Building the Peace by Mandating Reform

United Nations–Mediated Human Rights Agreements in El Salvador and Guatemala

by
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One of the novelties of post–cold war conflict resolution is direct intervention in the settlement of civil conflict by the United Nations (UN) Secretary-General. The peace processes in El Salvador and Guatemala are to date the most illuminating examples of this innovation. This article examines the role of UN mediation in these negotiations, focusing on the peace accords' mandates for postconflict institution-building and protection of human rights. Because of the strong orientation toward human rights advocacy on the part of members of the UN delegations to the talks and the volume of international human rights mobilization associated with both conflicts, the negotiations produced UN "peace-building" missions (the UN Observer Mission in El Salvador and the UN Verification Mission in Guatemala) that set an important precedent for international promotion of human rights principles and democratic institutions. In both cases, the UN mediator's activities extended beyond the role of "good offices" to initiating independent proposals, including recommendations for disarmament procedures, military restructuring, and judicial and constitutional reform measures.

The UN was able to take a proactive role in these negotiations because of a combination of unusually conducive domestic and external conditions. I argue that an examination of these factors will contribute to a better understanding of the conditions under which the UN can diplomatically intervene to promote human rights in other cases of internal conflict. However, despite shared permissive conditions, differences in the composition of the domestic ruling coalitions, especially with regard to the position of the military, caused the peace processes to differ markedly. In the Salvadoran case, the military's

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position was weakened by its dependence on (quickly eroding) U.S. assistance and by a generally acknowledged military stalemate. Further, the government's delegation to the negotiating table faced a well-armed and organized guerrilla command that exerted considerable influence over opposition forces in civil society. As a result, the Salvadoran peace process was of comparatively brief duration, and negotiations remained under the control of elites on both sides. Diplomatic pressure to produce a final peace accord in a timely manner, plus the military-strategic need to ensure the safe reintegration of combatants, took precedence over socioeconomic reforms, which were quite narrow in the accords package.

In the case of Guatemala, the military retained its dominant position in the ruling elite until the final months of the peace process, the armed conflict could in no way have been characterized as a military stalemate, and the guerrilla forces were weak, disorganized, and exercised little control over the civilian opposition. Civil sectors directly participated in the design of an accords package that is remarkable in the breadth and substance of the issues addressed and that has in turn contributed to a gradual emergence of nascent institutions in civil society capable of playing a leadership role in monitoring and advising the civilian government.

Although these dissimilarities meant that the Salvadoran and Guatemalan negotiations and resulting accords would differ in nature, from a broader perspective the similarities highlight three major factors that determined the successful outcome of their peace processes: changes in the regional geostrategic alignment, changes in the domestic governing coalitions, and the autonomy and sensitivity to human rights concerns of the third-party mediator. First, after 1989 the regional strategic interests of the United States shifted to a more pragmatic posture, with the result that the U.S. government ceased to impede initiatives to negotiate with Marxist insurgent movements in Central America. This change was largely a response to the cooling of the cold war at a time when relaxation of cold war hostilities was also ushering in a period of activism in the UN Security Council. Second, a pragmatic elite seriously concerned with international prestige and with the economic detriments of continued civil war and capable of exerting its influence over the military high command emerged in both countries. These realignments led each government and its armed opposition to enter into negotiations mediated by the Secretary-General's personal representative. Finally, the history of international human rights mobilization in Central America throughout the 1980s, plus the involvement in the peace process itself of actors associated with human rights advocacy, determined that the UN peacekeeping operation emerging from the negotiations would be centered around human rights verification and reforms to judicial and security institutions. In both

cases, members of or advisers to the UN delegations were part of a transnational network of human rights advocates that played a critical role in maintaining the topic of human rights at the forefront of the negotiating agendas (see Burgerman, 1998).

In sum, the UN's unprecedented intervention in resolving these internal conflicts depended on a conjuncture of international structural and domestic political factors. The role of the UN mediator, as well as the nature of the conflicts themselves, differed in the two cases. Because the position of the military in the ruling coalition was much stronger in Guatemala than in El Salvador, the Guatemalan peace process was more protracted and considerably less susceptible to mediator pressure. Further, while the government and the guerrillas remained inflexible for much of the Guatemalan process, civil sectors and international human rights advocates created an opening to play an important role. Ultimately, however, in both cases an international human rights observer mission was established and institutional reforms were mandated and implemented. This unique and quite interventionary outcome was due to the nature of UN mediation and to the involvement of human rights advocates in the negotiated peace processes.

NEGOTIATING HUMAN RIGHTS IN EL SALVADOR

Direct mediation of the negotiations in the Salvadoran peace process by a representative of the UN Secretary-General was, for the office of the Secretary-General, an unprecedented diplomatic intervention in internal conflict. Much of the success of the Salvadoran negotiations in achieving a final settlement was due to the active participation of the UN mediation team. Being without precedent, the role to be performed by the mediator was undefined at the outset. As the process unfolded, Alvaro de Soto, then Secretary-General Javier Pérez de Cuéllar's special representative, was able to create an assertive mediation role by taking advantage of the needs of the moment.

As mentioned above, changed conditions in the regional context and domestic political alignments contributed to the successful conclusion of negotiations. On the domestic front, first, conditions of "ripeness" for a political settlement had emerged. The conflict had reached a hurting stalemate, so that both sides recognized that their interests lay in a political rather than a military resolution. Second, a pragmatic faction of the economic elite had won the presidency, which both reduced the likelihood of either party's defecting from the negotiation process and (to a certain extent) inhibited cheating during the implementation of accords. Third, both sides were to a great extent capable of credibly committing their respective forces to abide

by agreements, given that the guerrilla hierarchy remained intact and the government was able to extract at least rhetorical loyalty from the military. Fourth, the armed forces, which might have seriously undermined or vetoed the process altogether, were heavily dependent on foreign assistance and thus could be subordinated to civilian control by the threat of having that assistance withdrawn.

In terms of geopolitics, several exceptionally propitious circumstances led to a successful outcome in El Salvador. Both parties' foreign military support eroded with the end of the cold war. The collapse of the socialist bloc and the loss of Nicaraguan assistance after the Sandinistas were defeated in the 1990 elections deprived the Frente Farabundo Martí de Liberación Nacional (Farabundo Martí National Liberation Front—FMLN) of much of its international political support. Even Cuba, attempting to reduce its own isolation, added its voice to the chorus urging the FMLN to cooperate in a ceasefire. The U.S. Congress, joined by the relatively moderate Bush administration, exerted unilateral pressure on the Salvadoran government and military. At the same time, the U.S. and Soviet foreign ministries joined in bilateral efforts at diplomatic persuasion. The fact that no major power opposed the process was critical in maintaining ongoing Security Council support for the process. Significantly, the high-profile nature of El Salvador's civil war drew an unusually generous commitment from the international community to assist in implementation and reconstruction.

Both the Salvadoran government and the FMLN had attempted to initiate negotiations in the mid-1980s but were unsuccessful because of inflexible postures on both sides and the Reagan administration's opposition to a nonmilitary settlement (Samayoa, 1989: 325-326 and n. 10; Dillon, 1988-1989: 165). The beginning of the successful peace process can be dated to the inauguration speech given by incoming president Alfredo Cristiani, in which he identified a negotiated peace as one of his administration's two top priorities. A schism had formed in the extreme right-wing Alianza Republicana Nacionalista (Nationalist Republican Alliance—ARENA); Cristiani represented an emerging pragmatic faction in the party that was seriously concerned with the economic repercussions of the government's international reputation as a human rights violator. At this point, with the economic elites demonstrating a will to negotiate and the political arm of the FMLN also announcing a desire to initiate talks, domestic conditions were finally conducive.

Preliminary talks began in September 1989, with UN and Organization of American States representatives present as observers. The involvement of military officers from the start of the mediated dialogue was taken as a positive indication of the military high command's commitment to support

Cristiani in seeking a political settlement (interview with Lic. Rodolfo Antonio Parker, formerly the armed forces legal counsel, November 10, 1994). It must be noted, however, that during this period, in late 1989, the military was split between a hard-line faction committed to total war and a more moderate or pragmatic faction willing to discuss a negotiated settlement (Gibb and Smyth, 1991; Tulchin and Bland, 1992: 29). The division later widened considerably as evidence accumulated that the high command had been directly involved in the November 16 assassinations of six Jesuit scholars, their cook, and her daughter at the Universidad Centroamericana José Siméon Cañas. Junior officers began to express their dissent, particularly with the military's efforts to block the investigations.[1]

The ongoing prosecution of the Jesuit case throughout the negotiations had an immeasurable effect in keeping the military on board. Beyond this, the fact that the hard-line faction was at least kept in check for the duration of the peace process reflects the extent to which the military was financially dependent on the United States. The Dodd-Leahy legislation passed in November 1990 cut military assistance by 50 percent and made the remainder conditional on good faith in negotiations, acceptance of UN mediation, progress on the Jesuit case, and control of military violence against civilians.[2] Continued U.S. military support, which the armed forces had been able to take for granted for more than a decade, was suddenly insecure. The impact of this action on military cooperation with the peace process cannot be overstated.

The initial period of dialogue terminated when the FMLN formally withdrew from the process after paramilitary forces bombed the Federación Nacional Sindical de Trabajadores Salvadoreñas (National Trade Union Federation of Salvadoran Workers—FENASTRAS) building on October 31, 1989. An FMLN urban offensive in November further distanced the two parties. Most analysts agree that the offensive and the Jesuit assassinations provided the turning point necessary to convince both parties to the conflict of the infeasibility of a military victory and the urgency of a political solution (Rone, 1989; Doggett, 1993; Whitfield, 1995). The November offensive demonstrated to the FMLN that, despite its military capabilities, it was unable to incite the expected general urban insurrection and was therefore not likely to break the existing military stalemate. For the armed forces, the demonstration of FMLN capabilities convinced their supporters in the United States that a military solution was impossible.

In the wake of the failed urban offensive, FMLN commanders Salvador Samayoa and Ana Guadalupe Martínez requested a meeting with UN representative Alvaro de Soto, which took place in early December in Montreal. They conveyed the message that the FMLN was interested in having the UN

act as third-party broker for the negotiations but was concerned that the Secretary-General's office was too much under Security Council (meaning U.S.) control. In the course of this meeting a parallel mechanism was devised to provide the Secretary-General with a political base independent of the Security Council, which became the Group of Friends of the Secretary-General, composed of delegates from Venezuela, Colombia, Mexico, and Spain.

By mid-December 1989 both parties had concluded that UN Secretary-General Pérez de Cuéllar would be the logical choice for neutral third-party participant in the dialogue (given the implication of several neighboring states and of the Catholic Church in the conflict) and formally requested that he exercise his good offices to guarantee the process. It remained for the mediator's role to be defined, with de Soto and the FMLN proposing full mediation and the government holding out for a more limited role.

The issue was finally decided in late March 1990 when the parties agreed to the invention of the rubric of "intermediator," which was in effect the more active role that the FMLN had requested. In retrospect, it is clear that had de Soto accepted a less active role and/or had the definition of "good offices" remained ambiguous and open to interpretation, the Secretary-General's credibility would have been risked in a negotiation over which his office had relatively little control. After two months of discussions with the Secretary-General's representative, the government came to accept the stronger role of active intermediation. This was a compromise that significantly determined the tenor of the Salvadoran negotiations and introduced direct mediation as a tool for UN intervention in internal conflict.

The UN-mediated peace process began in Geneva on April 4, 1990, with the signing of a framework agreement. The resolution of the round of talks held in San José, Costa Rica, July 20-26, demonstrates the way in which the mediator's role began to evolve almost immediately. The agenda item for the meeting was purification of the armed forces; the previous meeting had ended without an agreement on this same issue. All involved were concerned by the possibility that the peace process might once again have reached an impasse and that its momentum and credibility would be lost.

Prior to the San José meeting, on July 16-17, a convocation had been held in Geneva of human rights specialists from Latin America, North America, and Europe. It was headed by the Venezuelan jurist and human rights expert Pedro Nikken, who was at that time a member of the Secretary-General's mediation team, and it included Salvadoran legal scholars and human rights advocates. In a day and a half they had compiled the skeleton for a human rights agreement, from which Nikken drafted a UN working paper to be

presented when the subject of human rights came up (following the armed forces topic on the negotiating agenda). Three major innovations in human rights intervention were discussed at this meeting. For the first time, the UN contemplated the possibility of effectively blanketing a country with human rights monitors. This was the first instance in which human rights was made the focus of a conflict resolution process, and the UN for the first time approached the idea of including institutional reforms aimed at long-term human rights protection in an accords package (interview with Ambassador Alvaro de Soto, UN Assistant Secretary-General for Political Affairs, April 9, 1996).

When it appeared that the San José meeting would end in another stalemate, de Soto decided to advance the agenda to the next topic to salvage the process' credibility. He opened discussions on the issue of human rights, using the experts' document as a basis. The result was an accord that was essentially an elaboration of the working paper drawn up in Geneva. The terms of the accord committed the parties to respect and guarantee nothing more or less than "those rights recognized by the Salvadorian legal system, including treaties to which El Salvador is a party, and by the declarations and principles on human rights and humanitarian law adopted by the United Nations and the Organization of American States." In this way, the terms of the first substantive accord required that the Salvadoran state comply with instruments to which it was already party but by which it had never previously been constrained. The FMLN was likewise obliged to respect international human rights and humanitarian law. Both parties were pledged to cooperate with international observers and to take any recommendations made by the mission into consideration.

When the accord was signed on July 26, 1990, the FMLN delegation came under fire from its civilian sympathizers and from its field commanders for having committed itself to such a degree without having gained anything in return (interview with Blanca Antonini, ONUSAL Chief Officer for Political Affairs and assistant to Ambassador de Soto during the negotiation process, November 10, 1994). From the start, the FMLN had insisted that, until the topic of the armed forces had been dealt with, there could be no progress on other issues. Now they appeared to have buckled under pressure (interview with Alvaro de Soto, April 9, 1996):

> Their constituents were rather taken aback by this whole thing. "You've been selling us this notion that there's no point in working on anything but the armed forces for all this time, then you come out with this? On top of this, the verification won't even start until there's a cease-fire! What is this?" So the FMLN came scurrying back, and they demanded that the verification start immedi-

> ately. And the government was put on the defensive and said, "It's not true that we're opposed to immediate verification." So, we were faced with a request within a few weeks. . . . It was the FMLN that initiated the request, in response to their constituents, who were very unhappy and very angry. . . . Then it took us several months to get our act together. There was a lot of agitation here at headquarters about security.

The Salvadoran human rights agreement thus became the context for another UN precedent: a peacekeeping mission that was deployed prior to a cease-fire. The subject of early deployment raised very real security concerns for the UN. The civil war continued unabated in combat zones; indeed, a guerrilla offensive was launched in late fall of 1990, and the FMLN was making effective use of its newly acquired surface-to-air missiles to keep up pressure for a negotiated settlement. The extreme right wing of the ruling ARENA party was vociferous in protesting the violation of national sovereignty that a human rights verification mission would represent. In point of fact, following deployment mission personnel were subject to death threats and at least one serious attack by right-wing Salvadoran nationalists.

AN INTERNATIONAL ARMY OF OBSERVERS

The UN Observer Mission in El Salvador (ONUSAL) originated as a human rights mission, with a mandate limited to verifying the San José human rights agreement. The most significant advance in international human rights protection to that point, it reflected a decade and a half of ongoing mobilization by international and Salvadoran human rights advocates. It also reflected current policy trends within the Secretary-General's office. The context for ONUSAL's development was a historical juncture in which the UN found itself in a position to resolve an unprecedented number of conflicts in a flurry of experimental activity following the collapse of the Soviet Union.

Drawing on the precedent of the UN Transitional Assistance Group in Namibia, the Secretary-General's representative proposed a verification operation under civilian rather than military administration, which would report directly to the Secretary-General and to the Security Council. The complete design was developed over a period of months after the San José accord was signed in July 1990. The original agreement called for a UN human rights verification mission but did not specify this mission's relationship to overall verification of peace accords. The idea of deploying the human rights mission as part of an integrated multidimensional operation was proposed partly for administrative/budgetary reasons but principally for the

tactical advantage of placing it squarely under the Security Council's authority and oversight (interview with Alvaro de Soto, April 9, 1996).

The UN's interventionary presence in El Salvador involved the organization in domestic political struggles, a role for which there was no precedent and no simple solution. It goes without saying that political actors have incentives to cheat on agreements to promote short-term interests. Mission leadership propelled the implementation process by developing and maintaining permanent, dynamic relationships with the parties, relying on their overall need to keep the process on track. While in several cases the UN found itself unable to overcome the parties' incentives to cheat, on at least one occasion, by holding firm, ONUSAL's directorship successfully pressured the parties into backing away from a side agreement that threatened to corrupt the new civilian police force (Stanley and Holiday, 1996: 22-24). Similarly, the mission's efforts to purify the judiciary were characterized by an alternation of public pressure with diplomacy. Throughout the process, the UN had to avoid disrupting its relations with the host government while taking an expansive approach to its mandate.

Overall, ONUSAL's peacebuilding was a qualified success; deficiencies were by and large the result of a lack of political will on the part of domestic actors rather than of problems with the mission's mandate or performance. Despite pressure from ONUSAL, criticism from the Secretary-General, and threats to curtail further funding from international donors, the passage into law of many reforms to the electoral and judicial systems was delayed largely because of the contentiousness of Salvadoran party politics (Spence, Vickers, and Dye, 1995). The cease-fire was completed without a single reported violation, despite several reschedulings. Former combatants were demobilized and returned to civilian life; however, there have been numerous, severe problems with reintegration programs, particularly with regard to indemnification of demobilized civil patrols.[3]

The professionalization of the judiciary proceeds apace, although impunity remains a major obstacle to national reconciliation. The new civilian police force is fully deployed and former militarized and paramilitary security forces have been disbanded, but ongoing reports of police violence indicate that civilian security norms are not yet properly inculcated. Certain of the constitutional reforms—most notably an article that would invalidate extrajudicial confession and strengthen the right to defense—were delayed by several years. In October 1994, an interagency commission of ONUSAL and UN Development Programme (UNDP) officials was established to continue administering postmission technical assistance to the institutional strengthening and reintegration programs, electoral reform, and assistance to demobilized former combatants (Boyce et al., 1995: 59).

ONUSAL's institutional reform aspect is unique and has provided a precedent for an important avenue of future peace-building efforts. For example, the second item of Guatemala's Comprehensive Accord on Human Rights of March 29, 1994, whose verification provides the basis for the Guatemalan mission's mandate, deals with strengthening national institutions that promote and protect human rights. Institutional reform by a multinational operation is also likely to prove controversial, as it more clearly intervenes in states' internal political affairs than did cease-fire monitoring or other traditional peacekeeping activities. Nonetheless, protecting human rights during the tenure of an operation and implementing structural and institutional reforms that will promote human rights after the mission has departed are equally essential to postconflict peacebuilding. The two efforts are related but not identical—human rights components monitor compliance and can inhibit violations only for the duration of the mission. After UN observers have left the country, the situation can easily revert unless precautions have been taken to implement protective reforms, demilitarize security forces, and strengthen the political and judicial systems with respect to international human rights standards. As of this date, the peace has held without significant threat. Although the political party system is still weakly institutionalized, dissent is channeled through the political system and there is no indication that actors are sufficiently disenchanted to revert to armed conflict. While the rise in criminal violence is alarming, overtly political violence appears to be a thing of the past for El Salvador.

GUATEMALA'S LONG ROAD TO PEACE

The historical setting for internationally mediated negotiations in Guatemala differed in many respects from that in El Salvador. A determining element in the Salvadoran armed forces' decision to seek a political solution was the withdrawal of support by its patron state once the United States' strategic interests in the region had shifted. U.S. support for counterinsurgency in Guatemala was of nowhere near the same magnitude and therefore had less direct leverage over military or state decision making. The geostrategic shift did have the same effect of enabling negotiations with the guerrillas to proceed (or at least removing a potential obstacle to political settlement). After 1989, the shift in U.S. posture was noticeable primarily in the State Department's willingness to denounce human rights abuses. It was also visible in the Clinton administration's forceful action during an attempted executive coup in May 1993. However, the post–cold war geostrategic change did not

determine the military's cooperation with negotiations (which undermines the frequently made assertion that the change in U.S. regional policy is sufficient to explain the successful Central American peace processes).

Another distinction among the international factors in the two cases was that the UN Secretary-General was more willing to risk the credibility of his office in the Salvadoran negotiations, which took place during a period of Security Council activism following the collapse of the Soviet Union. By the time the Guatemalan process had reached its final, continuous phase in 1994, the Security Council had become more reluctant to intervene in the internal conflicts of member states, to a great extent because of budgetary pressure imposed by the U.S. government. This proved not to be prohibitive and indicates that the conditions for human rights enforcement are not limited to a brief period in UN history.

With respect to domestic political factors, conditions leading to compliance were met, albeit more gradually than in El Salvador. The arrival in office in 1993 of Ramiro de León Carpio, a Guatemalan president sensitive to human rights issues (he was elected interim president by Congress in the wake of the May executive coup, prior to which he had been human rights ombudsman), signaled a shift in the domestic ruling coalition and the beginning of a gradual extension of civilian control over the military. Despite the forthright positions he had taken as human rights ombudsman, de León was not popularly elected, lacked a party base, and thus never enjoyed the political strength as president to exert his independence from the military or to instigate the reforms he had demanded of his predecessors. He did, however, consolidate the position of moderate factions in the military who had opposed the executive coup and who endorsed a negotiated settlement.

The new administration jump-started the negotiation process, which had been dallying for several years under previous administrations and continued to bog down at critical points under de León. The final push toward a political settlement could not be attributed to a shift in the civilian leadership to the extent that it had in El Salvador. Of equal or even greater importance in the Guatemalan process was the ascent of a faction in the military that, while not necessarily sensitive to human rights pressure, remained committed to constitutional government and to a nonmilitary settlement of the civil conflict.

Whereas a mutually acknowledged military stalemate had been essential in the Salvadoran case, the conflict in Guatemala had by no means reached a hurting stalemate. The Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity—URNG), whose membership at the time varied from 1,300 to 1,500 mostly poorly trained indigenous peasants, was incapable of fighting the armed forces' 46,000 heavily armed and

disciplined soldiers (plus approximately 530,000 in armed civil militias) to a draw.[4] Although popularly described as a 35-year civil war, in reality the armed conflict was of very low intensity through the 1970s, surged in 1978, and was all but squelched by the end of 1982. The URNG remained on the defensive after 1983; there was a resurgence of guerrilla activity in 1987, and guerrilla units continued to occupy villages, attack army bases, and sabotage civilian infrastructure until a conditional cessation of hostilities in March 1996. However, the URNG never revived as a significant military force after the scorched-earth offensives of the early 1980s.

A hurting stalemate would have entailed both parties' recognition that the conflict had arrived at a no-win situation with gradually increasing costs for both sides. Although an "institutionalist" faction of the military had come to desire an improved international reputation as a means for ensuring economic stability and foreign aid, during the negotiating period the armed forces still did not consider the costs of gaining a military victory too high to continue. At the same time, the URNG's line was that, although the military situation was clearly unbalanced, over the long term it could improve its position by political means, certain that the ongoing economic crisis would erode the government's legitimacy. Neither side was convinced that it had no alternative but to cooperate in a political solution, and both considered that the passage of time might better their strategic positions (Aguilera Peralta and Ponciano, 1994: 17).

From its position of strength, the military high command could and did refuse to recognize the URNG as a legitimate opposition force and an equal negotiating partner, insisting that it was nothing more than an irritating band of terrorists—a position the government maintained until 1996. This posture contributed greatly to the exaggerated length of the negotiations, which dragged on with long pauses between rounds from 1990 to December 1996, but in the end it did not preclude consent to UN mediation, nor did it prevent the deployment of a human rights operation.

In agreeing to negotiate in the first place, the Guatemalan military was assured that it would not be required to make large concessions and was motivated by an interest in enhancing both its international image as a proponent of development and its financial portfolio. The civilian President Alvaro Arzú had by the end of the process demonstrated the government's newfound capacity to purge corrupt and hard-line officers and to extract significant concessions from the armed forces. In the place of pressures from a hurting stalemate and the withdrawal of material support, both the Guatemalan government and the URNG were prompted to take their places at the table and negotiate in good faith by a complex of incentives that included pressure from

an array of foreign allies including human rights nongovernmental organizations (NGOs) and from organized sectors of Guatemalan civil society.

It was Catholic Church leadership that brought organized civil sectors into the earliest phase of the peace process, beginning in 1989. By the end of 1989 international allies of both sides to the conflict and of the Guatemalan human rights community had begun to press the government for progress toward a political solution. Domestic NGOs gained momentum as security conditions improved in the early 1990s; with ongoing international support, they became active participants in the peace process and contributed in a real way to shaping the terms of the accords. Herein lies an interesting distinction between the two negotiation processes. A major innovation in the Salvadoran talks and often the driving force behind them was the mediation of the Secretary-General's office. A representative of the Secretary-General also mediated the Guatemalan talks, but certain differences in the international and domestic contexts created a similarly protagonistic role for organized sectors of Guatemalan civil society.

UN involvement in the Guatemalan negotiations began at talks held outside of Oslo in March 1990; the agreement drawn up at Oslo included a request from both parties that the UN Secretary-General assign an observer to the talks. The UN representative continued in the role of observer, with markedly less initiating authority than in El Salvador, for the next three and a half years. Talks continued for the remainder of 1990 between the parties and organized civil sectors and through 1991 either between the parties or between one party and the UN observer.

The Bush administration expressed its approval of the peace process at the beginning of a series of civil-sector rounds that took place during the summer of 1990. A week later, the Organization of American States (OAS) issued a resolution expressing its strong support for the dialogue and requesting that the UN Secretary-General continue to offer his full assistance (IRIPAZ, 1991: 60, 64). Negotiations gained momentum briefly in the spring of 1992, only to reach an impasse over several human rights issues for another year.

An attempted executive coup in May 1993 was thwarted by an alliance of civil organizations with the assistance of external pressure, primarily from the OAS and the Clinton administration. An important outcome of the coup's failure was that it elevated military institutionalists over hard-liners who had supported the coup, temporarily unified civil sectors, and clearly demonstrated to Guatemalan elites that the international community would intervene to protect democratic institutions where it could do so effectively. This signaled the beginning of a change in the domestic conditions for a negotiated

settlement at a time when international pressure on the two parties to cooperate was increasing.

Following the coup attempt, the peace process waited until July before the new president, Ramiro de León Carpio, announced his intention to resume talks. De León indicated his will to achieve a political settlement even before he initiated direct negotiations by repopulating the military high command with officers known to favor the peace process. Despite this interest on the part of the executive and the military high command, negotiations broke down again over sharp disagreements concerning the extent of the role the UN negotiating team was to play and the question of including civil sectors at the negotiation table.

Finally, the UN Department of Political Affairs officials called a direct meeting of the parties in early January 1994 to reformulate the negotiating format and expedite agreements. This time the round ended with a new framework accord, and the representative of the Secretary-General was solicited to act as moderator. The accord also created a new institution, the Asamblea de la Sociedad Civil (Assembly of Civil Society—ASC), to consist of all legitimate, representative, and legal nongovernmental sectors of Guatemalan society. The ASC would produce recommendations to be submitted to the negotiating table on the substantive topics yet to be addressed by the parties and would evaluate the accords signed on substantive topics to facilitate their implementation. At a critical moment in producing a consensus document on indigenous rights, contention between indigenous organizations and other civil sectors nearly derailed the ASC and temporarily cast a shadow on its credibility as a representative organization. However, it was the sole party to produce its working papers on schedule, and in many respects the final accords closely reflect the terms of its proposals.

The parties signed a comprehensive accord on human rights March 29, 1994, in which they invited the Secretary-General to establish a human rights verification mission in the shortest time possible. The accord's principal innovation was a section on strengthening the state and nongovernmental institutions protecting human rights. From the government's perspective, this had the advantage of ameliorating the scrutinizing nature of the verification mission, making it appear more of a technical assistance mission and less of an invasion by international auditors (interview with Dr. Héctor Rosada, then director of the government's delegation to the negotiations, June 28, 1995). For the human rights community, giving the mission a mandate to strengthen judicial and public prosecutorial agencies provided international human rights experts access to and channeled UN resources into reforming the institutions most responsible for the impunity enjoyed by human rights violators.

The language for this section was recommended to the negotiating teams by a delegation of UN advisers who had participated in ONUSAL's development (interview with Antonio Arenales Forno, counsel to the military delegation to the negotiations, July 4, 1995).

Deployment prior to a cease-fire in Guatemala was not considered a security risk for the UN as it had been in El Salvador because the conflict was considerably less intense and the parties had committed themselves in the human rights accord to providing security guarantees for international monitors. Nonetheless, the decision to establish the Guatemala human rights mission stalled in the Security Council from May through September 1994. The delay in establishing the mission exemplifies a trend away from an activist Security Council following the initial post–cold war exuberance. In the end, Secretary-General Boutros Boutros-Ghali recommended that the General Assembly rather than the Security Council authorize the Guatemalan verification mission. Machinations by states interested in preventing the Security Council from authorizing another human rights operation were an indication of the backlash against the activist Security Council following what were perceived to be UN peacekeeping failures in Somalia, the former Yugoslavia, and Rwanda. That a UN mission was nonetheless deployed highlights the centrality of human rights in the Guatemalan peace process and the international community's general support in principle for human rights enforcement by means of verification missions.

VERIFYING REFORM IN GUATEMALA

The UN Verification Mission in Guatemala (MINUGUA) was formally established on November 21, 1994, and was fully deployed by the end of the following February. Initially it was deployed as a human rights mission, in the same way that ONUSAL was for its first six months a stand-alone human rights division. Just as ONUSAL was expanded to include police and military divisions and verification of the entire accords package, MINUGUA was expanded after the signing of the final peace accord on December 29, 1996. Here, however, verification of the cease-fire and demobilization was conducted by a force of 150 military observers under Security Council authorization, with a fixed three-month mandate beginning March 3, 1997. The military group was directed by MINUGUA's chief of mission but under a separate mandate from the rest of the expanded operation, which remained under the General Assembly. The expanded mission remained under the General Assembly's regular budget, not under the peacekeeping budget. The regular

budget is planned biennially, and continued pressure to resist deficit spending resulted in an operation much smaller than ONUSAL at its full force.

The daily experience of observers in the field suggests that the positive impact of MINUGUA's presence in Guatemala can be found in five areas. First, it has promoted dialogue rather than confrontation between social forces. This is evident in the unresolved land disputes between returning exiles and the small farmers who remained during the period of massacres; despite very severe divisiveness, UN and NGO mediators have established community-level negotiation processes. Second, it has had the effect of defusing potentially violent confrontations, particularly in the frequent evictions of peasants occupying plantations to protest unfair labor practices (Preston, 1996). Third, as with ONUSAL, the mission's presence in a region is often cited by local activists as exerting a deterrent influence on potential human rights violations. Whether or not a deterrent effect can be demonstrated, local perceptions of increased security are important indicators of the mission's effectiveness. Fourth, MINUGUA is promoting the consolidation of civil society by providing a more secure environment in which to organize. Finally, the population at large is exposed, often for the first time, to what "human rights" signify and what rights are guaranteed by the constitution and under international treaties through the grassroots educational efforts of the regional offices.

Several situations needing attention were identified after a year in operation by MINUGUA's directorship, including the need to guarantee that verification and institution-building activities complemented each other, to increase MINUGUA's analytic capabilities, to enhance public education and seek alternative means of communicating with the general public, to strengthen local NGOs, and to increase MINUGUA's presence in indigenous communities (Franco, 1995). Mission leadership recognized that overcoming these weaknesses might not lead directly to dramatic changes in conditions in Guatemala, given the ongoing impunity and widespread social violence.

ONUSAL had been variously criticized for, on one hand, replacing national institutions in the popular view and becoming a temporary state within a state and, on the other hand, not pursuing its mandate aggressively enough. To avoid the problems of inflated expectations and backlash from unmet expectations, MINUGUA reports emphasize factors exogenous to the mission, such as long-term political trends, that could account either for progress for which the mission itself cannot independently take credit or for a lack of reform despite the UN's best efforts.

CONCLUSION: LESSONS OF DIPLOMATIC INTERVENTION IN EL SALVADOR AND GUATEMALA

Pressure to arrive at a final peace accord in El Salvador and in Guatemala came from all directions, both domestic and international. This served as a double-edged sword in the case of El Salvador. It produced a speedier end to the armed conflict, but an agreement to end domestic conflict is intrinsically different from an agreement to end a war between states; it must also address and genuinely attempt to resolve the structural causes that lead to armed conflict. In this regard, much of the problem lies in the identification of those causes. The Salvadoran government delegation focused on the political sources of conflict, promoting procedural agreements that would enable the FMLN to be reintegrated into civilian life and political activity. As a point of principle, the FMLN stressed the socioeconomic bases of the conflict, although the delegation did not present a specific socioeconomic proposal prior to September 1991.

At the outset, the FMLN maintained that its position was to give priority to substantive (reform) over procedural (cease-fire and demobilization) issues. In the end, the diplomatic pressure to produce a final peace accord in as short a time as possible and the military-strategic need to ensure the safe reintegration of combatants took precedence. Socioeconomic reforms, sixth on the Salvadoran negotiating agenda, were severely limited. Land reform was addressed only in the context of reintegrating former combatants and refugees and is the part of the accords package that met with the greatest resistance during implementation (Latin America Working Group, Legislative Update, February 9, 1996; de Soto and del Castillo, 1995: 195-196).

The lack of civil societal participation in the Salvadoran peace process is considered both by analysts and by members of Salvadoran society to have been an important omission and one that was largely due to the closed nature of the negotiations. The FMLN initially attempted to install a parallel-negotiating-table system similar to the Guatemalan ASC established under the January 1994 framework accord. This scheme was repeatedly rejected by the government. Instead, the FMLN took advantage of the framework accord's provision to create permanent mechanisms for indirect participation of political parties and other civil sectors. Members of the FMLN delegation held official meetings prior to every round with labor leaders, political parties, church representatives, and human rights organizations in order both to receive their recommendations and to inform them of the results of each round. In this way, the FMLN was partially able to circumvent the

confidentiality rule (interview with member of the FMLN delegation, who requested anonymity).

Alvaro de Soto likewise recognized the need to "build a constituency" for the negotiation process—to give members of society the sense of being involved without actually interfering with "running as tight a ship as possible in the negotiations" (interview with Alvaro de Soto, April 9, 1996). He attempted to balance these two competing values—the need for confidentiality and the desirability of civil participation—by meeting with sectoral representatives. In the end, however, issues vital to popular sectors—especially labor rights and land reform—were sacrificed to the strategic interests of the parties themselves.

In their interviews with me, members of both the government and the UN negotiating teams mentioned the importance of maintaining the wall of silence around the Salvadoran negotiations in bringing about a final accord in a timely fashion. Obviously, closed-doors diplomacy is often cited as the key to successful peace talks, as, for example, in the case of the Oslo accord brokered between Israel and the Palestinian Liberation Organization. Some observers of the Salvadoran talks argued that these were negotiations to end an armed conflict, not to establish a social pact among civil sectors or to reform an economic system, and that, furthermore, increased transparency and the participation of societal actors would have hampered the process by increasing the level of contentiousness.

The fact remains, however, that both opposing parties made legitimacy claims based on the assertion that they represented sectors of civil society. It is ultimately the interests of civil society that are at stake in settling an internal conflict whose origin lies in the perception of social injustice. Popular involvement in peace talks ensures that relevant sectors' substantive proposals are seriously considered, but it is of equal importance that, if ignored during negotiations, organized members of civil society can be either apathetic or downright obstructionist during the implementation process.

By comparison, the role of nonstate actors was a unique factor in the long, meandering Guatemalan peace process. First, international human rights NGOs aligned themselves with domestic civil sectors to initiate the negotiations. Second, the process of dialogue in and of itself contributed to the development of tolerance and cooperative norms within civil society. The necessity for political, economic, and military elites to cooperate with popular organizations in developing the agreements has already led to a much less polarized environment. Finally, through the ASC, civil sectors contributed to drafting the terms of accords that as a consequence deal seriously with civilian issues. For example, the Socioeconomic and Agrarian Accord

emphasizes the state's obligation to guarantee a basic social safety net while pursuing development and sustainable growth and commits the government to tax reform, education, social security, labor and fair employment, housing, health care, and land tenancy measures. Even if fully implemented in a timely fashion, the accord alone could not be expected to lift the majority from poverty or rectify one of the hemisphere's most infamous maldistributions of resources. Nevertheless, the government and the URNG (now a registered political party) are bound by the terms of the documents they signed to make verifiable efforts toward alleviating Guatemala's social inequities.

The peace process in El Salvador succeeded in ending 12 years of armed confrontation. The leverage wielded by the Secretary-General's office throughout the negotiations rested on two pivots: the moral authority of the UN as peacemaker and the unusual degree of international interest in ending the Salvadoran conflict, especially on the part of permanent members of the Security Council. The peace process generated a powerful instrument for international promotion of human rights principles. The active role of UN mediation was a determining factor in this; the proposal drafted by Pedro Nikken and the group of human rights experts in Geneva outlined a radical departure in international verification of peace accords.

The Salvadoran government's consent to host an interventionary operation on national territory indicates that, under particular circumstances, the competing international norms of state sovereignty and human rights protection are arriving at a new balance or even a realignment. The leadership of both parties effectively ceded a great deal of control to the UN, first by requesting third-party mediation and then by acquiescing to an open-ended commitment to cooperate with an "invading army" of human rights verifiers.

Guatemala's domestic context differed in that the country was not experiencing a clearly demarcated period of full-blown civil war, but in important ways the process emulated developments in El Salvador. Once negotiations had finally begun, international pressure and UN mediation consistently prodded the Guatemalan parties to continue with talks, to return to the table, and to negotiate in good faith. UN mediation and the organization's commitment to verify compliance with accords acted as a confidence-building mechanism in the negotiation process, and the presence of MINUGUA observers has provided a channel for international assistance in pacifying a highly militarized society.

The close coordination between the two missions and other UN agencies, especially the UNDP, on institution-strengthening projects suggests that further interagency cooperation will be critical in the long-term peace-building effort (Farer, 1996: 213-237). Representatives from UNDP, the World Bank,

the International Monetary Fund, the Inter-American Development Bank, and the International Labor Organization were involved in developing the terms of the relevant Guatemalan accords. This had reciprocal benefits; the parties received an education concerning international standards on each issue, and the intergovernmental organizations were involved in the reconstruction process from the beginning. According to a member of the UN negotiating delegation to the Guatemalan talks, the involvement of other UN agencies and Bretton Woods organizations was "one of the main lessons from El Salvador" (interview with Denise Cook, Central America Unit, UNDP, March 5, 1997). Interagency coordination is especially important in MINUGUA's case, as the mission's budget and staffing levels barely increased when the mandate was expanded and resources from within the UN system had to be tapped for verification of the other agreements.

The basis for successful peace-building is to design a mandate for reforms that seek to ameliorate the causes of conflict. To emphasize the importance of addressing the root causes of conflict in mandating institutional and structural reforms is not to ignore the difficulties this entails. This is especially true where some "essential" element, some element of ethnicity or culture, is perceived by key players to be the major issue of contention. Resolution of communal conflict involves sensitive political issues of equity and autonomy, often requiring that representative institutions or schemes acceptable to all groups, such as consociational mechanisms or autonomous territories, be created. In the case of Guatemala, although the conflict was not between ethnic groups as such, the historical repression of the indigenous majority warranted a position on the negotiating agenda. The resulting Accord on Indigenous Identity and Rights explicitly provides for forms of cultural redress, such as bilingual justices and education, and respect for customary community law and forms of political organization.

In cases of ideological (as opposed to communal) civil conflict, the causes will primarily involve the distribution of resources. Reforms to land tenure, the tax structure, or public health and education systems by fiat of a peace accord represent a serious challenge to and are likely to incite the strong opposition of economic elites. They also invite conflict or confusion over verification. It is significant in this context that the Salvadoran land transfer program was the most difficult of the agreements to implement. In fact, the program did not address redistribution of resources; it was merely intended to provide demobilized combatants with land as part of an overall reintegration package. Even with so limited a scope, the land transfer program encountered numerous obstacles.

A further problem is that mandated structural reforms to the government and the economic system, particularly those that extend the provision of

state services, have come into conflict with mandates from other parts of the UN system, namely, the International Monetary Fund or the World Bank. This was one factor contributing to the continual difficulties associated with the Salvadoran land redistribution arrangement (de Soto and del Castillo, 1994). Current efforts by international financial institutions to incorporate "peace conditionality" into lending and assistance programs are essential to the development of a coherent approach to postconflict reforms, reconstruction, and reconciliation (Boyce, 1995: 83-91). The Bretton Woods organizations' involvement in developing the Guatemalan accords presages an improved climate of cooperation for future operations.

To conclude, the Salvadoran and Guatemalan peace processes created a precedent for mediation of civil conflict by the office of the UN Secretary-General. Human rights promotion is to a great degree a matter for the UN bureaucracy, and members of the UN delegations were predisposed toward human rights advocacy. For these (and other) reasons, the Salvadoran and Guatemalan negotiations produced very different sets of agreements from, for example, those negotiated by representatives of interested states in Cambodia or the former Yugoslavia.

With peace talks between the government and the major guerrilla armed forces recently under way, Colombia has emerged as an interesting case for comparison (as of the time of writing, December 1999, delegations from the government and the Fuerzas Armadas de la Revolución Colombiana—FARC—have met once and have produced a preliminary negotiating agenda). There are a number of factors peculiar to the Colombian case that would inhibit a comparison with the Central American peace processes: the greater size and strength of the armed opposition, the strength and relative autonomy of paramilitary organizations, the resources available to both the guerrillas and the paramilitaries through drug traffic and kidnapping, and the intervening interest of the U.S. government in narcotics eradication.

For purposes of comparison, however, I will isolate the variables examined in this article to discover what light they might shed on prospects for the Colombian peace process. In terms of the international context, I discussed regional strategic interests and the nature of UN mediation. The United States has harshly criticized the government for corrupt practices to the extent of denying visas to Colombian officials, the State Department has placed restrictions on assistance to military units implicated in human rights abuses, and recent State Department human rights reports have been uncharacteristically critical of the Colombian military. However, the United States is increasing its support for the armed forces by linking counterinsurgency to prosecution of the drug war and in some cases has protected military and paramilitary violators from inspection by the Colombian government

(Schemo, 1996; Schemo and Golden, 1998; Chernick, 1998), while rhetorically backing President Andrés Pastrana's peace initiatives. If approved by Congress, U.S. military assistance for Colombia will increase by about US$50 million this fiscal year. Increased lethal aid is likely to prolong the conflict and delay the moment at which the parties perceive a mutually hurting stalemate.

Concerning the role of the UN in the process, this is another case of a state apparatus often criticized by the international community for human rights violations. Colombia is currently being scrutinized by the UN Human Rights Commission, which established a permanent field office in Bogotá in May 1997.[5] Representatives of the Samper government met with UN, Salvadoran, and Guatemalan officials in 1994 to discuss the possibility of UN mediation of peace talks following the model developed in El Salvador (*Diario Latino*, October 3, 1994).[6] However, the office of the Secretary-General to date remains unwilling to involve itself in the Colombian negotiations. The Pastrana government has expressed its interest in UN mediation and has gone so far as to suggest the early deployment of a verification mission, but the FARC remains intransigently opposed to the proposal.

The domestic factors examined here were the level of concern for international reputation among core members of the ruling elite, the relative strength and authority of the military and the guerrilla forces, and the involvement of organized civil sectors in the negotiation process. The government, both former and current, has expressed a strong interest in improving its international human rights image. The previous administration did so by signing the Geneva Conventions Second Protocol, which regulates the behavior of combatants in internal conflict, and by establishing a presidential human rights counsel and public defender for human rights. Colombian officials have publicly expressed their concern that critical human rights reports might damage their international prestige and apprehension about efforts by members of the U.S. Congress to place human rights conditions on trade ties. The Pastrana government has dismissed four generals this year, and the civilian administration is demonstrably less timid about exerting its authority over the military than were either the Salvadoran or the Guatemalan governments during their periods of conflict. However, although the government is clearly ready for a political settlement, the FARC appears to be uncommitted to the process and controls significant territory and resources. The peace process will be credible only when both the armed forces and the FARC recognize a military stalemate and commit themselves and those under their command to a negotiated resolution.

Perhaps the clearest influence of the Salvadoran and Guatemalan peace processes is found in the widespread assumption that civil sectors will be involved in some fashion in the Colombian negotiations (see, e.g., *El Espectador*, December 19, 1999). The Colombian human rights community is dynamic and active in regional and international human rights organizations, but in this case it appears to be the private sector—the target of guerrilla kidnapping activities—that is taking the initiative in promoting peace talks. Finally, reforms to security and judicial institutions designed to promote human rights will almost certainly be an item of the highest priority on the Colombian negotiating agenda, particularly in the event of UN mediation. If and when such reforms are implemented, conditions for human rights in Colombia will have gained immeasurably from the achievements of the mediated peace processes in El Salvador and Guatemala.

NOTES

1. For example, see Whitfield (1995: 176). The importance of the Jesuit murders in maintaining pressure on the military high command was emphasized by nearly every individual involved in the process whom I interviewed.

2. Bill HR 5114, *Congressional Record*, vol. 136, no. 142, pt. 2, October 19, 1990 (Dodd-Leahy amendment). The bill was intended to provide both sides with an incentive to negotiate in good faith; the proviso for the Frente Farabundo Martí de Liberación Nacional (Farabundo Martí National Liberation Front—FMLN) was that the 50 percent of military aid that was cut would be reinstated if the FMLN were to leave the negotiating table, instigate military action that would threaten the government's survival, or receive foreign military aid. The last condition was in fact met in January 1991, when the FMLN used surface-to-air missiles acquired from the Nicaraguan government to shoot down a military helicopter and summarily execute two U.S. advisers; U.S. aid was restored to the Salvadoran armed forces in March 1991.

3. In January 1995 the government and the organization representing the demobilized ex-combatants, with ONUSAL mediation, negotiated new terms for compensation after a series of government-building takeovers (see *Proceso* 647 [February 1, 1995]).

4. Estimated size of guerrilla forces from Ortega Pinto (1994: 51), armed forces troop size from Preston (1996). The number of civil patrols is that reported for 1993 by the government to the United Nations independent expert (*Informe de la experta independiente, Sra. Mónica Pinto, sobre la situación de los derechos humanos en Guatemala*, E/CN.4/1995/15 [December 20, 1994], p. 32). These figures are all from the mid-1990s but reflect the relative balance of forces that obtained in the late 1980s.

5. For an evaluation of the office's first year of operations, see the written statement submitted by the Lawyers' Committee for Human Rights to the Commission on Human Rights, February 1998.

6. The Colombian High Commissioner for Peace, Carlos Holmes Trujillo, met in San Salvador with negotiators from both delegations to discuss how the lessons of the Salvadoran peace

process could be applied to Colombia. He also visited Guatemala and met with government negotiators.

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