term, and indeed the failure of Guatemala to fulfill its part of the peace bargain has already caused some donors to curtail their support. To achieve its goals without vastly expanding taxation, not a politically possible solution in any event, strong economic growth was seen as necessary and indeed required by the peace accords. The growth rate, which was targeted by the accords to reach 6 percent by 2000, is far below its goal. According to the World Bank, for Guatemala to reduce the number of its poor, economic growth must be at least at 5.8 percent per year (World Bank 2000a, 33).

Reducing the number of poor people depends not only on growth but also on income distribution, because the impact of growth is reduced in direct proportion to the degree of income inequality. But Guatemala's income distribution is the third most unequal in the world; the richest 20 percent of the population earned 63 percent of the income, a figure nearly identical to Brazil's (at 63.8 percent) and only slightly below that of South Africa, the world's most unequal country (at 64.8 percent) (World Bank 2001b, 282-83).

Table 2. Key Targets and Accomplishments of the Guatemalan Peace Accords

	Base 95					
Fiscal (% of GDP)			**1997**	**1998**	**1999**	**2000**
1. Growth Rate (%)		Target	4.2	5.1	6.0	6.0
		Actual	4.3	5.1[p]	**3.6**[f]	**4.0**[f]
2. Tax Ratio	7.6	Target	8.6	10.0	11.4	12.0
		Actual	8.8	**8.9**[p]	**9.4**	**9.1**[f]
3. Health Spending	0.9	Target	1.0	1.1	1.2	1.3
		Actual	1.0	1.1[p]	1.2[f]	1.3[f]
4. Education Spending	1.6	Target	1.9	2.1	2.3	2.5
		Actual	**1.8**	2.2[p]	**2.1**[f]	**2.2**[f]
5. Public Security Spending	0.3	Target	0.3	0.4	0.4	0.5
		Actual	0.3	0.5[p]	0.6[f]	0.6[f]
6. Judicial/Public Ministry Spending	0.3	Target	0.3	0.4	0.4	0.5
		Actual	0.3	0.4[p]	**0.3**[f]	0.5[f]
7. Military Spending	1	Target	0.9	0.8	0.7	0.7
		Actual	0.9	0.7[p]	0.6[f]	0.6[f]
8. Preventive Care	38	Target	-	-	>50.0	>50.0
(% of health budget)		Actual	43.0	46.0[p]	**49.0**[f]	52.0[f]
9. Low -Income Housing Budget	-	Target	-	1.5	1.5	1.5
(% of tax revenues)		Actual	-	1.5[a]	1.6[f]	1.5[f]
10. Investment on Rural Development	-	Target	50.0	50.0	50.0	50.0
(Million of Q.)		Actual	-	265.9[e]	329.3[a]	>300.0[f]
11. Investment on Rural Infrastructure	-	Target	300.0	300.0	300.0	300.0
(Million of Q.)		Actual	-	>300.0[e]	>300.0[a]	>300.0[f]
Social / Security Measures						
12. Literacy rate **(%)**	64.2	Target	-	-	-	70.0
(INE— 1994 Census)		Actual	66.4[e]	67.4[e]	68.6[f]	**69.3**[f]
13. Primary Education Coverage	84	Target	-	-	100.0	100.0
(three years—gross rate)		Actual	86.0[e]	89[e]	**91.0**[f]	**92.0**[f]
14. Primary Education Coverage	69	Target	-	-	100.0	100.0
(three years—net rate)		Actual	71.0	72.9[e]	**75.1**[f]	**77.0**[f]
15. Infant Mortality Rate	39.9	Target	-	-	20.0	20.0
(deaths per l000 living births)		Actual	38.5[e]	37.0[c]	**35.3**[f]	**33.5**[f]
16. Maternal Mortality Rate	97	Target	-	-	48.5	48.5
(deaths/100,000 women giving birth)		Actual	97.9[e]	97.7[e]	**97.5**[e]	**97.2**[f]
17. Poliomyelitis Cases	80	Target	85.0	85.0	85.0	85.0
(vaccination coverage)		Actual	**74.0**[c]	88.0[e]	88.0[f]	88.0[f]
18. Measles Cases	83	Target	-	-	-	95.0
(vaccination coverage)		Actual	74.0[e]	79.0[e]	84.0[f]	**87.0**[f]
19. Army Reduction	46,900	Target	31,423.0	31,423.0	31,423.0	31,423.0
(number of troops)		Actual	31,270.0	-	-	-
20. Military Police	2,421	Target	Nil	Nil	Nil	Nil
(number of members)		Actual	Nil	Nil	Nil	Nil

a. Assigned. e. World Bank staff estimate. f. World Bank staff forecasts P1B99: Q134,30i.7 million. *Sources:* World Bank 2000a, 34, and based on data from MIFIN, MINUGUA; Anderson 1999; Chinchilla 1998; Acefla 1998; Barillas and Valladares 1999.

Moreover, inequality in income distribution makes it far more difficult to reduce the number of Guatemala's poor in comparison to most other nations; growth must reach high levels and stay there over long periods before its effects can "trickle down" to the poor. Given the present limitations of Guatemala's human capital, however, it is difficult to imagine how that growth rate could be achieved. For example, while

Guatemala has increased health spending from 0.9 percent of GDP to 1.3 percent in 2000, the average for Latin America as a whole was 3.0 percent. Similarly, education spending, which was 1.6 percent of GDP in 1995 and was targeted to rise to 2.5 percent (but only reached 2.2 percent) in 2000, compares unfavorably with the Latin American average of 4.3 percent. Finally, if Guatemala follows the pattern of other Latin American countries, it will take fifteen years to cut its infant mortality rate in half, not the five years programmed in the peace accords (World Bank 2000a, 35).

As a practical matter, all parties realized that the fiscal targets specified in the accords could not be met by 2000, so they were rescheduled for 2002, but even that goal now seems unrealistic. Progress has been made in increasing total government revenues, which rose from 9.2% of GDP in 1996 to an estimated 11.1% in 2001, according to the World Bank, but that is still below the agreed 12% but more importantly it is very low in international terms, as will be shown below. To deal with the new realities, a "fiscal pact" was agreed to on May 25, 2000. The pact involves increasing the marginal tax brackets for those with the highest incomes from 25 to 31 percent, but it provides a loophole: taxes are reduced for those who can show proof of having paid the VAT. Thus, those who are the wealthiest, and who can afford to spend the most, will pay the lowest taxes (Hernández Pico 2000b). The pact ended up in a shambles, however, when in July 2000 the ruling FRG (Guatemalan Republican Front) decided it could not go ahead with most of the tax increases, and a scandal erupted as a result of an apparent alteration of the approved law to satisfy pressures from the liquor industry (hence the term for the scandal, "boozegate") (Hernández Pico 2000a). The VAT rate was increased from 7% to 10% in 1996, and finally in August 2001 was increased again, from 10% to 12%.

The Challenge of State Coherence

Guatemala is a divided nation, split between an impoverished indigenous population that comprises a near majority of the population and a "ladino" population that on the whole enjoys a higher standard of living. According to the most recent, preliminary findings of the World Bank (2001a), carried out in 2001, while the country as a whole has a poverty rate of 54.3%, the indigenous regions vary from 65% to 79%. I have seen preliminary results based on the ENCOVI 2001 survey that put the poverty level at 56%, with 16% in extreme poverty. In 1989, poverty is estimated to have stood at 62%, so that in over a decade, it has been lowered by only 6%, a poor record when compared to countries like Chile that have engineered dramatic declines in poverty.

Perpetuation of the split between rich and poor, after the establishment of electoral democracy and the signing of the peace agreements, does not bode well for the deepening of Guatemalan democracy since it is that division that has been central to the exclusion of the indigenous population from positions of political power since the days of the Spanish conquest and colonization. Yet, macro-level economic policy, as will be shown in this section of this paper, has thus far proven unwilling to make the serious reallocations needed to overcome this division. In that sense, the pathway that has been taken by the political economy threatens to undermine the promises made in the peace accords.

Guatemala has had a very deep classic liberal tradition since the early days of independence in the 1830s. At that time, Conservatives represented those who sought a powerful, regulatory state, while Liberals favored decentralization and laissez-faire economics. The Central American Federation, set up in 1824, and based in Guatemala, was conceived on Liberal principles, but Guatemala's government itself was far more Liberal than the Federation as a whole (Weaver 1994, 54-57; Pérez Brignoli 1997).

Small government is not new to Guatemala, but it has been preserved at the cost of human capital development. As extensive studies on human capital formation have shown, countries can transcend their level of income; low GNP and low human capital do not necessarily go hand-in-hand (UNDP, 2000: 157-160). Guatemala is not only a poor country (GNP in PPP dollars 1999 = $3,517), but also one in which human capital is woefully underdeveloped. Recent estimates (Table 3 below) show that Guatemala has infant mortality levels far higher than most countries in Latin America. In addition, forty percent of Guatemalan adult women were illiterate as late as 1998, a rate exceeded in the Americas only by Haiti (World Bank 2001b, 276).

Table 3. Infant Mortality:

Guatemala in Comparative Perspective

	Infant Mortality
Haiti	70
Bolivia	59
Guatemala	**40-45**
Dominican Republic	39
Peru	39
Honduras	34
Nicaragua	34
Brazil	32
El Salvador	30
Mexico	29
Ecuador	28
Paraguay	24
Colombia	23
Panama	20
Uruguay	15
Costa Rica	12
Chile	10
LAC Average	**30**
Lower Middle-Income Countries	**32**

Source: World Development Indicators, 2001

Perhaps even more disturbing is the exceptionally high malnutrition rates found in Guatemala, a problem that has become all the more serious because of the draught and famine currently affecting several areas of the country. According to the World Bank, Guatemala's malnutrition is extremely high, among the highest in the world. Using stunting as the best widely accepted measure of malnutrition, 44% of children under five are stunted in Guatemala, which is higher than any other country in Latin America, and twice as high as the second highest stunting rate found there (Bolivia 27% in 1998); of all the countries in the world for which reliable malnutrition data exist, only Bangladesh and Yemen are higher (55% in 1996/7 and 52% in 1997, respectively).

Research clearly shows that human capital formation requires investment in health and education, and that without adequate human capital, a nation's economic development will be constrained (Birdsall, Ross, and Sabot 1995). A recent study by the Inter-American Development Bank, for example, shows a strong positive association between education and level of GDP (IDB 2000, 12). Given Guatemala's long-term policy of keeping government very small, it comes as no surprise that the country

presents an extreme case of under investment in human capital. Worldwide governments spend an average of 20.1 percent of GNP, whereas Guatemala's government revenue, however, is only now reaching 11.1 percent of GNP. This means that Guatemala is more than one standard deviation below the worldwide mean. These figures actually understate the degree of Guatemala's low level of spending as they are limited to central government income, and exclude subnational government income. In Guatemala, such income is very low--only 1.7 percent of total tax revenues (World Bank 2000c, 216), compared to far higher levels in federal systems such as Mexico (20.6 percent), Brazil (31.3 percent), Argentina (41.1 percent) and the United States (46.4 percent). Indeed, most countries in the world spend more on local government than does Guatemala; only Botswana and the Dominican Republic spend a lower percentage of total tax revenues on local government (World Bank 2000c, 216-17). Clearly, Guatemala is in dire need of additional revenues to spur human capital development.

Since Guatemala is a relatively poor country, it is not surprising that it has a small government. The scatterplot in Figure 1 below shows, however, that even when national income is partialed out of the equation, Guatemala is an outlier, with government revenue far lower than might be predicted by national wealth (as measured by PPP GNP). If the Guatemalan government's share of national income were in line with the nation's GNP, that level would have been about 17 percent in 1997, or about twice as high as it was. Guatemala's low level of government revenue, then, is not merely a product of economic underdevelopment but is a function of policy choices that have constrained the size of government below a level that its economy could afford.

In its fiscal situation, Guatemala today is caught between a rock and a hard place. It is a country that historically has constrained government to a minimal role, especially in social services. The negative impact of these policies is evident in its underdeveloped human capital. The Peace Accords commit Guatemala to overcoming its legacy of under investment in human capital, but to do so it will have to make substantial increases in the national budget, since reallocation within an inadequate budget would be of only limited utility. Increasing the national budget implies raising taxes, greater indebtedness, or both–all policies that are anathema to most powerful political elites in Guatemala, yet that is precisely what the Peace Accords require. How, then, can Guatemala both invest in its population and remain within the fiscal boundaries imposed by elites, and still adhere to the Accords? This challenge will not be easy to overcome.

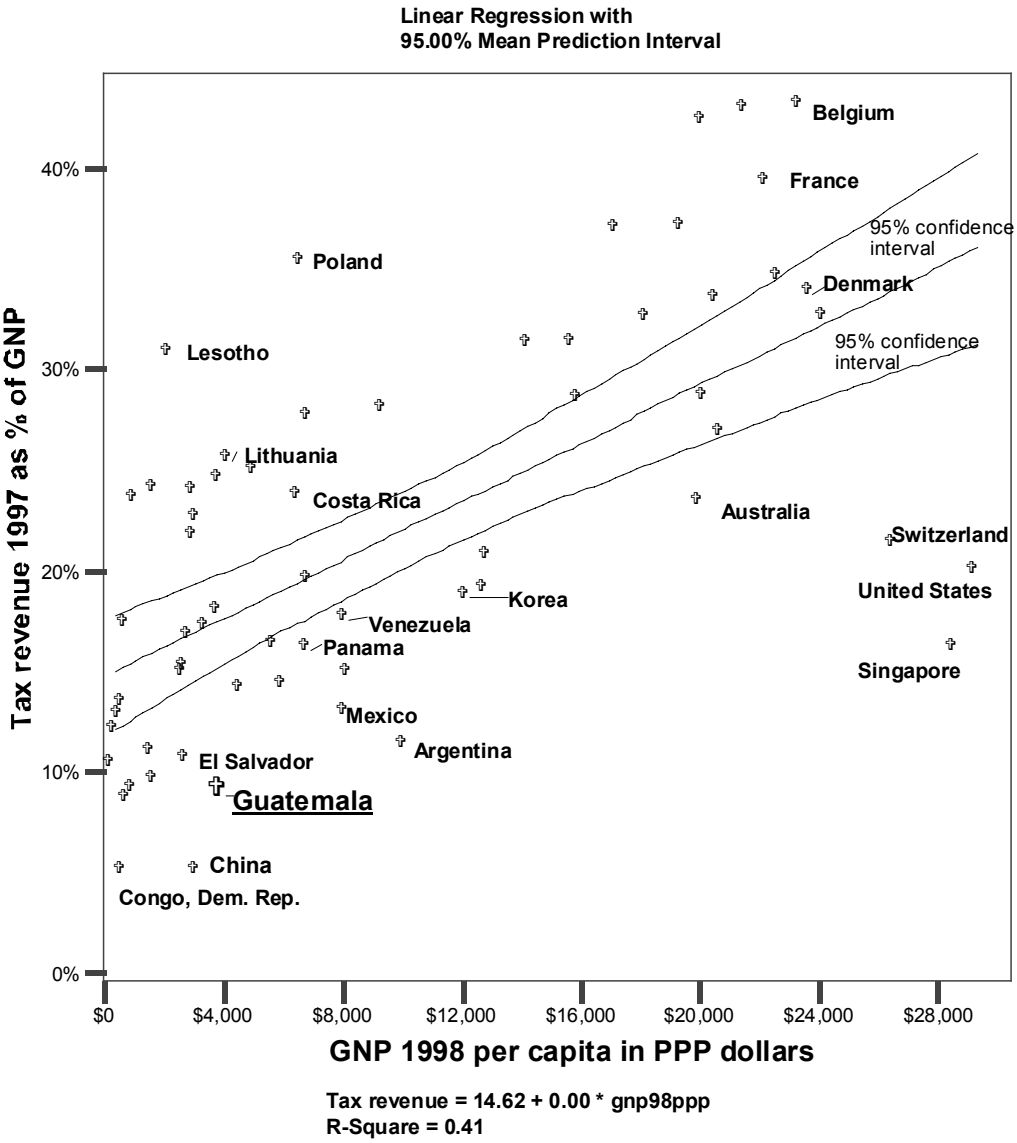

Figure 1. The Relationship Between GNP and Tax Revenue

Political Society: The Ethnic Challenge

The war, while doing enormous physical damage to Guatemala's indigenous populations, also served to spark a sense of "Mayan" ethnic identity. This is not the place to delve into the long-standing debate among anthropologists regarding the meaning of ethnicity and the mechanism by which it is formed (Wilson 1995, 3-19), but

all observers agree that Mayan activism has exploded in recent years in Guatemala. As Fischer and McKenna Brown note, many terms have been used to characterize the new phenomenon, including "Mayan nationalism," "the Pan-Maya movement," the "Maya revitalization movement," and others, but they all refer to a new form of identity that has sprung up in the highlands of Guatemala (1996, 1).

The long war, largely fought at the cost of the indigenous population, helped to catalyze this sense of ethnic identity, but the peace process itself, which was often couched in terms of a struggle for indigenous rights, was perhaps even more central. Important role models emerged, not only the best-known one of Rigoberta Menchú, but also local political leaders as well as national deputies. The widening use of "civic committees" at the municipal level, which enabled local party like structures to form and to run candidates for office at both the municipal and deputy level, further spurred this identification. Kay Warren, an astute observer of this process, stresses the international dimension to this ethnic awakening (1998, 4):

> Quite unexpectedly, the peace process brought about a striking transformation in the terms of debate for indigenous issues in national politics. Most recently, Pan-Mayanism has experienced the contradictory pressures of international funders who in the name of neoliberalism pressure the government to trim bureaucracies and social services and in the name of peace offer very specific kinds of support for the strengthening of civil society and democracy.

Warren also realizes that ethnic mobilization often produces serious "side effects." She notes: "At the center of many observers' reservations about ethnic mobilizing are two expressed fears: that calls for self-determination inexorably lead to the destructive breakup of existing states and that ethnic violence is the sign of our times" (Warren 1998, 5). Ethnic resurgence can, of course, have a positive impact on democratization, helping to overcome a long history of exclusionary politics and empowering ethnic groups who are in the political minority (even if they represent a numerical majority, as they come close to doing in Guatemala).[7] This is the argument made forcefully by Yashar in a study of ethnicity and democratization (1996).

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[7]Warren (1998, 8; 12), who approvingly cites Yashar (1996, 92), as well as many other scholars, claim that Guatemala has an indigenous majority of about 60 percent, the second largest indigenous proportion in Latin America. However, the Guatemalan census data from 1994 (the most recent census available) puts the figure far lower, at 43 percent. In the surveys I have conducted in Guatemala, self-

The strongest concern is that Guatemala's transition to democracy might ultimately be responsible for widespread ethnic-based violence, perhaps concentrated on ethnic rivalries between subdivision of the Mayan population or even spilling over into Maya/Ladino conflicts. It is now well established in the political science literature that unconsolidated democracies are most prone to civil conflicts (Hegre *et al.* 2001). In a broad-ranging theoretical and empirical study of the subject, Jack Snyder points to the fundamental paradox between "the claim that promoting the spread of democracy would also promote peace" and the fact that "rocky transitions to democracy often give rise to warlike nationalism and violent ethnic conflicts" (2000, 15).[8] Certainly, the breakup of the former in post-communist Yugoslavia, in which elected officials inspired and directed brutal ethnic conflicts that emerged, is a good example. Although Gurr and Moore (1997) show that in transitions resulting in (what might be considered) consolidated democracies the rights of ethnic minorities have been closely protected, the record in countries such as Guatemala, where major problems remain after the cessation of open warfare, is not as good. Some of the cases that Snyder mentions are ethnic groups in the former Yugoslavia, the Armenians in Azerbaijan, the Chechens in Russia and the horror story of the 1993 conflict between Hutus and Tutsis in Burundi.[9] Snyder (2000, 32) finds that the process of democratization itself increases nationalist and ethnic appeals, as it has in Guatemala.

What do Guatemalans think about the prospect for ethnic conflict? We asked them directly in the 1999 survey carried out by the University of Pittsburgh, in which we asked: "How probable do you think it is that Guatemala will have an ethnic conflict in the future." Of the 83% of the sample who responded to this question, 28.5% felt that such ethnic conflict was "very probable," 33.1% felt that it was somewhat probable

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identification produces results in the 41-45 percent range, nowhere near the claimed 60 percent. In our 1999 national sample, 45 percent identified themselves as "indigenous." For much of Guatemala's history, the census taker decided the ethnic group of the respondent. In recent years, however, self-identification has been the norm. I find self-identification to be the most useful, since in survey work, this variable, rather than language or dress, seems the best way to distinguish relevant groupings in Guatemala. With respect to Bolivia, the University of Pittsburgh Latin American Public Opinion Project surveys have found only 13 percent who identify themselves as indigenous and only 3 percent who consider themselves *cholos*.

[8]On the other hand, Cleary (2000) argues that democracy results in decreased instances of ethnic rebellion in Latin America, although he does not address the issue of intra-ethnic conflict.

[9]A list of all such conflicts in the period 1945-1999 appears in Snyder (2000, 355-60).

while 38.5% thought that it was not probable. In other words, only a minority rejects the possibility of ethnic conflict, while 62% believed that such conflict could occur. These percentages did not vary significantly by gender, education, wealth or ethnicity.

We must keep in mind, however, that in Guatemala while some anthropologists and NGOs dedicated to promoting pan-Mayanism see the Indian population as all one big family of "Mayans," many if not most Indians still are more firmly tied to their own far smaller ethnic group, defined largely by language, of which there are 28 Mayan languages, and several other non-Mayan languages. Has the withdrawal of threats of military/guerrilla violence led to an increase in tensions among these different groupings? It is difficult to say, but one disturbing piece of evidence of incipient growing violence among the indigenous population in Guatemala has been the emergence of what Guatemalans call "lynchings." While these so-called lynchings are not usually murders by hanging, as has happened so often in the United States, they do involve vigilante actions that frequently end in single or multiple deaths, often by immolation or mob beatings. In a recent study of the phenomenon by MINUGUA, the organization monitoring the UN peace accords, the first systematically recorded cases began in 1996, perhaps not uncoincidentally the year the final peace accords were signed (MINUGUA 2000, 6). There had been some prior instances of lynchings, especially one infamous case of a North American woman accused of attempting to steal a child, but these were clearly isolated instances and not the wave that emerged in 1996.

According to MINUGUA, between 1996 and 2000 there were no fewer than 337 recorded cases of lynchings, averaging well over one a week. Of those cases, with a total of 635 victims, 185 of the victims died (see Table below). The actual pace of lynchings has accelerated since the peace began, going from only 35 cases in 1996 to 105 in 1999, but then it seemed to decline in 2000. There were many cases in 2001, although the full count is not available at this writing.

Unfortunately, MINUGUA has not documented the ethnicity of the perpetrators or the victims. We don't know if these lynchings are conflicts entirely confined within ethnic groupings or if they cross ethnic lines. Even if we had that data, we would not know about clan-level violence that proved so critical in the slaughter in Ethiopia. All we do know is that lynchings are not only becoming a way of life in Guatemala, but they have, as noted, widespread popular support.

In March 2001 a radical change occurred in the pattern of lynchings. Up until that time, all victims were alleged criminals, but on March 13 a mob murdered a *ladino* judge in Alta Verapaz, a department whose population is 89 percent indigenous (World Bank 2000a, Statistical Appendix Table 39). It is too early to tell whether this case represents a new trend of *ladino*-indigenous conflict, but such an action against a quintessential representative of state authority is certainly a new and ominous development for democracy, indicating a breakdown in respect for the official legal authorities.

Table 4. Lynchings in Guatemala, 1996-2000

Year	Lynchings	Lynching Attempts	Total Lynching	Persons Murdered	Persons Wounded	Total Victims
1996	21	14	35	23	24	47
1997	22	56	78	30	80	110
1998	38	29	67	54	73	127
1999	71	34	105	48	188	236
2000	24	28	52	32	83	115
Totals	176	161	337	185	448	635

Source: MINUGUA (2000, 6).

What is clearer about these lynchings, from the data analysis I have been able to conduct, is while lynchings have occurred all over the country, they are heavily concentrated in the highly indigenous areas of the *zonapaz,* that is, the former zone of military conflict. Observers have gone to great lengths to negate this connection. MINUGUA (2000, 7) notes, for example, that while many of the lynchings have taken place in highly indigenous departments, a large number have also taken place in the Department of Guatemala, which is highly *ladino*. The UN did not, however, per capitize the data, perhaps forgetting that the Department of Guatemala has a far larger population than other departments. If that is done, a very clear pattern linking the lynchings to concentrations of indigenous populations emerges, as is shown in Figure 4.

The Department of Guatemala, for example, has a very low per capita number of lynching victims, and a low percentage of indigenous people. The percent indigenous in the department explains 49 percent of the variance in the lynchings. Put in other terms, the regression shows that for each 10 percent increase in the indigenous population, lynching victims increase by 3 per 100,000, an important figure when the national murder rate is about 50 per 100,000. Only El Petén is not well predicted by this model, having a lynching rate far higher than its percentage of indigenous persons would predict. Yet, the ethnic data, which are based on the 1994 population census, probably miss the mark for this department far more than others because of the very larger migration of indigenous populations to the Petén in recent years. Indeed, it is these

very areas in which major land-based conflicts have broken out between the newcomers and residents of longer duration, a factor that may be in part responsible for the lynchings. The United Nations argues that the lynchings are directly linked to the now largely demobilized civil defense patrols set up by the military during the insurgency as an auxiliary branch of the armed services.

However, because these patrols were most commonly established in indigenous areas, it is very difficult to separate the impact of ethnicity from the impact of the civilian defense patrols as a causal factor in the lynchings. In effect, there is a problem of multi-collinearity that cannot be corrected since the two variables, ethnic identification and the presence of civil patrols are highly associated with each other. What we know from the analysis presented in this figure is that high concentrations of indigenous populations are strongly associated with a high frequency of lynchings. This pattern certainly does not bode well for a deepening of democracy in Guatemala.

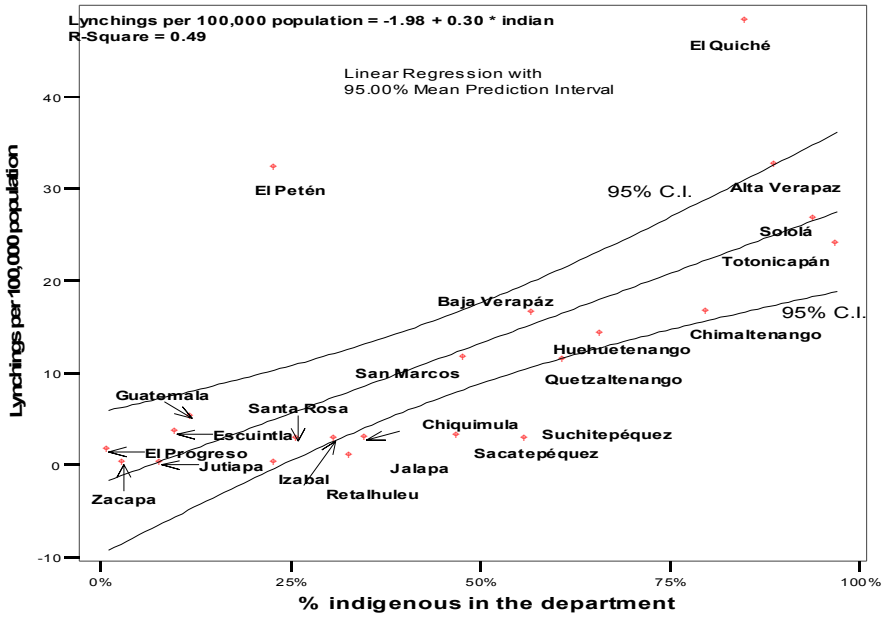

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Figure 2. Concentration of indigenous and lynchings per capita.

In the 1999 University of Pittsburgh survey mentioned above, Guatemalans were asked about their support for vigilante justice. The question read: "In various communities, suspected criminals have been lynched. Some say that when the authorities do not fulfill their responsibilities the people can take justice into their own

hands, while others say that these means should not be resorted to. With which view are you more in agreement?" Figure 5 shows the results. Nearly one-third of the respondents see the lynching of suspected criminals to be an acceptable form of "justice." While 36 percent of the *ladino* population, excluding the nonrespondents from the results, approve of lynchings, 41 percent of the self-identified indigenous population approve, a difference that, while not statistically significant, shows the broad support for the phenomenon across the ethnic divide in Guatemala.

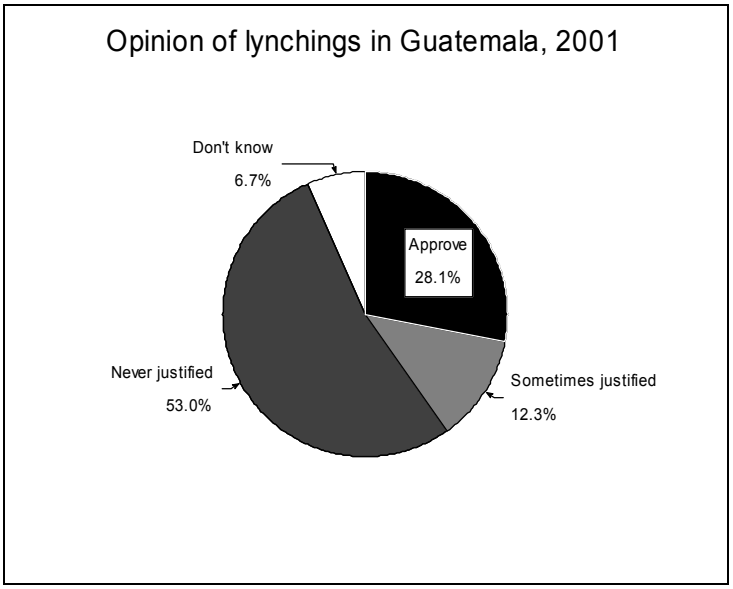

Figure 3. Opinion of lynchings in Guatemala, 2001 (ASIES Data)

It is also clear that Guatemalans directly link the lack of the rule of law, the failure of the state to protect citizens from criminals, to their explanation of the lynching phenomenon, as is shown in Figure 4 below. Sociological explanations such as a lack of education are only noted by fewer than one-in-ten respondents in the 2001 survey.

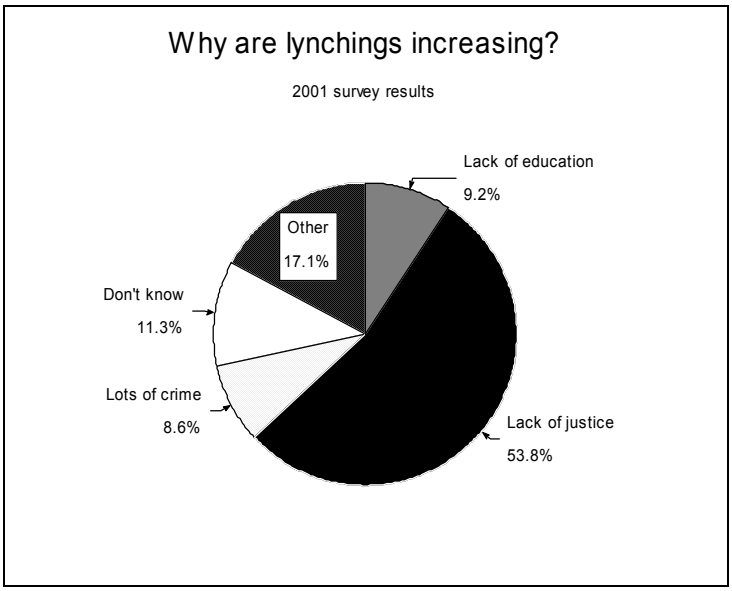

Figure 4. Why are lynchings happening? Guatemala, 2001 (ASIES Data)

Challenges in the Rule of Law

Closely related to the potential for violent ethnic conflict is the growing nation-wide problem of crime in Guatemala. According to the Centro de Investigaciones Económicas Nacionales (CIEN, 1999), the national violent death rate for 1996 was calculated at 58.68 per 100,000 inhabitants. That is a level fifty times higher than found in Japan, and eight times higher than the U.S., among the most violent industrial democracies. One has to go back to 14th century London, at a time prior to the establishment of establishment of regular police forces to find historical homicide rates as high as found in contemporary Guatemala.[10] According to Kincaid, "Some 60 gangs were operating in Guatemala City in mid-1998; among them were several chapters of the largest Salvadoran gang, Salvatruchas" (2000, 49). The Inter-American Development Bank reports that in Guatemala crime victimization is higher than in any other country in Latin America, with El Salvador in second place (IDB 2000, 13), although other studies place El Salvador far ahead of Guatemala.

[10]Gurr (1981:306) reports a rate for the first half of the 14th century as somewhere between 36 and 52 per 100,000.

The growing fear of crime has placed in jeopardy what was perhaps one of the most important reforms agreed to in the peace accords, and that is limiting the army to defending the nation from external attack. Using the army for internal security purposes has been one of the most important impediments to democratization in Latin America for many decades (Loveman 1993, 1999; Loveman and Davies 1997). Such a restricted role for the Guatemalan military, as specified by the peace accords, conflicted with the 1985 constitution, as amended in 1993, which itself had been drawn up by the military regime. That constitution defined the military's mission so as to include an internal security role (Kincaid 2000, 47). Specifically, the constitution states in article 244: "El Ejército de Guatemala, es una institución destinada a mantener la independencia, la soberanía y el honor de Guatemala, la integridad del territorio, la paz y la seguridad interior y exterior." Because the constitutional reform was defeated in the national referendum referred to above, the military still retains its dual role. The reform would have made two key changes in the role of the military. First, the following language would have been inserted in article 244: "El Ejército de Guatemala, es una institución permanentemente al servicio del Estado." Second, "Tiene por función la defensa de la soberanía del Estado, la integridad del territorio, y la seguridad exterior."

Although key military counterinsurgency bases were to have been closed, some have remained open in order to facilitate the military's internal policing function, which it still retains. About one-third of the army, Kincaid estimates, serve in police roles. Moreover, the great bulk of the members of the "new" civilian police force are merely recycled members of the outlawed National Treasury Police. This is a clear signal that the "civilian" police force mandated by the peace accords involved changing insignias and uniforms, but little else. Yet, public support for the military's role in fighting crime is overwhelming: 79 percent of the population in the 1999 University of Pittsburgh survey supported this role.

Another item in the University of Pittsburgh Latin American Public Opinion Project gives further reasons to be concerned with crime and its threat to democracy in Guatemala. The question read: "Do you think that in our country what is needed is a strong-hand government [*gobierno de mano dura*] or do you think that the problems can be resolved by the participation of everyone?" An identical item was included in national probability samples in Guatemala in 1993, 1995, 1997, and again in the most recent survey in 1999. The results for this series of surveys are shown in Figure 5 below. Two findings become evident. First, there is more support for strong-hand rule than there is for popular participation in politics. Second, support for strong-hand rule was very stable from 1993 through 1997, but then increased significantly in 1999. This

increase occurred in the context of a presidential campaign in which law and order became a central issue. The victor in that campaign not only advocated a tough stand on crime, but also admitted to personally having killed two men in self-defense some years before while in Mexico. Pollsters claimed that this incident provided a "macho" image for the candidate, one whom voters could trust to be "tough on crime."

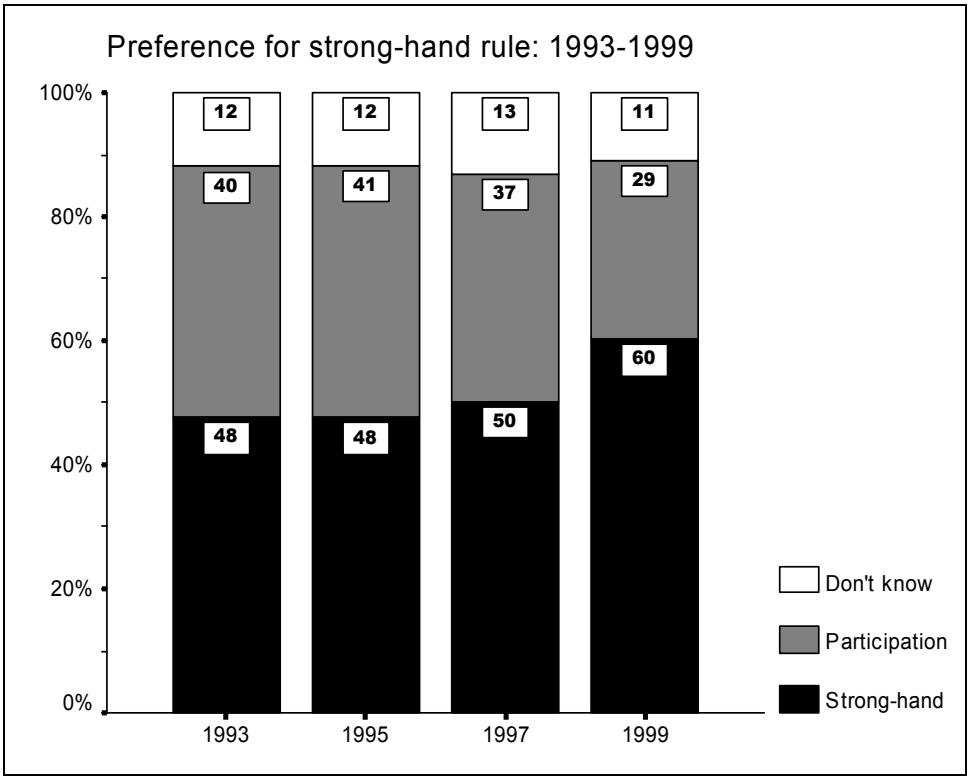

Figure 5. Preference for strong-hand rule, 1993-1999, University of Pittsburgh surveys

We do not know the level of crime in Guatemala that might cause citizens to demand that the military take over. Indeed, we do not know if there is any level of crime that would cause this to happen. Yet, the evidence presented above, while not suggesting that democracy in the form of regular competitive elections would be overthrown in Guatemala, does suggest that high levels of crime could stimulate support for restrictions on civil liberties. For example, in 2001 a major jailbreak occurred in Guatemala, resulted in the freeing of some 80 convicted criminals. The upshot was twofold. First, the population widely believed (with good justification I might add), that the break occurred with the complicity of corrupt authorities who had been bribed to look the other way. Second, the government immediately declared a limited 30-day state of siege, restricting a number of civil liberties in order to help the authorities find and reincarcerate the fugitives. Might these short-term restrictions

become longer term, and might governments get into the habit of restricting democracy in order to deal with crime? If the answer is "yes," the future of democracy in Guatemala is grim indeed.

The Difficulty of Building Institutional Democracy Unsupported by a Democratic Civil Society

Guatemala's peace accords have not only ended the protracted civil war, they have attempted to construct the institutional basis for democratic consolidation. Dahl, in his classic book on polyarchy (1971), argues forcefully that institutions alone are not enough to ensure a democratic outcome. Only when citizens of a nation embrace democratic values can democracy survive and prosper. Looking at the data for Guatemala, there is reason to be concerned. In the 1997 Latin Barometer, a question asked respondents to select among three alternatives: (1) "Democracy is preferable to any other form of government"; (2) "Under certain circumstances, a dictatorship is preferable to democracy"; (3) "For people like me, a democratic or a nondemocratic regime are the same"; or Don't know.

The bars in Figure 6 below represent those who chose the *democracy* response. As is clear from this comparison, Guatemala scores at the bottom in Latin America.[11] When the identical question was asked in the 1999 University of Pittsburgh survey of Guatemala, the results were virtually identical, with only 43.5% of respondents preferring democracy.

[11]Unfortunately, the Latin Barometer suffers from a number of problems in sample design that vary from country to country. The results presented below are based on weighted results that attempt to correct for the serious over representation of highly educated respondents in many countries. If those corrections are made, the series is more homogenous in design than the original database. The Latin Barometer results for other years show fluctuation in these results, but as the raw data are not available to the public for those years, we cannot make the appropriate weighting adjustments and draw any conclusions from them.

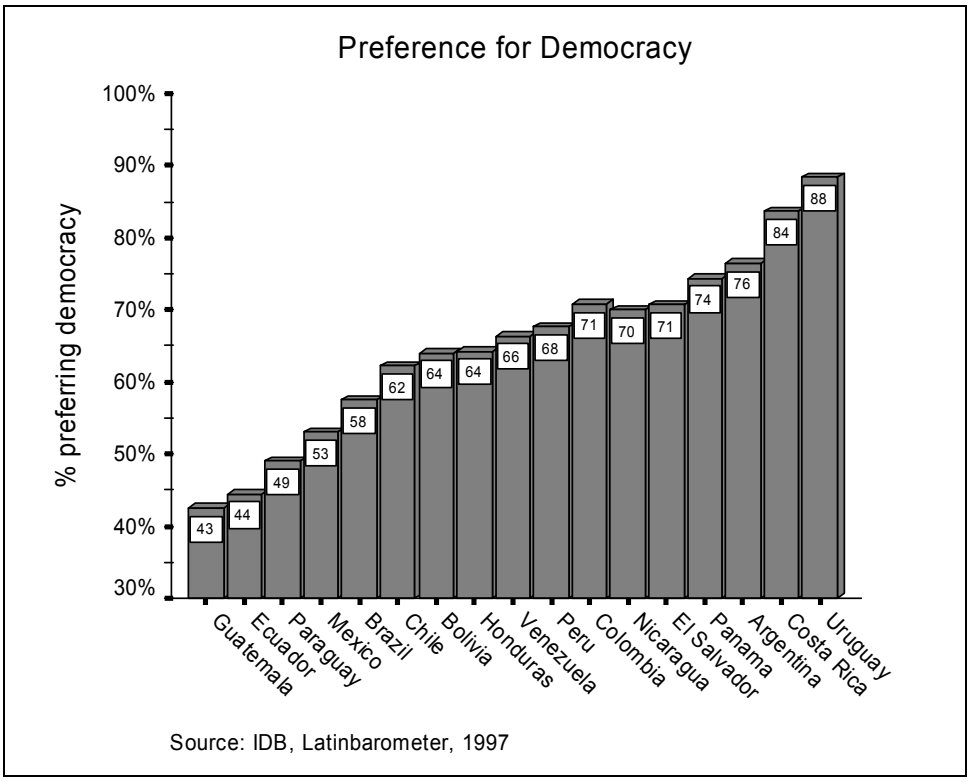

Figure 6. Preference for democracy in comparative perspective

The importance of developing human capital in increasing support for democracy is clearly obvious in Figure 7 below, where the 1999 University of Pittsburgh survey data for Guatemala are displayed for this same item on support for democracy over dictatorship. Among those with the lowest level of education, just over one-third of the respondents prefer democracy, and among those with primary or less education, who comprise 74% of the sample, only two-fifths support it. Only among the tiny minority of Guatemalans with at least some university education is there a strong preference for democracy over authoritarianism.

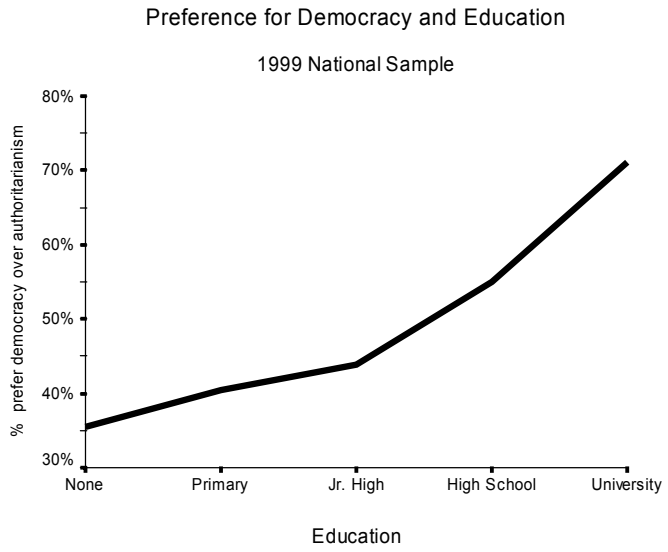

Figure 7. Preference for democracy and education in Guatemala: University of Pittsburgh Survey

One might hope that as democracy takes hold in Guatemala, there will be an increase in support for it. Yet, Figure 8 below shows that *younger* Guatemalans are no more likely to support democracy than older Guatemalans. Perhaps this is because young people have not experienced the full impact of the repressive period, or perhaps because they are more seriously affected by problems of low income, unemployment, and crime that have accompanied democratization. Whatever the reason, the young are not the hope for the future in terms of support for Guatemala's democracy.

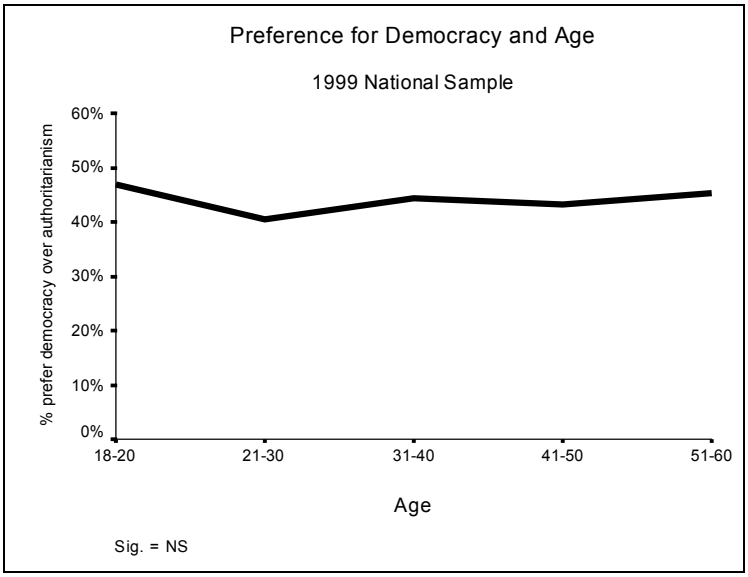

Figure 8. Preference for democracy and age: University of Pittsburgh survey

An overall assessment of citizen support for democracy has been part of the University of Pittsburgh series of surveys in Guatemala for a number of years. The 2001 results, which show the percentage of the population who express support for their system of government (i.e., believe in the *legitimacy* of the Guatemalan political system) and who are willing to tolerate the basic civil liberties of opposition groups, is shown in Table 5 below.

Table 5. Support for Stable Democracy: Guatemala in Comparative Perspective

COUNTRY/YEAR OF THE SURVEY	% OF CITIZENS WHOSE ATTITUDE FAVOR A STABLE DEMOCRACY (high system support and high tolerance)
BOLIVIA, 1998	11
PERU, 1996	12
BOLIVIA, 2000	13
EL SALVADOR, 1991	17
NICARAGUA, 1995	19
GUATEMALA, 2001	**20**
PARAGUAY, 1998	24
EL SALVADOR, 1995	29
NICARAGUA, 1999	32
EL SALVADOR. 1999	38
COSTA RICA, 1995	47

Sources: University of Pittsburgh Latin American Public Opinion Project and Preliminary Data, ASIES.

These results are based, as noted, on two variables, trust in the political system and political tolerance. It is in the area of political tolerance that Guatemala falls especially short, as is shown in Table 6 below.

Table 6. Political Tolerance: Guatemala in Comparative Perspective

COUNTRY/YEAR OF THE SURVEY	INDEX OF POLITICAL TOLERANCE
GUATEMALA, 2001	**40**
BOLIVIA, 1998	41
BOLIVIA, 2000	44
EL SALVADOR, 1991	47
PARAGUAY, 1996	50
PERU, 1996	52
NICARAGUA, 1995	54
EL SALVADOR, 1995	55
COSTA RICA, 1995	57
EL SALVADOR, 1999	58
NICARAGUA, 1999	61

Sources: University of Pittsburgh Latin American Public Opinion Project and Preliminary Data, ASIES.

Political participation is the essence of democracy. In Guatemala, for the last fifteen years citizens have been able to go to the polls regularly and choose candidates for both local and national office. Since the signing of the peace agreements, their choices have included representatives of the former guerrilla groups. Nonetheless, voter turnout in Guatemala, which historically has been low, according to a recent study (Boneo and Torres-Rivas 2000, 2), remains among the very lowest in Latin America, even with the return of democracy (IDB 2000, 178). That same study finds that other forms of political participation, such as paying attention to political news, rank second lowest in the region. Table 7 below shows the long-term trends in voting in Guatemala. It is notable that in the most recent two elections there has been a substantial increase in turnout, which is certainly a positive sign, indicating greater citizen involvement, at least in elections. One wonders if this trend will continue.

Table 7. Voter Turnout in Guatemala for Presidential Elections, 1950-1999

Year	Vote as Percentage of Registered Voters	Vote as Percentage of Voting-Age Population
1950	71.5	30.4
1954	69.5	32.5
1958	66.8	28.3
1959	44.6	18.0
1961	44.5	19.0
1966	55.0	23.7
1970	53.3	25.9
1974	46.4	25.5
1978	40.0	22.9
1982	45.6	30.6
1985	69.3[a]	49.9
1990	56.4	43.8[b]
1995	46.7	33.3
1999	53.8	44.0
2000	NA	NA

[a] First-round results.

[b] The main source for this table seems to be in error (with a significant underestimate) for these data points, so results from Córdova (2001) are substituted.

Source: Boneo and Torres-Rivas 2000, 2; Córdova (2001).

Guatemalan Democracy: Half Full or Half Empty?

Achieving democratization in Guatemala is going to be a long and difficult process. It is impossible to predict the ultimate outcome, yet when compared to the darkest days of the long period or repression, prospects for the future certainly look brighter. Today, elections are free, fair and regular, and Guatemala is no longer laboring

under the burdens of a protracted civil war. The peace agreements, in theory, at least, guarantee citizenship rights that were unthinkable only a decade earlier.

Yet, this desk has emphasized the many and serious challenges to democracy that Guatemala is facing. It is clear from the analysis presented here that many of the fundamental elements of the peace agreements, aimed at breaking down the barriers to full participation by the indigenous population, by stimulating development of their human capital, have not been realized and it is difficult to imagine how and when they could be achieved. The changes needed require a major reorientation of the political economy, one that would emphasize substantially increased investment in human capital, along with increased taxation. The prospects for such a reorientation seem dim indeed. Failures to implement key constitutional changes through the referendum process leave the role of the military unchanged, constitutionally allowing it to continue to play a role as a central play in maintaining domestic order.

Equally troubling are the issues of violence raised of the paper. Democracy is a system of government with many strengths and weaknesses, but, for many observers, the "bottom line" is that democracies, unlike dictatorships, do not regularly kill their citizens. According to an extensive study carried out by Rummel (1994), world-wide some 170 million people were murdered by their governments for other than criminal acts during the period 1900-1987, a number he calculates as five time higher than the number of deaths attributed to international or civil wars. The 170 million total includes some 40 million foreign civilians killed by governments. Excluding the killing of foreign civilians (e.g., the attempt to exterminate Jews by Nazi Germany) leaves a total of 130 million domestic civilians who were killed by their governments for political reasons from 1900 to 1987. Dictatorships and authoritarian governments were responsible for over 129 million of those deaths. The rest, 158,000 citizens, or 0.12 percent of the total, were murdered by democratic governments. Democratically elected governments thus have been extremely unlikely to exterminate their own citizens during the twentieth century, as they account for a minuscule one-tenth of one percent of the total number of citizens killed for political reasons by their government.

What we learn from Rummel's study is that while democracies do not kill their own citizens, Guatemalan democracy is allowing them to be killed by criminals or killed by vigilante mobs. It appears that what has happened in Guatemala is that one kind of violence, that largely carried out by the state, is being replaced by another, that being carried out by its citizens. The result is that physical security, a fundamental benefit of democracy, if not *the* fundamental benefit of democracy, is not being enjoyed

by Guatemalans. Indeed, one could go further and argue that a fundamental benefit of states of any kind, since state organization first emerged on the global scene, is the physical protection of its citizens from violence, a feature that has been and remains sadly lacking in Guatemala, both during the decades of dictatorial rule and during its present period of electoral democracy.

Much of the future of Guatemala's democratic prospects will depend upon resolving the paradoxes I have enumerated. If social spending remains low, violence continues to be a serious threat (or becomes even worse), vigilante "justice" grows, and support for democracy remains low, the prospects are grim indeed. On the other hand, virtually no social scientist would have predicted in the 1980s that Guatemala would one day sign a peace treaty with the guerrillas and that the agreements would specify such a broad range of measures to help democratize the system. The problem remains, however, of turning those agreements into reality.

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Annex 3

FACTORS AFFECTING PROGRAM IMPACT

The Assessment Team found it useful to distinguish between two types of factors affecting the significance of USAID program impacts on democratization: external and internal. "External factors" are the actions and results of decisions made by stakeholders other than USAID: Guatemalans, other USG authorities, and other countries and donors. Obviously, USAID cannot control decisions made by these actors, but it may be able to influence them. "Internal factors" are those under USAID's control. They are USAID's own decisions and actions regarding D/G program strategy and the design and implementation of individual programs. The external and internal factors identified in this case study are listed below. The Office of Democracy and Governance may find it useful to develop an analytical model using these factors and others identified as influential in other country programs.

External factors include:

- **Actions of Local Political Actors:** Those actors include local elites, politicians and office holders, stakeholders, civil society and business.
- **International Pressures for Reform**: The extent to which local elites feel pressure for political reform exerted by neighboring countries and the international community.
- **Other Donors**: Their programs and how well they collaborate with local reformers, USAID, and other donors.
- **USG Political Will and Possibilities for Action**: USG political will is affected by the priority given to democracy-building efforts among other bilateral relation objectives, and the stance adopted by U.S. ambassadors regarding democratization issues. Possibilities for effective USAID action are also affected by the USG's reputation among a country's potential reformers.

Internal factors include:

- **Taking Account of the Political Nature of D/G Programs:**
  1. Knowledge of political context: identifying country's basic impediments to democratic development[1]; identifying most relevant political factors in each D/G assistance area; awareness of external factors (see above); identification of stakeholders and their incentives.
  2. Practices for dealing with stakeholders and for promoting consensus and constituency building for change.

[1] Use of the "five-box" analytical model developed by the Office of Democracy and Governance reveals these.

3. Practices for cooperating with the Ambassador and other USG agencies on diplomatic initiatives and other programs to reinforce assistance efforts.
4. Flexible, dynamic decision making to initiate, revise, and terminate activities as political conditions change.

- **Partnering Practices**:
  1. Selection of local reformers with whom to partner.
  2. USAID's partnering stance: A range of stances is possible – from providing technical, financial, and political support for leadership by local reformers, to engaging local organizations and individuals to carry out program strategies defined by USAID.[2]

- **Decisions on Program Strategy**:
  1. Overall D/G program: choice of sectors and priority among them; number of sectors addressed (broad vs. deep programs); addressing basic impediments to democratic reform; relationship with rest of USAID's programs; balance between "demand" and "supply" approaches.[3]
  2. Individual sector programs: balancing policy and institutional reforms, use of pilot projects, decisions among areas for action,[4] decisions on geographic focus.

- **Determining Program Objectives and Monitoring/Evaluating Program Results**:
  1. Selecting program objectives (and indicators) that are useful in managing programs, ones that define desired outcomes, both political and technical, in terms of pragmatic steps that can be achieved in the short run in the country in question.[5]
  2. Practices for monitoring and evaluating program results together with local partners.

- **Coordination with Other Donors**: Bilateral donors, the United Nations, development banks (including coordination with U.S. Treasury Department), and private foundations and nonprofit organizations.

- **Decisions on the Level, Stability, and Longevity of USAID Funding**.

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[2] Joint analysis and joint program design, monitoring, and evaluation, with responsibility for leadership taken by local partners and agreement with USAID on the limited number of areas in which it wants to be consulted, usually works best.

[3] Civil society demand vs. institutional reform. The synthesis study (pg. 36) noted "Where political will needed to be created or significantly reinforced, a larger share of the investment had to be diverted to building commitment and may therefore have produced a smaller and less predictable return." We see the issue in terms of balance and emphasis rather than "diversion," and would look for greater impact when good choices are made.

[4] For example, in ROL programs, the decision to focus on criminal justice vs. civil justice or ADR.

[5] Not abstract goals that might be applicable in several countries and can only be achieved over the very long run. Short-run objectives might be those impacting individuals and institutions, not whole political systems. Because they are outcomes, their realization will not be under USAID's full control.

Annex 4

NOTES ON CIVIL SOCIETY PROGRAMS

Definition of Civil Society

Citizens choose to organize and cooperate among themselves to meet individual needs and fulfill responsibilities to others. Two major spheres in which they do so are business and government. All other spheres in which citizens cooperate can be considered "civil society." Included are community groups, volunteer organizations, and other NGOs, professional organizations, and nonprofit entities. The common denominator of civil society is citizen participation and collaboration.

A useful description of civil society is included in Brian O' Connell's *Civil Society, The Underpinnings of American Democracy*:[1]

> "I find clarity on the topic has to start with correcting two common misconceptions: that civil society is synonymous with the voluntary, independent sector, and that civil society is synonymous with civility. Civil society includes both the independent sector and civility but also a great deal more.
>
> "The most common agreement about civil society is that it represents the balance between the rights granted to individuals in free societies and the responsibilities required of citizens to maintain those rights." (p. 10-11)
>
> "For a part of society that is so fundamental, it is curious that few of us could describe the place from which civil society operates and exercises such sweeping influence. Though my overall goal in the book is to simplify the topic, I have to admit that on the matter of location and parameters, simple answers lead to even greater confusion or inadequate understatements. For example, the most common description is that civil society occupies the space *between* government and the individual, or the space not occupied by government or commerce. But these descriptions fail to indicate adequately the primary role of citizens within government and the roles of government in setting forth and preserving the freedoms.[2] Those descriptions also fail to acknowledge the public services and the public problem-solving roles of business.
>
> "Sara M. Evans and Harry C. Boyte, in *Free Spaces: The Sources of Democratic Change in America*, locate the primary territory of civil society as 'The public spaces, in which ordinary people become participants in the complex, ambiguous, engaging conversation about democracy: participators in governance rather than spectators or complainers, victims or accomplices.' They elaborate:

[1] Brian O' Connell, *Civil Society, The Underpinnings of American Democracy* (Tufts University, University Press of New England, 1999).

[2] Those enumerated earlier that are enjoyed by citizens in a free society.

'The central argument of this book is that particular sorts of public places in the community, what we call free spaces, are the environments in which people are able to learn a new self-respect, a deeper and more assertive group identity, public skills, and values of cooperation and civic virtue.'" (p. 12-13)

"Civil society exists at the intersection where the various elements of society come together to protect and nurture the individual and where the individual operates to provide those same protections and liberating opportunities for others." (p. 24)

This final description of civil society is preceded by the statement that "civil society begins with self, the individual, and our private lives" (p. 14), and a reminder of what are the "elements of society" or spheres of activity in which citizens cooperate to meet individual needs and fulfill responsibilities to others: community, government, business, and voluntary organizations.

USAID Approaches to Civil Society Development

Democracy program practitioners in USAID often discuss whether civil society programs should be focused narrowly on improving advocacy by NGOs concerned with democracy-related topics and public policy (i.e., CSOs), or more broadly on increasing a country's "social capital."[3]

Although civil society exists in totalitarian countries, Robert Putnam and others believe that it is more developed, and democracies are more stable, in societies possessing greater "social capital." The quantity of social capital present in a country is said to depend on:

- the level of interpersonal trust among its citizens;
- the number of active civic leaders;
- the degree to which citizens participate in social, political, professional, and other organizations; and
- the extent to which they share the belief they should act to promote the common good, and that gradual social change is natural and desirable.

[3] In a 1999 article on Guatemala, Prof. Mitchell Seligson made reference to this debate:
"The USAID CDIE civil society assessment cited above limits its scope by defining civil society far too narrowly. The official definition is as follows: *'Civil society is defined as those non-state organizations which are engaged in or have the potential for championing the adoption and consolidation of democratic governance reforms.'* Such a definition seems appropriate for national-level civil society organizations of the type that might help move Guatemala toward greater respect for human rights, as discussed in the previous section. Such organizations can hold governments accountable at the national level, can seek policy changes, and help obtain the approval of new laws and regulations. They would not, however, be fundamental to the creation of more responsive governments at the local level, where policy is rarely an issue." Mitchell Seligson, *Guatemala: Why Strengthen Civil Society: Development Associates Occasional Paper in Democracy and Governance*, January 1999.

USAID has not yet enumerated the various assistance activities that can help build social capital, but a short list might include civic education, promoting citizen participation, fostering development of the various types of nonprofit organizations citizens establish to meet shared objectives, and helping develop a free press and other media that serve citizens in a democracy.

Annex 5

RECOMMENDATIONS FOR TAKING ACCOUNT OF POLITICAL FACTORS IN D/G PROGRAMS

USAID takes adequate account of political factors in its D/G programs when it:

(a) constantly endeavors to understand local political dynamics;
(b) accepts the need to deal with the interests of a variety of local stakeholders, some of whom may not be democratically inclined;
(c) maintains enough program flexibility to take advantage of opportunities to support reforms when they arise;
(d) understands the pragmatic limits to USAID efforts in support of democratic reforms that exist because the U.S. has other interests to pursue in any particular country, or because of local attitudes towards the USG for actions previously taken affecting that country; and
(e) takes advantage of opportunities for USG diplomatic initiatives to reinforce assistance efforts.

When D/G programs are not moving forward as expected, and USAID officers find themselves saying "decision-makers lack political will," they might find it useful to ask themselves whether they have been promoting approaches that - while technically sound and shown to be useful in other countries - fail to take adequate account of local political realities.

When the actions and motives of local stakeholders seem more self-interested and less principled than USAID might recommend, there may be no viable alternative to tolerating the situation until conditions change. On the other hand, USAID officers can also ask themselves, and their local partners, whether actions can be taken by local partners - with USAID support - to influence stakeholders, or by the USG itself.

Practices that USAID missions can follow to ensure they take adequate account of political factors include:

- **Analyzing political realities** - such as the most basic impediments to democratic development in a particular country, the behavioral incentives and operating dynamics at work in organizations with which USAID is cooperating, and the beliefs and attitudes prevalent among stakeholders. For this, the work of political scientists, both U.S. and local, who have invested years of effort analyzing the countries in which USAID operates, can be extremely useful. Missions have also been wise to rely on their own local staff and the local partners they select to understand local political realities.

- **Carefully selecting local reformers with whom to partner** – perhaps the most important decisions influencing the degree of impact that missions make.

- **Following the lead of local partners, and monitoring their performance against agreed objectives with them**. They have the most direct stake in reforms. USAID should take advantage of opportunities to pursue reforms those leaders see coming, rather than try to apply standardized approaches that may be more technical than political, or may be based on democratic practices in the United States.

- **Agreeing with the Ambassador and representatives of other agencies, at post and in Washington, on actions that can be taken** on behalf of the USG to reinforce efforts being taken by local leaders with USAID support.

- **Making sure that the outcomes defined for D/G activities give prominence to desired changes in political processes** - expressed as country-specific, near-term steps in ongoing reform processes, rather than ultimate goals in abstract democratic models.

- **Investing the resources needed to gather relevant information** to use with partners in monitoring and evaluating progress achieved.

Annex 6

SUGGESTED ISSUES FOR FURTHER INVESTIGATION

1. D/G Program Strategy

a. Identification of the Basic Impediments to Democratic Development

- What is the most appropriate analytical framework for identifying impediments? The assessment team found the one used by the Office of Democracy and Governance for "forward assessment analyses" useful. It measures overall democratization progress using five variables: Consensus, Competition, Inclusion, Rule-of-Law, and Governance.

b. D/G Programs in Post-Conflict Societies

- Are there any issues that should be analyzed more closely in post-conflict countries in order to ensure understanding of current political dynamics? The Assessment Team found that the topics of degree of consensus, rule of law, role of the military, public security, human rights, economic welfare disparities, levels of social capital, and effectiveness of political parties were relevant topics in Guatemala.

- Do post-conflict countries present USAID with the need to pay special attention to supporting reconciliation and collaboration efforts? For example, should USAID actively promote programs under which citizens from different walks of life have the opportunity to practice (1) engaging in principled dialogue on issues of mutual interest and (2) collaborating to take action to resolve shared problems? The purpose of efforts to foster dialogue and collaboration among citizens would be to help them develop their own democratic attitudes and values, and increase social capital and system support – all of which are needed to sustain democratic development. Such efforts could be carried out in a variety of places: communities/municipalities; schools; among CSOs, universities, interest groups, and other organizations of civil society, etc. They could be included as part of traditional D/G sectoral programs, and carried out independently.

c. Selection of Local Partners and USAID's Relationship With Them

- How important has USAID's ability to select local partners directly been in other countries? Do USAID's contracting procedures need to be modified to allow missions to choose the best reformers and organizations with which to work?

- USAID/G-CAP's decisions to allow some of its local partners to take the lead in pursuing reforms were often an important factor in achieving impact. USAID often establishes the objectives and implementation strategies of its D/G programs, and then signs cooperative agreements or contracts with local partners to carry them out. USAID involvement in day-to-day implementation decisions is sometimes

heavy. The alternative to this way of partnering is to select local reformers and work with them to agree what they will do with USAID funds and how USAID can best support their efforts. Day-to-day involvement in implementation is minimized or limited to areas of particular sensitivity to the USG. Have USAID missions' decisions on how to partner with local reformers been an important factor in achieving impacts in other countries?

- What approaches can USAID take to collaborate with political leaders, both party leaders and elected leaders, to expose them to democratic practices successfully being pursued in other countries, or to encourage their collaboration with each other (all with a view to developing more democratic political practices.)

d. Consensus Frameworks for D/G Reforms

- The Peace Accords and the Criminal Procedures Code proved to be very useful to Guatemalan reformers and their supporters. How might USAID encourage such efforts in other countries? The UNDP recently worked with Argentine public and private sector leaders to sponsor a consensus-building effort entitled *Dialogo Argentino* at which civil society, business, and governmental leaders defined goals in areas of common concern. What are the different approaches to societal consensus building in which USAID has been involved or witnessed?

e. Crosscutting D/G Themes

- What are the best ways to address country-specific basic impediments to democratic reform? Can some of them be addressed directly, or is it best to make sure that USAID's programs in each D/G sector in which it chooses to work take account of them? If directly, should USAID develop approaches in some of those areas to complement it D/G "sector" programs?

f. International Pressure and Donor Coordination

- What steps can USAID take in coordination with colleagues in the State Department, and local partners, to focus international pressure on governments and elites when necessary in countries in which D/G programs are being carried out?

- Can USAID (and State) agree with the Treasury Department on better ways to coordinate USG decision making when IFI D/G projects are being developed and are presented to IFI boards for approval?

2. Sector Program Design

a. Deciding on Program Objectives

- The R4 program design and monitoring process has been abandoned by USAID. What approaches can missions now use to select objectives for D/G programs that

can actually be used to guide program activities and monitor progress? Should local partners be more involved in selecting objectives? What should be the time horizon for objectives? How can priority be given to objectives addressing desired changes in political processes? In post-conflict societies where it is clear progress will occur slowly, can the Office of Democracy and Governance suggest the types of objectives missions can set to monitor incremental short-term progress in areas where full reform is likely to take generations?

b. ROL Programs

- **Demand and Supply**: What can USAID do to increase demand for ROL reform in countries facing significant political opposition to such reforms, because civil society is weak and/or it is very difficult to identify elites in favor of reforms, or willing to work to bring them about? What factors should missions consider in deciding how actively to seek out opportunities to increase demand for reforms?

- **Donor Coordination**: In cases where USAID and other agencies represented in embassies believe IFIs are making serious mistakes in their ROL programs, is there more scope for intervention by U.S. executive directors' offices to improve coordination?

- **Program Planning**: What procedures can USAID employ to work with its local partners to identify realistic objectives that assist all partners to track progress? (The progress that has been achieved in Guatemalan ROL reform has been slow and uncertain. In this sort of environment, USAID's setting of objectives more than a year or two in advance seems illusory. Furthermore, as with assistance in other democracy "sectors," objectives set for ROL reforms are often expressed as abstract ultimate goals, ones applicable as vision statements in almost any democracy, rather than as specific steps relevant to the country situations at hand (mostly outputs that build toward desired outcomes). Some more concrete and shorter-term objectives were cited for the Guatemalan program (the various IR indicators tracked annually), but the type of objectives tracked changed frequently.)

c. Civil Society Programs

- What are the factors USAID should include in the civil society analysis and consultation processes it carries out to design civil society programs?

- What factors should USAID missions consider when deciding whether to work to promote civil society development broadly or narrowly (i.e., whether to support a variety of efforts to address factors affecting the level of social capital, or to strengthen CSO effectiveness in achieving public policy results)? If social capital is weak, USAID assistance to help host country citizens develop it may make a more lasting contribution to democratic development. For instance, in the political environment that exists in Guatemala, the advisability of encouraging CSOs to develop policy proposals, draft laws, and directly negotiate with executive branch

officials may need to be considered more carefully. If CSOs are not able to cast their nets widely enough among stakeholders, the policies they develop may not respond adequately to those stakeholders' needs. Also, CSO–executive branch negotiations can perpetuate the more authoritarian status quo, where those in power hold most of the cards in deciding public policy, and delay the development of effective political parties that serve a useful democratic function by brokering compromises among competing interests.[1]

- How can USAID incorporate concerns regarding civil society strengthening in its cooperation with NGOs working in other sectors (environment, rural development, etc.)?

- When missions decide an emphasis on CSO advocacy is appropriate, two other questions are:

  - How best should activities to improve CSO capacities be balanced with those to achieve public policy results?
  - How can CSOs best achieve public policy results – by advocating and negotiating short-term policy changes directly with government officials, or through longer-term constituency and coalition-building efforts among CSOs, NGOs, trade associations, businesses, and other civil society members (churches, unions, etc.)?

d. Local Governance Programs

- Does USAID have experience in other countries with successful local governance programs that do not provide resources for public works projects that can provide information on the types of incentives found to be useful in ensuring effective participation by local government officials and citizens?

- How important is the inclusion of components addressing local revenue generation to the success of local governance programs in other countries?

- What are the national decentralization policy areas that need to be addressed in order for local governance programs like NEXUS to succeed?

e. Legislative Strengthening Programs

- What approaches has USAID used to get party leaders in legislatures to make the political decisions required to establish procedures to carry out legislative responsibilities? What approaches has USAID used to get those leaders to set up

[1] This useful function was pointed out in the assessment protocol (p. 7): "In contrast to civil society where groups tend to represent particular interests, political society must aggregate these interests, broker compromises, and furnish the means of arriving at a workable agreement between actors with conflicting interests."

legislative structures (e.g., standing or ad-hoc committees) to which USAID consultants can turn for program decisions with political ramifications?

3. Program Monitoring and Evaluation

a. Indicators of Political Process Reforms

- What has been USAID's experience to date in identifying indicators that are useful in measuring desired changes in political processes? DIMS-type analyses of attitudes, values, and practices are useful in understanding underlying political dynamics and changes in broad democracy-related variables. In carrying out the 2001 DIMS survey, USAID decided to contract a local organizations whose personnel had had experience with the DIMS formerly carried out by the University of Pittsburgh. This enabled the Mission to collaborate more fully in the elaboration of questions that would help ensure that political factors relevant to ongoing programs could be assessed. Such a strategy needs to be carried out carefully to ensue that local contractors possess adequate technical capabilities. This may dictate that joint efforts be carried out by local and U.S. contractors. The issue here deals more with how USAID best collaborates with those chosen to carry out the research.

b. Participatory Monitoring and Evaluation

- Generally speaking, USAID uses two types of evaluations: expert-type and participatory. In the former, outside experts in a particular program area are asked to provide USAID and its partners with independent views on program achievements and processes. In the latter, USAID hires a knowledgeable outside facilitator to work collaboratively with USAID, its partners, and other stakeholders to enable them to learn together about what they have helped accomplish and how, and make decisions about future collaboration. The principal difference between the two types of evaluations relates to control of learning and decision making. In the former, USAID's consultants try to convince USAID and its partners that their findings and conclusions are accurate, and USAID controls decision making. [2] In the latter, learning and decision making is controlled by stakeholders. The extent to which agreement is reached on findings and conclusions is up to individual stakeholders, as are decisions on whether and how to collaborate in the future. Under what conditions is each type of evaluation useful in D/G programs?

[2] Not unlike this assessment. Although the team and USAID/G-CAP personnel worked collaboratively on it, the protocol provided for it to be carried out "expert-style."