DEMOCRACY AND THE EVOLUTION OF A CULTURE OF PREVENTION

LESSONS FROM GUATEMALA 1993-2003

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ABSTRACT

The idea that democracy is part of fostering a *culture of prevention* is widely accepted. This idea is based on the assumption that there is a positive interaction between democracy, respect for human rights and peace. Generally accepted knowledge on democratisation says that the political culture *should evolve* towards a stronger and stronger consolidation of democratic norms and values during the last stage of the democratisation process, the *consolidation* phase. In an analysis of this evolution it is necessary to keep concepts separated and definitions clarified. The current policy focus on conflict prevention and on creating a *culture of prevention* has led to some conceptual confusion. This essay identifies and analyses defining indicators of a culture of prevention, in order to increase our understanding of the relationship between the *consolidation of democracy* and the *evolution of a peaceful political culture*. The opening sections discuss the concepts of conflict prevention in general, and culture of prevention in particular. Through a case study of Guatemala I then examine the political conditions which permitted, or inhibited, the evolution of a culture of prevention in the country, in the period from 1993 to 2003. This essay concludes that the practices adopted by the democratically elected government itself have, in the last four years, affected the political culture in a direction *away* from a culture of prevention. Although believing in the conflict prevention *potential* of democracy, I argue that where democratically elected governments engage in unlawful violations of human rights this is likely to encourage violent crime among its citizens. Governments of democracies may then foster a culture of violence, *hindering* the evolution of a culture of prevention.
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This essay includes a case study of a particular period of time in Guatemalan politics and society. Any changes that have taken place after the period of study, that may or may not support my conclusions, are therefore outside of the scope of this essay. My wish is that the new government that took office shortly after my study ended will promote the evolution of a culture of prevention. However, it is important to note that this essay analyses the period between 1993 and 2003 only.

The essay is the result of a Minor Field Study in Guatemala. It was presented as a D-level essay at the Department of Peace and Conflict Research at the University of Uppsala in Sweden in December 2003. I want to express my gratitude to my supervisor at Uppsala University for his academic advice and encouragement; to Sida (the Swedish International Development Cooperation Agency), for granting me financial support to carry out the study; and to everyone in Guatemala that so generously have assisted me in my work.

Although informal conversations, formal interviews and the sharing of statistics and other forms of information in Guatemala have been invaluable to the realisation of this study, I remain solely responsible for the conclusions drawn.

Stockholm, February 2004

Lina Lindblom
INTRODUCTION

One of the goals of democratisation is the promotion of peace. The ideal of perpetual peace, devised by Kant, was founded in the universalisation of the republican ideals, in today’s words, the universalisation of democracy. The realization that most of today’s violent conflicts are internal, although with obvious international impact, creates room for a renewal and an update of Kant’s concept of democracy as the key for peace. Although democratic decision-making does not automatically solve the problems of a society, consolidated democracies seldom let conflicts escalate into violence, because they have the possibilities to develop the institutions, resources and flexibility needed to manage conflicts peacefully. Furthermore, long-term stability and peace require justice and respect for human rights. It is argued that democracy creates the institutions necessary for the realisation of human rights\(^1\). It has been shown that democratic societies have fewer internal wars, which has led to the conclusion that democracy is important as a long-term conflict prevention strategy\(^2\). Promoting democracy has therefore become the rule when it comes to United Nations peacekeeping missions around the world\(^3\). In his Millennium Report, a document which defines priorities for the United Nations Organization for the coming years, Secretary-General Kofi Annan devoted a separate chapter to the issue of preventing deadly conflict. Here he observed that a *culture of prevention* could be built on governments' protection of physical security and rights of its citizens. “The primary responsibility for conflict prevention rests with national Governments, with civil society playing an important role”\(^4\). The idea that “democracy is part of fostering a Culture of prevention”\(^5\), is widely accepted. This idea is based on the assumption that there is a positive interaction between democracy, respect for human rights and peace\(^6\). “Democracy is the only form of political regime compatible with respect for the five categories of [human] rights,

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\(^3\) “Using Democracy to Manage Conflicts: How the UN is Transforming Peacekeeping Missions”, *International IDEA*, accessible at <http://www.idea.int/publications/>


economical, social, political, civil, and cultural”\(^7\). This does not, however, necessarily mean that democracy creates respect for these rights, only that it is compatible with it. Minimal democratic attributes as free and fair elections are far from sufficient to insure enduringly liberal, let alone pacific, outcomes, in the absence of a thick, supportive context of norms, institutions, and interests\(^8\). Yet, those who assume that all good things go together have increasingly adopted a simple model of democratisation, and of the ability of democracy to produce a culture of prevention. Democracy is expected to lead to respect for human rights, and thus to security and peace. Little critical reflection on democracy itself is heard in the international political discourse, although scholars have raised warning flags about possible negative outcomes. Since the mid-1990s there have been signs of increasing frustration with the peace-inducing effects of new democracies\(^9\), but this has not led to a significant shift in policy. With the new focus on conflict prevention, the promotion of democracy is seen as the most important tool for preventing crisis and promoting security in many current state policies\(^10\).

Definitions of conflict prevention are vague. The new focus on creating a *culture of prevention* has led to increased conceptual confusion, and the international populism surrounding the idea of democracy as a precondition for internal peace has added to the lack of specificity. This study seeks a better understanding of the relationships between the fields of democracy and conflict prevention, by analysing the often taken for granted symbiosis between conflict prevention and democracy. I will argue that the policy community has adopted a simple and unqualified view on democracy and its potential to prevent violent conflict that is not helped by the conceptual confusion surrounding conflict prevention. This essay will identify and analyse defining indicators of a *culture of prevention*. I will argue that systematic attention to indicators of a culture of prevention can add to our understanding of the relationship between the consolidation of democracy and the evolution of a peaceful political culture. Through a case study of Guatemala I will examine the political conditions which permitted, or inhibited, the evolution of a culture of prevention, in the period from 1993 to 2003.


A culture of prevention – the new slogan

Conflict prevention has gained greater attention after the Cold War. Reasons for this include awareness of the dangers of intrastate war and collapsing states, experience from complex interventions into violent conflicts and growing public pressure to intervene to prevent genocide and conflicts. Most agree on the virtue of preventing violent conflict, but not on which measures should be included in a strategy of prevention, which would be most effective - or how (or even if), in reality, prevention actually works. No single, generally agreed upon definition of the concept exists. In the post-Cold War era, the evolving interest in conflict prevention has led to an expansion of the concept to include a wide variety of measures to address different kinds of conflicts. Several participants in the prevention-debate now argue that we need to structure and narrow the focus of the concept, or else it will become blunt and lose its utility.

Strategies for conflict prevention can be divided into two categories, structural prevention measures and direct prevention, also referred to as operational prevention. Structural prevention incorporates measures to ensure that crisis do not arise in the first place, or if they do, do not recur. Operational or direct prevention are measures applicable in the face of immediate crisis. Some scholars argue for a comprehensive approach incorporating both of these aspects, some believe it would be more constructive to focus on one. The choice between structural and direct or operational prevention is related to other areas of disagreement; on the appropriate timing of prevention action and on the levels in which preventive measures

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16 Some scholars maintain that a vital conceptual distinction has to be made between efforts made before violence has arisen, and reactive efforts taken after armed conflict has ensued. Other scholars suggest a place for conflict prevention both in early and late phases of a conflict’s life cycle in order to prevent the outbreak as well as escalation of violence. In addition, conflict prevention can also refer to post-conflict prevention to hinder the re-emergence of violent conflict. Furthermore, it has been argued that development co-operation can have a role in structural as well as in direct prevention. It is suggested that it can work in different phases of a conflict; before violence breaks out as well as during an ongoing war and after the armed conflict is terminated to prevent its recurrence or entirely new. The whole issue of phases and timing of prevention is problematic, simply because
should be applied, as well as to differing theories about the causes of conflicts and how these should be treated. The long-term perspective of structural prevention includes issues such as democracy, good governance, international norms, international tribunals, strengthening of international organisations, and poverty reduction. Development of early warning systems and early response, economic sanctions, and the use of force are measures of direct conflict prevention, a short-term perspective. Democracy is included in definitions of structural conflict prevention, the simple argument being that democracy provides contending communities or groups of people with the possibility to resolve their differences peacefully through the political system rather than resort to violence\textsuperscript{17}. It might even be impossible to distinguish between democracy promotion and conflict prevention\textsuperscript{18}. Strategically, structural prevention offers an important opportunity to promote reforms in society in the direction of democracy\textsuperscript{19}. Another argument for democracy as conflict prevention is that it can be effective at satisfying the desires of elites. Elites are potential sources of conflict. Democracy shows them that they are better off seeking power through peaceful mobilization than through war, and civil democracy provides status positions for local elites\textsuperscript{20}. Although there is recognition in the policy community that the process of democratisation can be unstable, democratisation still rather unconditionally occupies a central position in most strategies for conflict prevention. The Organisation of American States (OAS) focuses on democracy as a mechanism for conflict prevention through its Unit for the Promotion of Democracy (UPD), and the United States seeks to “Promote democracy as a means to achieve security, stability, and prosperity for the entire world\textsuperscript{21}”. Democracy is here and in other policy statements left unqualified, it is assumed that democratic systems of government have a degree of legitimacy, inclusiveness, flexibility and capacity for constant adaptation that enables deep-rooted conflicts to be managed peacefully. The vague use of the term democracy when discussing preventive strategies is troubling. The design of appropriate democratic institutions is crucial to the long-term management of conflicts. In deeply-divided societies, for instance, political institutions and

\begin{itemize}
\item different conflicts move along different paths. Some conflicts have a steeper escalation curve than others. A contextual dimension needs to be added to these arguments.
\item Brown, Michael, "The Causes and Regional Dimensions of Internal Conflict", in Brown, \textit{The International Dimensions of Ethnic Conflict}, p. 583.
\end{itemize}
elections based upon majority rule can often make things worse\textsuperscript{22}, and there is no guarantee that citizens will not use their democratic rights to support past dictators. Democracy and human rights, two of the main ingredients in strategies of structural prevention, are commonly understood as two sides of the same coin. This view was articulated by the then United Nations Secretary General Boutros-Boutros Ghali, when he argued that democracy is a thread which runs through all the work of the Organization, and that human rights, equal rights and government under law are important attributes of democracy\textsuperscript{23}. However, some scholars have questioned this simple equation, “if democracy, then human rights”, and argue that we should treat this relationship with caution. There is an obvious tension between the liberal and the democratic elements of liberal democracy\textsuperscript{24}.

Michael Lund offers a broad and all-encompassing definition of conflict prevention: “Any structural or intercessory means to keep intrastate or interstate tensions and disputes from escalating into significant violence and use of armed force, to strengthen the capabilities of potential parties to violent conflicts for resolving such disputes peacefully, and to progressively reduce the underlying problems that produce those issues and disputes\textsuperscript{25}”. Accordingly, he writes, it includes not only avoiding violence but also the range of more fundamental changes now referred to as “peace-building”. Dress and Rosenblum-Kumar argue that when the United Nations and the international community use the term “conflict prevention”, what they really mean is “violence prevention\textsuperscript{26}”. But, they note, where tensions are high and violence is imminent, the measures used by the UN departments and agencies are often insufficient. They agree with Lund and call for a broad, comprehensive approach to conflict prevention that addresses structural injustices, poverty and horizontal inequality as well as immediate crisis.

United Nations Secretary-General Kofi Annan believes that weak governments “lack the capacity to stop the eruption and spread of violence”\textsuperscript{27}, and therefore are part of the cause of violent conflicts. Annan thus supports Lund who notes that the basic causes of conflict should

\textsuperscript{27} Annan, Kofi, Towards a culture of prevention, Carnegie Corporation, New York, 1999, p. 6.
be addressed through post-conflict peace-building – “indeed, nation-building” – in order to prevent the re-emergence of violence. The Carnegie Commission on Preventing Deadly Conflict, as well as the United Nations and individual scholars such as Michael Lund have emphasised the need to develop “a culture of prevention”. But what, then, is “a culture of prevention”? Edward Luck criticises the influential report from the Carnegie Commission on Preventing Deadly Conflict, that he believes advances an approach to conflict prevention that is too vague. Luck claims that it fails to recommend any new program directions or innovations for the realm of structural prevention, “[…]making it sound more like a slogan than a policy choice”.

Agreement to agree (or is someone objecting?)

UN Secretary-General Kofi Annan has said that “there is near-universal agreement that prevention is preferable to cure”. The question that many ask is what it is, exactly, that everyone agrees on. Renata Dwan claims that the so called consensus on conflict prevention is a vague concept; “it asserts agreement yet skirts around specifics and hints at passivity”. “Such an opaque and unexplored consensus may complicate efforts to move general agreement towards articulation of a case-specific practical strategy”. Stephen John Stedman agrees: “Absent well-defined interests, clear goals, and prudent judgement about acceptable costs and risks, policies of preventive diplomacy and conflict prevention simply mean that one founders early in a crisis instead of later”. Edward C. Luck argues that this conceptual confusion is becoming an ever greater problem than it has been. As the concept of conflict prevention has become more popular over the last decade, it has been described in ever broader, deeper and bolder terms. And as theories of prevention in the security arena have

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become grander, “the operational and analytical utility of the term […] has faded”. It is not just those who argue for a more narrow definition of conflict prevention that worry about the conceptual confusion. Michael Lund, one of the advocates for a broad “culture of prevention”, also acknowledges that “with so much existing activity now being lumped under conflict prevention, there is also a risk it will lose its distinctive value-added meaning”.

The vagueness of the term conflict prevention is not only obscuring the scholarly debate, but also obstructing the need to move from rhetoric to practice. For prevention to be effective we need to know what we are referring to when we use the term. Those who wish to focus on structural prevention have a clearer normative ambition than those who focus on direct or operational prevention: to help build a “better” society based on peace and tolerance. The direct prevention approach does include a normative aspect in the attempt to avoid imminent violence and killing, however it is a narrower one. Most scholars involved in the discussion on prevention have a clearly policy-oriented approach, albeit based on differing theoretical foundations. The negative experiences of the United Nations and other international actors in Croatia 1991-1992, Bosnia-Hercegovina 1992-1995, Somalia 1992-1993 and Rwanda 1994 have motivated many of these. However, in spite of the many policy recommendations offered, many are criticised for being too general to be effective. “The field is very short on the identification and organisation of effective preventive policy prescriptions”. Much has been done to articulate and develop recommendations for a strategy of prevention, “the remaining challenge is how to operationalise it”.

In the early 1990s researchers began to gather policy-relevant lessons on prevention through quantitative, case-study and evaluation-research. Many lessons have been learned, and the field is advancing quickly. However, there remains unfortunate confusion around both definition and policy-recommendation that probably contributes to the difficulty in moving towards a more effective system of prevention in practice. Many of the measures included in preventive strategies, especially in structural prevention strategies, are based on liberal ideas. However, the current “liberal consensus” presents a largely ignored policy dilemma for conflict

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35 See Wallensteen Peter (ed) 1998, Preventing Violent Conflicts, Past Record and Future Challenges, Uppsala University, Department of Peace and Conflict Research; and Hampson, Fen Osler, “Preventive Diplomacy at the United Nations and Beyond, in Fen Osler Hampson and David M. Malone (eds.), From Reaction to Conflict Prevention, Lynne Rienner Publishers, Boulder Colorado, 2002.
prevention policy. Policies that provide unqualified support for democracy, human rights and minority rights, whatever the context, can sometimes contribute to the breakdown of a state and precipitate violent conflicts (Lund 2001:164-165). This is not to say, however, that democracy should not be part of a strategy of conflict prevention. That would be to view stable undemocratic regimes as good conflict prevention simply because they can suppress concerns from being voiced, and thus prevent conflicts. It is, however, important to be honest about the difficulties and insecurities, and avoid oversimplification.

New books on democracy are also criticising the simplistic interpretations that are given to sophisticated studies when they become tools to justify modern policy choices\(^{38}\). The model of democratisation that has been developed is a three-phase process: liberalisation, lasting at most a few years (but preferably much less); the transition proper, accomplished through the holding of a multiparty election; and consolidation, a protracted process of strengthening institutions and deepening a democratic, peaceful culture. The model is considered applicable to any country, although different conditions require some adjustment in the programs implemented. This model is questioned by Marina Ottaway in a 2003 book on democracy, highlighting that “semi-authoritarian regimes” can prevent change and thus hinder the evolution of the thought process of democratisation\(^{39}\). Jack Snyder warns that nationalism may give rise to forms of ethnic democracy that de-activates the mechanisms that make democracies peaceful, if democratisation is implemented too rapidly\(^{40}\). Fareed Zakaria is warning that a lack of historical memory and conceptual clarity is making way for illiberal democracy to spread through the policies of democratisation, arguing that the democratic peace is actually the liberal peace\(^{41}\). Zakaria uses some of the same arguments as Michael Doyle did in his 1997 book Ways of War and Peace\(^{42}\), when he is writing that without constitutional liberalism, democracy itself has no peace-inducing qualities. As Lund cautions, the current popularisation of conflict prevention might sometimes worsen policy decisions, and is currently affecting conflicts both positively and harmfully. In essence, the question of conflict prevention effectiveness is what methods, programs, policies, and actions can achieve peace – and under what conditions?\(^{43}\)

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\(^{40}\) Snyder, Jack (2000), pp. 352-353.

\(^{41}\) Zakaria, Fareed (2003), p. 115.


DEMOCRACY AND THE EVOLUTION OF A CULTURE OF PREVENTION

The rule of law is expected to be the result of a gradually evolving process in which the consolidating democracy guarantees the security of goods and persons, at the same time as it assures the protection against whatever abuse of power by the political officials, with respect for all citizens without distinction. Generally accepted knowledge on democratisation says that the political culture should evolve towards a stronger and stronger consolidation of “democratic” norms and values during the last stage of the democratisation process, the consolidation phase. In the analysis of this evolution it is necessary to keep concepts separated and definitions clarified. This section will suggest a way to operationalise “a culture of prevention” by identifying indicators of a culture of prevention to be used in a case study of Guatemala. First, I will outline the theoretical assumptions of democracy that will guide this study.

Democracy qualified

For the purposes of this study it is essential to keep the concepts democracy, and the expected outcome of democracy, a culture of prevention, separate. My assumption is that the quality of democracy can contribute positively or negatively to the quality of society, but that the two should not be confused. While I believe that it is a good thing for democracies to be consolidated, it is necessary to point out that consolidation does not necessarily entail either a high-quality democracy or a high-quality society. There are problems specific to the functioning of the state, and particularly to democratic institutions and political processes, that allow us to speak of the quality of democracy separately from the quality of society. It is analytically important to explore both dimensions separately to analyse the effect of one on the other. Historically liberal constitutionalism has put a high premium on internal security – security of person, society and property. Theory on democratic security assumes respect for basic rights: “Democracy is a form of governance in which the rights of citizens are guaranteed

46 Consolidation does not even necessarily mean that democracy is guaranteed to survive. Established democratic systems may regress to semi-authoritarianism, as in the case of Venezuela in the years following the unsuccessful coup d’état in early 2002. The decay of established democratic systems raises important questions about the
and protected. While I accept that entrenching rights is important for security, and even that democratic regimes are more able to secure basic rights than other political systems, democracies are not per definition great protectors of rights and providers of security. The perception that security is associated with a democratic regime can fade if democracies fail to live up to the expectations. Furthermore, some democratic regimes collapse, and there are non-democratic regimes that guarantee rights, for instance property rights, and are more stable than democratic ones. Therefore, a high level of security is not an inherent part of democracy, but an expected or desired outcome of democracy. Applying new concepts of security, such as “human security”, makes the distinction ever more important to make. Human security is a wide security concept, not limiting security to territorial security. It includes political, economic, social and cultural aspects of security, necessary to guarantee the wellbeing of persons and society. To be able to distinguish between different aspects of security, and decide which of these to include in my indicators of a culture of prevention, it is necessary keeping democracy and security analytically separate.

It is also, for the purposes of this study, important to qualify the concept of democracy. On the basis of the following qualifications I will limit the scope of the case study. The most commonly accepted definition in contemporary political science literature on political democracy in Latin America is one or another version of the “procedural minimum”. The scholar Susanne Jonas argues that to understand the Central American countries we need to complement that perspective with other schools of analysis that highlight the participatory dimensions of democracy and democratisation. I share this view. In particular, Jonas argues, key elements of the Guatemalan experience are best captured through the lens of the classical and contemporary traditions that emphasise participatory as well as procedural elements of democracy. Much of the literature on democratic transitions has taken the Schumpeterian

conditions that make democracy sustainable. For a thorough analysis of the concept of semi-authoritarianism, see Ottaway, Marina, 2003.
49 For a definition of “human security”, see Programa de Naciones Unidas para el Desarrollo (United Nations Development Programme in English), Informe sobre el Desarrollo Humano 1994. For a thorough analysis on new concepts of security, see Buzan, Barry; Weaver, Ole; and de Wilde, Jaap, Security: A New Framework for Analysis, London: Lynne Riener Publishers, 1998. For a discussion on democratic security in Guatemala, see Arévalo de León, Bernardo; González, Patricia; Vela, Manolo, Seguridad democrática en Guatemala: desafíos de la transformación, Guatemala: FLACSO, 2002.
50 Unemployment, health problems and environmental degradation are human security concepts that will be kept out of the analysis of a culture of prevention here. This is not because these themes are not considered important for human security, but because I do not believe that they are parts of “a culture of prevention”. Countries with high levels of unemployment or pollution can still be both democratic and have a functioning culture of prevention, meaning that regular democratic politics and citizens are handling conflicts peacefully.
model, refined by Dahl’s “polyarchy”\textsuperscript{52}, as a starting point. From this model, various “procedural minimum” concepts are derived, ranging from minimalist to more expanded. According to Schmitter and Karl, who have constructed an “expanded procedural minimum” model for Latin America, popularly elected officials must be able to exercise their constitutional powers without being subjected to overriding opposition from unelected officials. For Guatemala the strongest opposition from unelected officials has come from the military during the whole process of democratisation. Even the most expanded concepts of the procedural minimum explicitly excludes extensive participation as a requisite, arguing that “all citizens may not take an active and equal part in politics, although it must be legally possible for them to do so”\textsuperscript{53}. The issue of participation is an important point of disagreement in the Guatemalan case. Frank de la Rue, director of the Guatemalan human rights organisation CALDH and nominated for the 2004 Nobel Peace Prize, even claims that the lack of political participation was the real cause for the 36 year civil war\textsuperscript{54}. He argues that the socioeconomic issues generally perceived as the root causes of the war could have been resolved if there had been an open, participatory democracy in Guatemala. For this reason, as well as for the need to include an aspect of social movements and demands from the largely excluded indigenous community in Guatemala, the alternative conceptions of democracy that are centred on participation, are more appropriate here\textsuperscript{55}. This tradition is based on a broad conception of citizens’ rights and goes back to theorists from Aristotle through Mill; \textit{beyond not being legally precluded, political participation lies at the heart of democracy}. For the purposes of this essay it is necessary to understand democracy as requiring the participatory element. By insisting on the participatory element of democracy, I can also use an expanded conception of citizenship to include rights beyond those associated with the legal status, including individual as well as group, cross-border human rights. In the country of my case study, a country that is (at least) 60 percent indigenous, the dimension of cultural rights alongside individual rights is essential. Although these issues are still opposed by non-indigenous people in Guatemala, as being threats to “national unity”, they are central to a discussion on democracy as conflict prevention. Anything less than a framework of this kind would be to accept electoral democracy, however

\textsuperscript{51} Susanne Jonas, \textit{Of Centaurs and Doves}, p. 94.
\textsuperscript{54} Interview with Frank de la Rue, CALDH, Guatemala City, October 24, 2003.
exclusionary and intolerant, as sufficient for peace. This essay assumes that the evolution of a culture of prevention cannot begin until a proven level of participatory democracy exists. Another principle that will be emphasised in the discussion on democracy as conflict prevention is constitutionalism. Constitutionalism and democracy have historically represented contrasting approaches to politics and society. In the present, however, the relation has changed\textsuperscript{56}. Interaction between democracy and constitutionalism occurred because the very idea of democracy was undermined by rulers who claimed that they wished to install popular participation but found ways of stealing this power for themselves. Constitutionalism could offer protection needed for democracy to “survive”. Especially when discussing new democracies that are prone to coup d’états that interrupt the constitutional order, it is important to highlight this interaction. Constitutionalism entails a relatively strong consensus regarding the constitution, and especially a commitment to procedures of governance that can be altered only by exceptional majorities. A democracy in which a single leader enjoys, or thinks he or she enjoys, a “democratic” legitimacy that allows him or her to ignore, dismiss, or alter other institutions – the legislature, the courts, or the constitutional limits of power – does not fit my conception of a democratic regime capable of creating a culture of prevention. When such discretion by a leader is checked by popular participation democracy can become institutionalised. Constitutionalism is here seen as an effect of participation – people participating in the protection of their democracy when it is under threat. Participation and support for constitutionalism can lead to profound transformations in the rules of the political game – giving rise to a new political culture – making these concepts relevant qualifiers to democracy when discussing the relationship between democracy and a culture of prevention.

\textbf{Introducing indicators of “a culture of prevention”}

As the review of the conceptual confusion around conflict prevention has shown, “the remaining challenge is how to operationalise it” (Dress & Rosenblum-Kumar 2002:240). Therefore, I will now suggest defining indicators of a culture of prevention, and, thus, suggest a more detailed way of looking at the political culture that democracy, in theory, produces. These indicators will in the next section be put to practical use, as an operationalisation of the concept a culture of prevention, in a case study of Guatemala. The aim is to investigate if a culture of prevention is evolving under democracy or not, and to examine the political

conditions that permitted, or inhibited, the evolution of a culture of prevention in the time period chosen. Because conflict prevention is concerned with preventing violence, and democracy is expected to produce a political culture capable of non-violent conflict resolution and respect human rights, the five indicators of a culture of prevention in this study are:

1. **Respect for the right to life and security of person**  
   \[57\];

2. **Respect for the right to recognition as a person before the law, to equal protection of the law, and to effective remedy for acts violating fundamental rights**  
   \[58\];

3. **Respect for the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association**  
   \[59\];

4. **Attempts to resolve the root-causes of the civil war**  
   \[60\]; and

5. **Non-violent conflict resolution**  
   \[61\]

The human rights provisions that make up indicators one through three are parts of the Civil and Political Rights in the Universal Declaration of Human Rights. Indicator number one is included because a culture of prevention has among its main goals to prevent violence, and to protect the right to life and security for citizens. Indicator number two is included because the role of the courts is important to democratic consolidation, as it is the judiciary that underpins the establishment of rule of law and legal accountability to constitutional norms. The judiciary guards the law and constitutional principles; it provides the forum for the settlement of disputes between individuals and the state; and finally it is part of the system for administering criminal justice. The fight against impunity and access to justice for all citizens are two fundamental aspects of the construction of a peaceful society. As for indicator number three, my reason for inclusion is that free speech and freedom of association and assembly are central to the notion of a functioning civil society in a participatory democracy. These basic human rights provisions play an important role in shaping society, both politically and culturally, and

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57 See the Universal Declaration of Human Rights, Article 3.
58 See the Universal Declaration of Human Rights, Articles 6, 7 and 8.
59 See the Universal Declaration of Human Rights, Articles 19 and 20.
60 This is one of the primary goals of Conflict Prevention, see for example the definition by Michael S. Lund: "[…] and to progressively reduce the underlying problems that produce those issues and disputes", Lund 2001:161. This indicator is applicable in a post-conflict context.
61 Michael S. Lund’s definition of conflict prevention, cited above, includes the following goal for conflict prevention: "[…] to strengthen the capabilities of potential parties to violent conflicts for resolving such disputes peacefully", Lund (2001), p. 161.
represent an opportunity for excluded groups to make themselves and their interests heard in a non-violent way. The role of the media has been much debated, particularly since ‘hate media’ were blamed for instigating genocide in Rwanda in 1994. For a functioning democracy, however, freedom of the media is basic, and, thus, “it has a role to play in conflict prevention strategies as well”\textsuperscript{64}. Signs of attempts at resolving the root causes of the civil war, is the fourth indicator. Conflict prevention is here seen not just as a means to directly preventing armed conflict, but also to address some of the principal political, economic, social, and ethnic imbalances that led to conflict in the first place. Doing away with these root causes of previous violent conflicts are here deemed necessary to consolidate a non-violent, lawful and more just society that is able to handle conflicts peacefully in a post-conflict country. This indicator is concerned with the implementation of peace accords as well as with demonstrated will to resolve long-standing disputes.

The final indicator is included to enable analysis of the fundamental issue of whether a violent culture is being transformed by democracy. What provisions has the state taken to ensure the peaceful and civil handling of conflicts in society, and how are the people responding? By including this indicator, I can examine if citizens of the democracy are using non-violent means of solving disputes in an increasing degree, a core aim of conflict prevention.

Although some civil and political rights require the state in effect to do nothing (e.g. not to torture individuals, Article 5), many actually require some form of positive action. This includes enforcing the negative obligations of individuals not to restrict the rights of others (e.g. preventing private individuals from torturing other individuals) and providing procedural guarantees that safeguard the protection of rights and the rule of law (e.g. the right to a remedy for violations, Article 8). In seeking to guarantee the realisation of an individual’s needs, human rights are necessarily concerned with regulating the relationship between individuals and those who affect this realisation. Enjoyment of many rights is influenced by both public and private actors. Human rights law regulates both actors via the state. This is because the state, as the sovereign authority, can be construed as having ultimate responsibility not only for its own actions but also for the actions of those within its jurisdiction. The drafters clearly had in mind the obligations of the state when they created the Declaration. However, they drafted it in a way that deliberately left the scope open for conceiving ways of promoting rights and did not limit their focus to the behaviour of states. Fifty years after the presentation of the Declaration, human rights scholars are suggesting ways in which private actors can be brought

\textsuperscript{64} Wallensteen, Peter, “Global Development Strategies for Conflict Prevention”, Uppsala, Sweden: Department of Peace and Conflict Research, Uppsala University, August 22, 2001.
within the purview of human rights law. This shifts the balance away from the state’s direct liability for its own actions to its indirect liability for the actions of those within its jurisdiction\textsuperscript{65}, but is not essentially altering the basic provisions in the Declaration that says “Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein."\textsuperscript{66} An example is that the United Nations in 1992 accepted an interpretation of existing human rights provisions, according to which violence against women should be seen as a violation of human rights. This positional change gives states principle responsibility for violence committed by private persons. The right to democratic governance has become a primary norm of international human rights law\textsuperscript{67}, but this is not one of the rights that will be examined here because my aim is to keep democracy analytically separate from its effects on the political culture. The fact that democracy is becoming a global entitlement, one that increasingly will be promoted and protected by collective international processes, makes it even harder – but also more important - to separate the concepts of democracy, human rights and conflict prevention.


\textsuperscript{66} The Universal Declaration of Human Rights, Article 30.

GUATEMALA – A DEMOCRACY WITH ADJECTIVES

Post-conflict prevention aims at the prevention of a renewed escalation of violence, by finding constructive and non-violent ways of resolving conflicts. Analyzing the situation in Guatemala, one of the hemisphere’s most ethnically divided and least stable countries, calls for examining the interplay between democratic politics, violence, human rights abuses and the patterns of state terror. How can we prevent the new forms of multifaceted political violence emerging in weak democracies such as Guatemala? The legacy of violence and the culture of fear in these countries are not easily transformed into a culture of prevention. Democracy has had eighteen years since the return to civil rule in 1985, and seven years after the signing of the final peace accord in 1996, to develop in Guatemala. During the last years of this study most statistics increasingly point in a direction away from liberty, equality and peaceful coexistence. What does this tell us about the conflict prevention potential of the current Guatemalan democracy?

In Guatemala, there often is a disjuncture between the analytical or political use of terminology when discussing democracy, and public discourse about actually lived experience. We are assigning the label of “democracy” to situations and time periods that were/are not experienced as such by large numbers of Guatemalans. Ruben Zamora, editor of the daily Guatemalan newspaper El Periodico, says that a new dictionary is needed to explain the word democracy in the Guatemalan context. “Guatemalan democracy surely would not be called democracy in this dictionary”, he says. Fascist democracy, illiberal democracy, ethno-democracy – many qualifiers are used when Guatemala is invited into the democratic family. Guatemala is developing “democracy with adjectives”, or “democracy without citizenship” built on the

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68 A distinction can be made between different phases of violent conflict: the phase in which a conflict emerges and escalates, the phase in which the violent conflict is on-going, and the post-conflict phase.
70 Interview with Ruben Zamora, El Periódico, Guatmela City, October 30, 2003.
71 For a discussion and overview of such concepts, see Collier, David, and Levitsky, “Democracy with Adjectives: Conceptual Innovation in Comparative Research”, World Politics 49 (April), pp. 430-451.
foundations of exclusion and dispossession of great majorities of the population. “The history of Guatemala shows that there can be elections without political democracy”\textsuperscript{73}. Commentators commonly point to the Central American states as peace-building “success stories”\textsuperscript{74}. If the standard for success is whether armed conflict among the former belligerents has resumed, the post-conflict preventive operations in Guatemala were clearly successful, because the formerly warring parties are no longer fighting. If, however, the main goal is to establish a durable peace by addressing the underlying sources of conflict in the country (\textit{structural prevention}), these operations lose some of their sheen, because they have led to exacerbation of the very conditions that have historically precipitated social unrest and revolutionary violence in Central America: namely, economic hardship and distributional inequalities. As the New York Times editorialized in March 1999, “The conflicts are over, but Central America’s warring nations have essentially returned to the conditions of misery and inequality that caused the wars to begin with”\textsuperscript{75}. Conflict prevention should not be measured simply by the absence of bloodshed, but by the moral quality of the outcome\textsuperscript{76}. Against the standard that the peace accords in Guatemala set, the peace process is stagnated, and significant elements of its provisions may never be implemented\textsuperscript{77}. I will argue that the “peace-building success” of Guatemala should be questioned. If peace is more than the absence of war, Guatemala has some way to go. Many people in Guatemala do not believe that their country has true peace\textsuperscript{78}, and the levels of violence and exclusion are high.

\textsuperscript{73} \textit{El rostro rural del desarrollo humano, Edición 1999}, United Nations in Guatemala, Guatemala: UNDP, 1999, pp. 75-76.
\textsuperscript{74} Ministry for Foreign Affairs, Sweden, Preventing Violent Conflict – Swedish Policy for the 21\textsuperscript{st} Century (Stockholm: Government Communication 2000/01:2, released May 2001), p. 54.
\textsuperscript{78} Interviews by author in September-November 2003. María Lemús of the women’s organisation \textit{Tierra Viva}, for example, says “If peace is more than the absence of war, we do not have peace”, and employees of the Maya organisation OxLajuj Ajpop feel that “The reality is very violent. We are not living in peace.”
The peace accords
– A theoretical base for a new political culture

When and how did a genuine democratic transition begin in Guatemala? Can we characterise as a “democratic” transition the period (early 1980s to early 1990s) when the political/electoral transition had begun but prior to the peace process? According to some political scientists the Guatemalan peace negotiation process, with its provisions for broad input and participation, was a democratising process that resulted in accords that honour democratic values. Slowly but surely, they argue, despite fierce resistances and significant delays and difficulties, the peace process created a space for discussion and negotiation of issues that had been taboo for decades\(^\text{79}\). Other analysts argue that it was democratisation (i.e. elected civilian rule) that made peace possible, not vice-versa. Here the argument is that peace would not have progressed outside of the framework of elected civilian rule\(^\text{80}\). Still other scholars argue that the peace and democratisation were two parallel processes that mutually reinforced each other\(^\text{81}\). Regardless of where one stands in the debate over what came first, the negotiation process was a great step forward for Guatemalan democracy, as the accords constituted a negotiated settlement representing radically opposed forces. In contrast to the Salvadoran peace process, carried out by a trio between the government, the FMLN, and the UN, the Guatemalan process was not limited to the negotiating table, but rather reflected the interactions between formal negotiations and the opening of democratic spaces in Guatemalan society as a whole\(^\text{82}\).

The peace accords did provide a framework for institutionalising full political democracy in a country that had not enjoyed such democracy since 1954\(^\text{83}\). For the first four civilian presidents, peace talks, with their emphasis on compromise and international support provided an opportunity to counteract the authority of the military and the resistance of reactionary domestic political forces. Significant factional shifts in the military led to the military’s acceptance of a negotiated settlement. They believed that the interests of the military as an institution were best served by ending the armed conflict, a response to fierce criticism of their


\(^{82}\) Jonas, Susanne (2000), p. 44.

\(^{83}\) The Accords are available in English at <www.usip.org/library/pa/index>
methods. The military’s brutal counterinsurgency practices, which clearly violated international human rights, were condemned both at home and abroad.

There are serious limitations in some of the accords, and important issues are left unaddressed. Unless the limitations are addressed directly, some of them are serious enough to eventually undermine democratic gains. One immediately visible area is the weakness on issues of justice to victims of the war, expressed mainly in the limited mandate of the Truth Commission and the partial amnesty covering some (not all) army war crimes. The most important elements of the peace accords in democratising Guatemala require changes in the 1985 Constitution. Although the Constitution contains a Bill of Rights on paper, it simultaneously legalises functions and powers for the army that make political democratisation almost impossible to achieve in practice. Article 244 of the Constitution says that the Guatemalan army is destined for internal as well as external security, while the Accord on Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society mandated constitutional reforms to limit the functions of the army to defence of the national borders and of Guatemala’s territorial integrity (i.e. external security). Furthermore, Article 30 of the 1985 Constitution excludes the military from the transparency required by other institutions and parts of the administration, paving the way for continued corruption and impunity. Hence, the major democratic gains from the peace process cannot be consolidated until the constitutional reforms are in place. The role of the military has not changed in accordance with the peace accords given the defeat of the popular referendum on constitutional reforms in May 1999.

As for the legal provisions of human rights in the case study of Guatemala in the years 1993-2003, the human rights accord of March 1994 did not introduce any new concept of human rights. These were already guaranteed on paper in the 1985 Constitution. But it brought the UN Verification Mission, Minugua, into the country in November 1994, to verify practice. Much of the content of the human rights accord had already been informally agreed upon in earlier negotiations, since it largely reiterated legal commitments the government had already subscribed to in the 1985 Constitution and ratified in various international human rights treaties. The accords required the government to strengthen judicial institutions and the Office

86 The primary human rights are found in the Universal Declaration of Human Rights and the American Declaration of Human Rights. In addition, international human rights norms relevant to Latin American states are articulated in the International
of the Human Rights Ombudsman (created by the 1985 Constitution), update criminal codes, regulate the bearing of arms, fight against clandestine groups (death squads), guarantee the freedom of movement and association, end forced military recruitment, provide protection to those working in human rights, and provide reparations to those harmed by the armed conflict. The concept of human rights has long had conflicting connotations in Guatemala. During the war, human rights was seen by the military as something the outside world was trying to impose on Guatemala. In a recent book on the strategies of the war in Guatemala by Victoria Sanford, she quotes a witness account of a statement made by a soldier who spoke before a rural community in 1983: “There are only two things: one is human rights, and the other is Guatemala. If you are going to defend Guatemala, this means that you belong here; this signifies that you are Guatemalans. And if you will defend human rights, this signifies that you are aliens [extranjeros] because this belongs to the gringos and to other people from the outside.” The view that human rights are a political struggle of the left and by international organisations is alive among sectors of Guatemala today. “International intervention is how Guatemalans think of human rights, at least groups to the right do”, says former President of Guatemala, Vinicio Cerezo. “The middle class thinks that human rights is a project of the left. There is not much sympathy for the human rights groups that are seen as denouncing everything.” The son of Vinicio Cerezo, politician Carlos Cerezo even argues that “Human rights activists and NGOs question and criticise the political system so much that they endanger the whole system, they put it at risk and threaten development. Governability has been lost because there has been so much criticism of the government, the police and other institutions that nobody believes in the system any more.” Everyone in Guatemala, including the military and the right-wing FRG-party uses the term, but sometimes only for populist purposes. The FRG governor of the department of Quiché last year said that money promised to groups of former civil patrollers for coming to a political meeting to support the party’s proposals had been blocked by international human rights organisations who were opposed to

Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the American Convention on Human Rights. These treaties were adopted by the UN and the OAS in the late 1960s and entered into force between 1976 and 1978. More highly elaborated norms were subsequently expressed in such treaties as the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on Forced Disappearance of Persons – treaties that were drafted and entered into force in the late 1980s and early 1990s.


Interview with Vinicio Cerezo, Guatemala City, October 23, 2003.

Interview with Carlos Cerezo, Guatemala City, September 23, 2003.

The Vice Presidential Candidate of the FRG, Barrientos, replied that the FRG “respects and protects everyone who fights for human rights”, when asked the question “What is the next FRG government going to do about the fact that the human rights-situation has deteriorated during this FRG-administration?”, at a presidential forum arranged by the human rights organisation CALDH, in Guatemala City on October 9, 2003.
the payments. He said that organisations that are not Guatemalan should leave the country. Antonio Delgado, of the Myrna Mack Foundation, says the concept of human rights lacks meaning, because everyone uses it - sometimes for questionable reasons - without defining what they mean by it. Political analyst and advisor Louis Costa believes the concepts of human rights, as well as democracy, are loosing their utility, because they are being used in the wrong situations: Ríos Montt called his candidacy to the presidency “a triumph of democracy”, despite the fact that his candidacy is unconstitutional. He argued in court that it was a violation of his human rights to hinder his candidacy. Conservative rhetoric even says that “this country was ok until the human rights came, now police are not allowed to go out and shoot criminals like they should”, says journalist Frank Jack Daniel of Infopress Latinoamericano in Guatemala. Daniel does not agree with the extreme rhetoric, but he too criticises the “international philosophical discourse” of human rights. He says that the social movement in Guatemala is in crisis because it is not representing its base. They are very good at playing the game at the international level, getting international attention and money, he points out. They “fail to respond to the needs, but they write good reports”.

The Consolidation of Democracy in Guatemala

I will analyse the evolution of the political culture in Guatemala between 1993 and 2003. Following generally accepted knowledge on democratisation, the political culture should evolve towards a stronger and stronger consolidation of “democratic” norms and values during the last stage of the democratisation process, the consolidation phase. This is why I have chosen to begin my study in 1993, the year in which a significant expression of popular support for constitutional democracy and participation was made, leading to greatly strengthened civil society and political pluralism. The first eight years of formal, institutional democracy since the return to civilian rule in 1985 have thus been left out of this case study because during these years the Guatemalan democracy had not yet reached something that can be labelled a

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91 Interview with Juan Pérez, resident of the department of Quiché, October 4, 2003.
92 Interview with Antonio Delgado, the Myrna Mack Foundation, Guatemala City, September 26, 2003.
93 Interview with Louis Costa, political analyst and assessor, Guatemala City, October 22, 2003.
95 For the generally accepted model of democratisation adopted by policy makers, see Ottaway, Marina (2003), pp. 12-14.
consolidation phase, and can thus not be expected to create a conflict preventing culture\textsuperscript{97}. Using the terminology of prevention, this means that, during the period of democratic consolidation that I have chosen to study, the theoretical expectation is that the culture of prevention expected to be created by democracy evolves and deepens. In the following section, I will outline the main features of democracy characterising the years included in this study.

**Failed coup, Peace on Paper & Return of the General**

This case study takes the failed self-coup by President Jorge Serrano Elías in May 1993 as its starting point\textsuperscript{98}. By refusing to accept the *Serranazo* the Guatemalan people showed the spirit of participation and constitutionalism that I consider an indispensable condition for a consolidated democracy\textsuperscript{99}. Serrano Elías attempted to seize dictatorial powers through a self-coup (*autogolpe*), closing Congress and the judiciary and censoring press. The so-called *Serranazo*, which initially enjoyed the support of sectors of the military, triggered near-unanimous rejection by a remarkable cross section of Guatemalan society. The negative response, together with prompt imposition of international sanctions, convinced the military to withdraw support for Serrano. Unexpectedly, the judges of the recently formed Guatemalan Constitutional Court declared that the coup was unconstitutional. Journalists ignored the censorship orders, and people gathered in the streets to demonstrate in favour of democracy. After ten days of uncertainty, a civilian former human rights ombudsman, Ramiro de León Carpio, was elected by Congress and sworn in as interim president to complete Serrano’s term. The military had incentives to support de León, since backing a former human rights ombudsman would help convince international actors of the military’s new democratic vocation.

\textsuperscript{97} The current period of elected, formally civilian rule began in 1985-1986. A new Constitution was written in 1985, and the 1985 elections brought the Christian Democrat Víncio Cerezo to the presidency in 1986. Guatemala held elections in this period that were considered free and fair, as well as competitive. However, the elections in 1985 and 1990-1991 were not representative of all political tendencies, and a repressive counterinsurgency apparatus was effectively stifling basic freedoms of expression and assembly and imposing military control on entire sectors of the rural population. Far from being fully pluralistic, the elections were ideologically restricted, with virtually all forces to the left of centre excluded as well as persecuted\textsuperscript{98}. The 1990-1991 election led to the transfer of power from one elected civilian government to another, an important advance for Guatemala. However, the US-based National Democratic Institute, which observed that election, concluded that Guatemala was consolidating an “exclusionary democracy” (1991), still lacking in basic political guarantees. What existed from 1986 through the early 1990s can be described as a civilian version of the counterinsurgency state, with its own particularities, but leaving the army with a great deal of power over civilian authorities. For the most part from 1986 through the early 1990s, civilian presidents allowed the army to rule from behind the scenes. I have chosen not to include this period of formal democracy in my study. The very restricted form of democracy, lacking in popular participation, experienced by Guatemalans from 1985 to May 1993 cannot be expected to form a culture of prevention.

\textsuperscript{98} Susanne Jonas (2000), has also argued that the failure of the *Serranazo* was the first real sign of a deeper democracy in Guatemala, calling it a *key turning point*, marking the beginning of new forms of political behaviour, p. 105.

\textsuperscript{99} See arguments on pp. 10-13 of this essay.
The failure of the 1993 Serranazo was a key turning point in the evolution of a new political culture, galvanizing all of Guatemalan society for a return to the constitutional order. After the 1993 Serranazo a new “informal” political arena evolved. In 1994, the broad-based multi-sector Asamblea de la Sociedad Civil (ASC) was established, including virtually all organised sectors of civil society as well as the major political parties. Only the big-business sectors represented in the powerful umbrella organisation “Coordinating committee of Agricultural, Commercial, Industrial, and Financial Associations” (CACIF), decided not to participate. The grassroots organisations demanded participation in the peace process after the Serranazo-experience. The ASC gave Guatemala’s organised popular sectors their first sustained experience of participating in and considering themselves part of the political process. Also, gradually, a number of umbrella Civil Society Organisations were set up at this time, such as the Council of Mayan Organisations of Guatemala (COMG), and the Coordination of Organisations of the Mayan People of Guatemala (COPMAGUA).

In 1996 Guatemalans saw the peaceful transfer of power from interim president de León to another civilian, Alvaro Arzú of the centre-right Party for National Advancement (PAN). This first presidential election after the people had shown their disapproval with unconstitutional power changes is an important sign of stability. Alvaro Arzú narrowly defeated the candidate of the right-wing Guatemalan Republican Front (FRG) in regularly scheduled elections. No presidential candidate received an absolute majority in November 1995, requiring a January 1996 runoff between modernizing conservative Alvaro Arzú and a stand-in for former dictator Efraín Ríos Montt. In the second round Arzú won by a 2 percent margin. This assured continuity in the peace process - Ríos Montt’s party had given signals in the opposite direction. The FRG’s founder and chairman, Efraín Ríos Montt, a former military dictator who seized power in a coup in 1982, and whose brief period of rule saw some of the war’s worst brutalities, was barred from running for president. The Guatemalan Constitution bans previous coup-leaders from registering as candidates. Arzú assumed office in early 1996, and official peace talks were resumed on February 24. The peace process now moved at a rapid pace: five different agreements and the final peace accord were signed within a year. In August 1996 the government announced that the notorious civil defence patrols (PACs) would be demobilised by November 15 of that year. The signing of the final peace accord on December 29, 1996, officially ended Guatemala’s thirty-six-year civil war.

The year of 1999 saw the defeat of constitutional reforms in a popular referendum. In the same year the first presidential elections were held after the signing of the final peace accord, bringing the party that was founded by “the General”, Ríos Montt, to power. The former
guerrillas had transformed themselves into a political party and competed in the elections. On May 16, 1999, a popular referendum was held on a set of fifty constitutional reforms essential to the peace accords\textsuperscript{100}. To the chagrin of Guatemalans who supported the reforms, as well as international observers, all four ballot questions were defeated by margins of roughly two to one, reflecting a particularly strong rejection in Guatemala City. Turnout was only about 18 percent (21 percent in the capital), despite months of publicity and voter education, much of it funded by international donors. The defeat was attributable to at least two main factors: a powerful, expensive, anti-reform publicity campaign during the final weeks before the vote, which portrayed the reforms in a very negative light, and public ignorance regarding the content of the reforms, which were so complex as to be easily misunderstood. This was a significant failure of the peace process, making key elements of the peace accords moot. In November of the same year, Guatemalans delivered a big vote to the conservative FRG – the party that was founded by Efraín Ríos Montt, who was once again barred from registering as a candidate. The first round gave presidential candidate Alfonso Portillo just short of the 50% needed for victory, requiring a run-off election on December 26. Portillo, a formerly left-wing politician who spent much of the civil war years in exile in Mexico, won the second round and was sworn in as President on January 14, 2000. With the Portillo administration, Ríos Montt is installed as the FRG’s majority leader in Congress, with 64 of 113 seats\textsuperscript{101}. Ríos Montt has openly opposed the peace process\textsuperscript{102}.

\textsuperscript{100} Constitutional reforms in Guatemala require the support of two-thirds of Congress, followed by a majority vote in a popular referendum.

\textsuperscript{101} For news coverage of the election in 1999, see “The voters rally to the right”, \textit{The Economist}, November 11, 1999 and “Portillo’s progress”, \textit{The Economist}, January 20, 2000, available via the Economist’s homepage on the Internet <http://www.economist.com>

\textsuperscript{102} Jonas, Susanne (2000), p. 50.
APPLYING THE INDICATORS

The overview of the period from 1993-2003 in Guatemala has shown a formally stable consolidation phase of democracy with two peaceful transfers of power in general elections and the signing of final peace accords. I will now apply the indicators of a culture of prevention identified in this essay on the case of Guatemala, in order to be able to analyse how the political culture has evolved during this period of formal democracy. This will enable a more systematic examination of the evolution of political culture in the country, and help me to draw tentative conclusions about the relationship between democracy and a culture of prevention.

Respect for the right to life and security of person

The United Nations in Guatemala reports that there has not been the development in the area of human rights that might be expected after the signing of peace in 1996. They state that although the violations of human rights no longer are the result of deliberate politics of the state, they are part of a repressive inertia that is practiced by public officials and agents of the state institutions. This is due to a cultural heritage from the epoch of military dictatorships that has survived in Guatemala. The violations of four areas of basic rights persist: the right to life, the right to justice, the right to political participation, and social rights.\(^\text{103}\)

The statistics on violence in Guatemala are varying greatly depending on the source. This is a closed country where official information is sometimes hard to come by, and often people are afraid of reporting violations due to a fear of reprisals.\(^\text{104}\) Trends can however be observed in the different numbers presented by different sources. The United Nations in Guatemala publishes an annual report on the development situation in the country. According to their 1998 report, the levels of violence declined in 1996:


<table>
<thead>
<tr>
<th>Violent Deaths</th>
<th>Wounded in violent acts</th>
<th>Total of violent criminal acts</th>
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(Source: United Nations Development Programme, 1998)

The Guatemala section of FLACSO, the Latin American academic faculty for the social sciences, compiled all cases of violent attacks and homicides reported in the media between October 1996 and June 1999. They calculate that the average is 126 attacks and homicides per month in this period. Their numbers also show a lower number of violent attacks in 1996, coinciding with the statistics in the United Nations report. In 1997, however, the numbers increase again, to once again go down in 1998. Extrajudicial executions slumped from 94 in 1997 to 66 in 1998. All numbers for 1999, although only the first six months of 1999 are included, indicate significantly lowered incidence of attacks, homicides and extrajudicial executions in that year. However, the failure to accept the constitutional reforms in the referendum in May 1999 could be expected to make a difference in the second half of the year. Therefore, no conclusions for 1999 can be drawn from this research. 1996 and 1998, thus, seem to be years with a comparably less cases of violent attacks, homicides and executions, according to the research by FLACSO.

In 1998 there were 850 denunciations of violations of human rights presented by the Grupo de Apoyo Mutuo (GAM) in Guatemala. Included in the GAM report are denunciations received by their own offices, and information from the National Civil Police and hospitals. The numbers from GAM coincide with the ones from FLACSO, in the sense that all statistics show a lower incidence of violence in 1998 than in the following years. Of the 850 declared violations in 1998, 585 pertained to violations of the “right to life” (extrajudicial executions, massacres and other violent deaths), 101 pertained to the right to “physical integrity” (intended lynching, lynchings, denounced blows/strikes, wounds by fire-arms, wounds by steal weapons, sexual violence and torture), and 139 to the “right to freedom” (forced disappearance, kidnapping, disappearance without cause, threats, attacks, persecution and harassment). The

largest number by far is the 545 reported as other violent deaths\textsuperscript{106}. In 1999 there were 1243 denunciations of violations of human rights presented by the Grupo de Apoyo Mutuo (GAM) in Guatemala. Of these 1243 declared violations, 660 pertained to violations of the “right to life”, 451 pertained to the right to “physical integrity”, and 113 to the “right to freedom. The largest number is the 595 reported as other violent deaths.\textsuperscript{107} The amount of lynchings increased from 78 in 1998 to 103 in 1999, and wounds caused by fire-arms amounted to 193 in 1999 compared to none reported in 1998. In 2000 there were 1946 denunciations of violations of human rights presented to GAM. Of these 1946 declared violations, 877 pertained to violations of the “right to life”, 848 pertained to the right to “physical integrity”, and 221 to the “right to freedom”. Here the number of reported “other violent deaths” reaches 800, compared to 595 in the year before. In 2001 the total number of violations reported by GAM was 2127. The denunciations of violations of the right to life in 2001 amounted to 1100, there were 876 reported violations of the right to physical integrity and 151 of the right to freedom. The number of reports on “other violent deaths” was 1076. In 2002, the total number of violations denounced by GAM reached 5826, of which 2841 pertained to the right to life. 2237 pertained to the right to physical integrity, and 594 to the right to freedom. The number of reports presented as “other violent deaths” more than doubled from 2001 to 2002, the number being 2686 in 2002. Reported wounds from fire-arms also increased significantly, from 571 in 2001 to 924 in 2002\textsuperscript{108}. GAM reported in the end of February 2003 that there had been a 173 percent increase in violations against human rights from 2001 to 2002\textsuperscript{109}. In October 2003 GAM presented statistics for the first nine months of the year. Between January and September of 2003, the number of violent deaths had reached 2101, including 21 extrajudicial executions. They claim that they can prove that the majority of these have been committed by the security forces of the State of Guatemala, and that the executed are mostly political activists. Other violent deaths in the first nine months of 2003 are 1040 in number. The GAM statistics from 2003 include denunciations received directly by GAM and cases reported in the media\textsuperscript{110}. The GAM reports show a clear tendency of increasing violence from 1999-2002. Although the final numbers for 2003 have not been presented, the trend is declared to be continuing: The GAM and the daily newspaper Prensa Libre reported in November that violence increased by 163%}

in 2003. A staggering 26243 persons were wounded by fire-arms in January-November 2003, according to this report and they register 2832 assassinations\textsuperscript{111}. According to figures from the Nacional Civil Police (PNC), the homicide rate per 1000 inhabitants, was higher than 30 in the period between 1996 and 1998\textsuperscript{112}. In 1999, the homicide rate per 1000 inhabitants was reduced to a rate of 23.7. However, the rate started rising again after that, to 25.2 in 2000, 27.5 in 2001 and to 32.3 in 2002. In 2002 the Human Rights Procurator of Guatemala received 22000 denunciations of violations of individual rights. In 2003 this number is exceeding 40000, the procurator said in October 2003\textsuperscript{113}. Alarming statements are also coming from the hospitals in Guatemala City. The General San Juan de Dios hospital receives close to 500 patients every day, and close to 70 percent of them are victims of violence, says the head of the emergency room. On pay day or during public holidays and weekends the number of patients increase, then the hospital receives around 1000 patients a day. The majority are, again, victims of violence. The numbers of victims of violence attended by the hospital has increased “excessively” since the beginning of 2003, says Mario Contreras, the head of the emergency room, to the daily newspaper Prensa Libre\textsuperscript{114}. Alarming reports of domestic violence against women has been made public in the years from 2000 onwards\textsuperscript{115}. For the year of 2000, el Ministerio Publico reported 5706 cases of intra-familiar violence, and in 2001, they reported 1116 violent deaths of women in the country\textsuperscript{116}. This was combined with a high degree of insecurity and fear for women, be it in their workplaces, in the street, in the school or at home, according to reports by the United Nations in Guatemala. Children and youth also constitute victims of violence to a high degree. They are not just affected in their home but especially in the streets. In 2001, there were 1030 violent murders of children under the age of 18 reported. The highest number of violent deaths, 3535, is found in the group young adults, of which 88% are men. More and more children perform violent acts\textsuperscript{117}. Emilio Goubaud Herrera has long worked to help young Guatemalans leave street

\textsuperscript{110} “Violaciones a los derechos humanos y hechos de violencia durante Enero-Septiembre de 2003”, Grupo Apoyo Mutuo (GAM), Guatemala, October 17, 2003.
\textsuperscript{113} Villaseñor, Claudia Méndez, “En aumento violaciones a los derechos humanos”, Prensa Libre, October 11, 2003.
\textsuperscript{114} Seijo, Lorena, “Saturados por la violencia, Emergencias: El 70 por ciento de ingresados son por lesiones de arma de fuego o blanca”, Prensa Libre, October 9, 2003.
\textsuperscript{116} La base de datos de muertes violentas de las Estadísticas de Hechos Vitales, INE, 2001.
\textsuperscript{117} Guatemala: Una Agenda para el Desarrollo Humano, p. 6.
gangs, and to prevent new youngsters from joining the gangs. He now heads APREDE, an organisation devoted to the prevention of maras, or street gangs. He says the Guatemalan government is not doing anything to prevent more young people from taking part in street gangs. “We had a meeting with the government on the issue. But only departments responsible for passing judgement and punishing attended the meeting. With that kind of mentality the problem we will not exit the negative spiral we are in”. APREDE has actually managed to get many young people out of the gangs, but sadly some of them are killed when they leave. “I cannot see any positive effect of the government. The word prevention has appeared in the political agenda of Guatemala in the last year, as a response to international pressure. But they do not work with prevention at all. They are not interested in that”\textsuperscript{118}.

The United Nations Special Rapporteur notes that lawyers, procurators and judges handling cases concerning controversial human rights violations are “subjected to threats, intimidation and harassment”\textsuperscript{119}. The Myrna Mack Foundation has since 1997 investigated threats against those working in the judicial system. They registered 53 cases in 1997, 49 cases in 1998, 88 in 1999, and 147 in 2000\textsuperscript{120}. This signifies a 277 percent increase from 1997 to 2000. 1998 is here too shown as a year with improved respect for human rights. When it comes to threatened judges, the policy of the Supreme Court (CSJ) is to transfer those who complain rather than open investigations into the complaints, which is a rather striking example of failure to achieve the answerability and enforcement aspects of accountability. Although the CSJ is obligated by law to offer protection to such judges, it is unable or unwilling to do so. Indeed, the position of judges is so precarious that insurance companies in Guatemala refuse to cover them, either individually or collectively\textsuperscript{121}. MINUGUA’s human rights reports reflected improvements in the human rights situation until mid-1998, since then, they note signs of deterioration in the form of increased numbers of lynchings, the continued existence of clandestine security structures, increased threats and violence against human rights workers, judicial officials and witnesses, and the news media, and continued impunity\textsuperscript{122}. A clear trend is discernible in the evolution of this indicator when comparing the different sources, although numbers vary.

\textsuperscript{118} Interview with Emilio Goubaud Herrera, director of La Alianza Para la Prevención del Delito (APREDE), October 24, 2003.
\textsuperscript{121} United Nations Special Rapporteur’s Report, p. 11.
Respect for the life and security of person was improving until 1998, but has been deteriorating from 1999 to 2003.

**Respect for the right to recognition as a person before the law, to equal protection of the law, and to effective remedy for acts violating fundamental rights**

According to Minugua, 40 percent of the violations of human rights during 2001-2002 pertained to *lack of due process*, and this signals a grave lack of respect for an important right of citizens. The United Nations Development Programme in Guatemala similarly stated in 2003 that the human rights area most violated in the country in 2002 was *the right to justice*. In Guatemala, the problem is not that laws and rules are lacking. There have been advances in the promulgation of legal instruments in several important fields as regards improved legislation and administrative regulations for the judiciary. The problem is that having rules is not the same thing as applying them. Moreover, it is not the same thing as applying them equally. *Impunidad* - the ability of the political, commercial, and military elites to stand above the law renders the legal system unreliable and the legislative process dysfunctional. Because of impunity, uncertainty and exposure without protection persist in the post-war context. "The law is in many ways very advanced and the constitution is fairly modern. We have decentralisation laws, laws regarding the Mayan languages, laws against intra-familiar violence and other admirable laws. The problem is not theory, but practice. In practice there is a lot of exclusion, the law remains unequally applied, a majority of the people do not have access to the justice system – and it is often controlled by economically powerful and organised groups." "This is a critical time. Guatemala is at a crossroads. One road leads to democracy, the other to authoritarianism. There is no rule of law in Guatemala. This has to be changed if democracy is to grow stronger or even survive. This is a country that is badly hurt by its history. The historical message is that the law has no value." The weak National Civil Police are reinforcing people’s perception about the lack of legal protection. Two young women in

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125 Interview with Sergio de León, Press and Communication Attaché at The European Commission in Guatemala, Guatemala City, September 2003.
126 Interview with Louis Costa, political analyst and assessor to the PAN-candidate in the presidential elections of 2003, Guatemala City, October, 2003.
Guatemala City simultaneously said that they trust the robbers more than the police, when asked why they had not reported an armed robbery in September 2003. “I called the police once in zone 5 [of Guatemala City], and they said that they would not come because it is too dangerous there”, one of them said. The two women both said that they understand why people resort to lynchings, and that it is “safer where there is no police”.

A Comprehensive Agreement on Human Rights was signed in March 1994, a breakthrough in the peace process. But days after the accord was signed, the head of the Constitutional Court, Epaminondas González Dubón, was assassinated in broad daylight – a typical message from Guatemala’s peace resisters – and the government took no steps to comply with its obligations under the accord. In fact, human rights violations worsened dramatically during April-October 1994. The judge was shot and killed in his car in front of his family. The year before Judge González’ murder, he had ruled that then-President Jorge Serrano’s self-imposed coup was unconstitutional. Just a month before his murder, Judge González cast his vote to allow the extradition to the United States of Lieutenant Colonel Carlos Ochoa Ruiz, a military officer and now convicted drug trafficker. After the murder, the remaining Constitutional Court judges voted against the decision to extradite Ochoa. There was widespread speculation that Judge González was killed because of that case, although his decisions in many other cases also challenged the interests of the civilian and military elite. Threats against the judiciary – to influence cases or punish judges for past decisions – were common in the 1990s. According to Minugua, “No ruling was made regarding the responsibility of members of the armed forces as instigators and abettors” of the murder. The public prosecutor’s office implicated four former military officers in the crime in 1997. Members of Judge González’s family have been attacked, and judges and lawyers involved in the case have received death threats.

The presence of Minugua from the end of 1994 represented a crucial commitment from the international community, and a confidence-building institution. The first four of Minugua’s periodic human rights monitoring reports (issued in March, June, and October of 1995 and in

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127 Conversation with two young women in Guatemala City’s zone 1, September 18, 2003. They wish to remain anonymous.


131 According to Amnesty International, despite being named, the “‘narco-military’ officers” remain unpunished. AI, AMR 34/001/2002 (February 2002).
March 1996), delivered a clear message: The main obstacles to human rights improvements was impunity. According to Minugua’s fourth report, issued in March 1996 and summarising the first year of its operations, “the Mission saw no decisive progress in the commitment to fight impunity.” The persistence of impunity was “attributable basically to the absence of a State policy for combating it”; the government failed to investigate, identify, and punish those responsible for human rights violations. Although it identified some areas in which progress had been achieved, the report expressed “deep concern” that “during the period covered by its reports, no effective measures were taken to follow up the majority of [its] recommendations” 132.

Many of those responsible for the abuses of the past remain in office. The continued failure of the military, particularly the notorious army intelligence agency, the Estado Mayor Presidencial (EMP)133, the Presidential High Command, to cooperate in human rights inquires, continued to be a factor impeding the battle against impunity in 2003. “The government and the military are used to make decisions above people’s heads. They break the law and do not fulfil their commitments in the peace accords. How are we supposed to trust a government that wilfully violates the Constitution? It is like a father who abuses his family. Our worry is that they do not abide by the law, the law is just paper.”134 Moreover, the Guatemalan governments during the period of this study have not developed integrated policies to implement or address the severe underlying problems in the judicial system, which include widespread corruption. This is perceived as a deliberate political strategy. “People in power see to it that justice is not given a chance. It is in their interest to cover up the truth.”135 Many international organisations have observed a lack of public political support for new instruments of the legal system, as well as a severe shortage of resources. Some of the new entities announced, such as the Special Offices of the Public Prosecutor, have not actually made a substantive difference in the capacity of the judiciary to investigate effectively crimes committed against particular sectors of society, and yet others have not actually come into being. In cases where new appointees have made genuine efforts to fulfil their mandate, they have been subjected to threats and intimidation as has been the case with Tatiana Morales, named in May 2002 as Guatemala’s

133 The EMP was to have been abolished under the Peace Accords signed in 1996, but the date of its abolishment has been moved several times. In October 2003 the notorious organisation was officially dismantled.
135 Interview with Rigoberto Perez Garrido, priest, Nebaj, Guatemala, October 1, 2003.
Special Prosecutor to look into abuses against human rights defenders. In the beginning of April 2003, Morales was promoted to the position of Special Prosecutor on Corruption, after the former Prosecutor, Karen Fischer, resigned publicly. Fischer cited allegations against the Attorney General (Fiscal General), Carlos de León Argueta, for his lack of support in cases that involved Guatemalan President Alfonso Portillo. The investigations carried out by Fischer against five military officials suspected of corruption had made little progress, and several of the officials included in the investigation were still serving as advisors to President Portillo. The Special Prosecutor’s Office for Special Cases (Fiscalía Especial de Casos Especiales), has reported that the resources assigned to them are insufficient to investigate the many important cases to which they have in principle been assigned. These include the genocide cases being brought against former members of the military high command of the governments of General Romeo Lucas García (1978-1982) and General Efraín Ríos Montt (1982-1983). The Witness Protection Program, operating under the Public Prosecutors’ Office has inadequate resources to protect those in need of its services. Insufficient funds to protect judges and other members of the judiciary have also been reported. Guatemala’s small Public Defenders Office has closed during 2003, or at least temporarily ceased operations, due to lack of funds to pay the lawyers it had employed to defend indigent defendants.

Among the Indigenous communities there is a general insecurity that has grown greater during the last years of this study than it has been for a long time, according to the United Nations in Guatemala. In general, the indigenous citizen has material as well as cultural difficulties to access the judicial services, such as meeting mostly mono-lingual (i.e. Spanish-speaking) staff. Women are also still being discriminated against in the justice system. They do not receive adequate legal protection. This is an important dimension of the social and cultural exclusion that occurs in the Guatemalan society. Women lack access to justice due to socioeconomic and cultural conditions. A manifestation of this situation is the increasingly visible violence against women, in the home as well as outside of the home.

There have been some positive signs in 2003. On March 13 the government signed a document to initiate the establishment of a commission to investigate clandestine structures and

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137 These cases are being brought by the Asociación de Justicia y Reconciliación (AJR), Association of Justice and Reconciliation; and the Centro para Acción Legal en Derechos Humanos, Centre for Human Rights Legal Action (CALDH).
apparatuses responsible for perpetrating attacks and threats against human rights defenders, members of the legal community and journalists. The Comisión para la Investigación de Cuerpos Illegales y Aparatos Clandestinos de Seguridad (CICIACS), came about due to the continued lobbying by Guatemalan human rights organisations and the Human Rights Ombudsman. Further progress has been made through the signing of a Government Accord. CICIACS represents an important potential instrument in combating impunity in Guatemala. Also worth mentioning are the convictions of several military officers for two of the most well-known and infamous criminal cases, the extrajudicial execution of anthropologist Myrna Mack in 1990\textsuperscript{140} and the murder of Bishop Juan José Gerardi in 1998\textsuperscript{141}. These convictions have not been achieved via state initiatives to uphold the rule of law as should be the case, but were rather the result of courageous, sustained action by independent human rights organisations and relatives of the victims. (Myrna Mack’s sister, Helen Mack, runs the outspoken Myrna Mack Foundation in Guatemala City.) These convictions, if they reach final adjudication, would be important symbolic convictions that could help increase the confidence in the legal system. However, the Gerardi conviction has been overturned, and the Mack case is pending appeal. Tens of thousands of other human rights abuses committed during the conflict years have gone uninvestigated and unpunished.

Despite these (limited) advances, most agree that the situation has gotten worse since 2000 with the FRG government. “The Arzú government did not show a strong interest in the peace process or the rule of law either, after the signing of the peace accords. Gerardi was killed during the Arzú years, and there were no investigations and no interest to prosecute. Arzú did not even attend the ceremony of the truth commission report. The point is that the FRG have not just \textit{not done anything} to make things better, they have actually made things worse.”\textsuperscript{142} The Interamerican Commission of Human Rights of the Organization of American States expressed concern about the deterioration of the \textit{estado de derecho} in Guatemala in a letter to all members of the organisation in October 2003. In the last year, the Commission states, it has verified a progressive deterioration of the judicial system of Guatemala. It calls into attention several factors that affects the state of a community governed by law, such as clandestine apparatus associated with drug trafficking, kidnappings, assassinations, social cleansing, and threats directed at defenders of human rights, judicial officials, witnesses, journalists and other

\textsuperscript{140} The assassination in 1990 of Myrna Mack Chang, a Guatemalan anthropologist, after weeks of persecution by an operative command of the military belonging to the Estado Mayor Presidential (EMP), was clearly related to her pioneer work in investigations of people affected during the internal war.

\textsuperscript{141} On April 26, 1998, 48 hours after he had presented the alternative truth commission report by the Catholic Church in Guatemala, Bishop Juan Gerardi was brutally assassinated in his own garage.
sectors. The Commission concludes that the increasing violence, criminality, threats and insecurity and the corruption, coupled with political violence, assassinations, impunity, and social exclusion are dangerous signs of a denial of justice.\textsuperscript{143}

Only days after the signing of the document to establish the CICIACS commission, a series of incidents began to occur in Guatemala. Since March 2003 there has been increased harassment of human rights defenders, including a raid on the house of Mario Polanco, the director of the human rights organisation the \textit{Grupo de Apoyo Mutuo} (GAM), one of the organisations involved in the CICIACS initiative, on April 7. On April 5, Diego Xon Salazar, a Mayan priest and one of the founders of GAM, was killed near his home in Chichicastenango. Xon Salazar had been receiving death threats in the weeks leading up to the killing.\textsuperscript{144} According to the Myrna Mack Foundation, one of Guatemala’s most respected human rights institutions, between January 2002 and February 2003 the total number of judges and magistrates threatened was 103.

General Efraín Ríos Montt seized power in a military coup in 1982. During his less than two years in power, the Guatemalan Army waged a scorched-earth campaign and engaged in hundreds of massacres of rural Mayan Indians. Twenty years later, in 2003, the general was back as a potential leader of the country. Although the Guatemalan Constitution forbids anyone who has participated in a coup from running for president, General Ríos Montt was a candidate in the 2003 elections. He has been the president of the Guatemalan Congress during the four years leading up to the elections, and has effectively waged considerable power from behind the scenes of the Portillo administration, as chairman of the FRG party. In the election campaign of 2003, the slogan for Ríos Montt’s presidential campaign has been “I am Guatemala” (“Yo soy Guatemala”), as a reminder to the people of his power. Since his candidacy was announced in the summer of 2003, the country experienced near anarchy on July 24, known to all Guatemalans as “the black Thursday” (Jueves Negro).\textsuperscript{145} After a court ruling upholding the constitutional ban on the candidacy of Ríos Montt, mobs directed by supporters of the general’s Guatemalan Republican Front party filled the streets of Guatemala City, attacking journalists and judges who opposed his candidacy. A few days later, the country’s highest court, packed with supporters of the general, lifted the ban, clearly illustrating the remaining lack of judicial independence. The vandalism of FRG sympathisers...

\textsuperscript{142} Interview with Dr. Roddy Brett, Amnesty International, Guatemala City, September 2003.  
\textsuperscript{143} Peréz, Sonia, “CIDH ve deterioro del estado de Derecho, Solicita a la OEA mantenese en alerta”, \textit{Prensa Libre}, October 9, 2003.  
\textsuperscript{144} Amnesty International. Deep Cause for Concern: Amnesty International’s Assessment of the Current Human Rights Situation in Guatemala, p. 7.
on July 24 were denounced by national and international human rights organisations. The Organisation of American States considered them to be “grave acts of pressure and intimidation against the administration of justice\textsuperscript{146}”. The last years of this study have, according to several observers of Guatemalan politics, signified a deterioration of the rule of law in the country. The unconstitutional inscription of Ríos Montt as presidential candidate was only one particularly clear example of the continuing impunity that makes the Guatemalan legal system unreliable and unequal. I cannot discern any evolution of this indicator toward greater respect for the right to equal protection by the law in the period of this study.

**Respect for the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association**

The Catholic Church’s truth commission report known as “Never Again” (\textit{Nunca Mas}) concludes that the climate of fear during the armed conflict has long-term effects on the population of Guatemala. They write that the lingering effects of war-time terror are inhibited communication, disinterest in organising, social isolation, questioning of values and communal lack of trust.\textsuperscript{147} “Guatemala has had 36 years of civil war. The war taught people to fight for their own good, for their own life. Guatemalans became frightened of association, organisation, of being affiliated with politics. This has made the Guatemalan people individualists that do not want to participate socially or politically.\textsuperscript{148}”

Minuggy’s presence from 1994 changed the human rights context, in the sense that a 400 person mission reminded Guatemalans that the world was watching. It is also reported to have contributed to overcoming fear, by providing a neutral haven to take their testimonies. Particularly in rural areas, this opened space for freer expression\textsuperscript{149}. The right to freedom of opinion was legally recognised by the democratic state of Guatemala after the war. The censorship was removed in the 1985 Constitution. Beginning in 1985, with the initiation of democratic rule, a change took place for the media and for public debate. Guatemalans started to lift the gag and the silence that had been created by terror, although in many areas the

\textsuperscript{145} See “Guatemala City hit by riot”, \textit{BBC News}, July 25, 2003, available on the Internet at \url{http://news.bbc.co.uk}.

\textsuperscript{146} Peréz, Sonia, “CIDH ve deterioro del estado de Derecho, Solicita a la OEA mantenerse en alerta”, \textit{Prensa Libre}, October 9, 2003.

\textsuperscript{147} \textit{Guatemala, Nunca Mas, Impactos de la Violencia}, Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG), Informe Proyecto Interdiocesano de Recuperación de la Memoria Histórica (Guatemala: ODHAG, 1998), Tomo 1, pp. 11-12.

\textsuperscript{148} Interview with Sergio de León, the European Commission in Guatemala, Guatemala City, September 2003.
‘culture of silence’ (*cultura de silencio*) still persist and people use silence as a strategy to avoid violent repercussions.150 Jaime Molina at Minugua in Guatemala says that “Although people know that they are allowed to speak freely now, they remain silent. The fear is incredible. Threats and fear hinder development, the ambience is not helping. Despite institutional changes, you cannot see anything in civil society. I have never been in a country with as much discrimination as Guatemala.” Newspapers have started to critically write about corruption and abuse of power within the government. However, subjects still exist that are not touched upon by the papers, such as corruption or transparency in the large, private companies; there are “untouchable” actors; and there exists political “rules” that limit the liberty of information and the peoples’ right to information.152 Ronaldo Robles, a former journalist now working in a program for multiparty discussion to strengthen political parties at the United Nations Development Programme in Guatemala, says that the media in Guatemala is superficial. Nobody investigates what lies beneath. “Who finances the party that may be forming our next government? Nobody wants to say it.” This is a great obstacle in the construction of democracy. Whoever is a journalist in this country, and the influence by the political and economic powers over the media is incredible. Before the popular referendum in 1999, columnists in the papers wrote that taxes would be raised, and that the indigenous would get much more rights than everyone else. That was untrue, and racist.153 Threats and assaults on journalists make freedom of expression a freedom with reprisals in Guatemala. “Each time the press exposes political corruption, it seems to pay a price for doing so”, concludes the organisation Reporters without Borders in their annual report on Guatemala 2002.154 They report that relations between the media and President Alfonso Portillo’s government were “at a tense all time low” at the start of 2001. On February 20, supporters of communications minister Louis Rabbé attacked the offices of the newspaper El Periódico after it reported on corruption charges against him. The 2003 report on Guatemala by Reporters Without Borders, saying that relations remain very tense, concludes that investigating abuses committed during the civil war is still a dangerous business for journalists, as is denouncing

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151 Interview with Jaime Molina, Minugua, Guatemala City, October 8, 2003.
153 Interview with Ronaldo Robles, Programa de Diálogo Multipartidario, PNUD, Guatemala City, October 2003.
154 “Guatemala – Annual Report 2002”, see the official website of Reporters Without Borders (Reporters Sans Frontières), <http://www.rsf.org>
The organisation published the first worldwide press freedom index in 2003, drawn up by asking journalists, researchers and legal experts to answer questions about press freedom violations, listing Guatemala as number 83 out of 139 countries included. The Human Rights Procurator of Guatemala has collaborated with the Inter-American Commission for Human Rights during 2003 in the area of freedom of expression. They are preparing the first report on the subject. The Procurator, interviewed in October 2003, said that 46 journalists had been attacked during the year, twelve had been threatened, and eight directors of media companies had been persecuted. They are also criticising the barriers to free access of information, especially from Congress. Amnesty International and other international human rights organisations have also repeatedly denounced threats and attacks on journalists. José Rubén Zamora, the founder and editor of El Periódico, is a journalist who has survived several assassination attempts. Last year El Periódico published an article about the Guatemalan government that described army organisations that with the passing of time have spread their tentacles and penetrated key institutions of the state, serving as a platform for illegal operations such as narcotics trafficking and kidnappings. He wrote that the guerrillas had been essentially defeated militarily by 1982, and that the ensuing years until the peace accords “served as the smoke screen with which this organisation converted the Guatemalan state into the criminal state which, with complete immunity, dedicated itself to assaulting Guatemalans.” In the beginning of the summer of 2003, he published a harsh editorial against General Ríos Montt. Since the article and the editorial were published, the threats and attacks have affected not only him, but his family as well, forcing his wife and children to move into exile. On June 26, 2003, 12 armed persons came into their house. They took the whole family to a room, forced them down on the floor and pointed guns to their heads. They removed Ruben Zamora’s clothes and told his children that they were about to witness their father’s execution. The Presidential Security Organisation, EMP, was responsible according to his own, private investigation. He says he will publish a list of names on the 20th of January.

The political left were heavily targeted during the beginning of the 1990s, as were human rights workers.
rights organisations in general and Mayan organisations in particular. Members of the New Guatemalan Democratic Front (FDNG), a left-of-centre political party, and were active in campaigns on security force reform and the disbanding of local PACs, were threatened and killed during the 1990s. Since the Council of Ethnic Communities Runujel Junam (CERJ) was founded in 1988 to defend the rights of Maya communities, its members have been targeted by local PAC members and military officials. The group was active in opposing obligatory PAC service, and continues to work to preserve ethnic identity, promote land reform, and disseminate information on constitutional rights. By 1990, thirteen of its members had been killed or disappeared in various parts of the country. That number was estimated to have increased to 24 by 1995. In many of these cases, witnesses identified PAC members, uniformed soldiers, or members of the military as perpetrators of the crimes, but investigations were irregular, inconclusive, or never took place. Other CERJ members have been illegally detained by the police, harassed, threatened with death, and accused of belonging to the URNG guerrilla group.

Amnesty International reports that virtually every major human rights organisation has suffered serious abuses in the last years of this study. These incidents range from raids on their offices during which important records on human rights cases are taken, monitoring of their communications and interference in their electronic data storage, to direct threats and attacks on their staff, including rape, torture and extrajudicial executions. In March 2003 GAM reported that 25 offices belonging to groups defending human rights had been attacked in 2002. Amnesty International claims that this wave of violations against human rights defenders reflects similar patterns to those during Guatemala’s armed conflict. Shocking examples that resembles methods used during the war include CONAVIGUA activist Manuel García de la Cruz, who was found dead with his tongue and ears cut off on September 6, 2002. If you organise you are assassinated, is still the message people frequently are given. The organisation for Maya Spirituality, OxLajuj Ajpop, has had their office broken into four times. Now they have moved because they are afraid. “What kind of freedom do we have? This

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affects you. They are not thieves because they never take anything. They are only looking for information about what we are working with, and this creates a lot of insecurity. We do not know what they want, what is the purpose of these break-ins?  

Attacks against land activists, have continued unabated since the peace accords were signed. In the last two-three years of this case study, there has been an escalation in violence and harassment against land activists, in rural as well as urban Guatemala. This has been particularly intensified since the beginning of 2003. On April 5, 2003, Jorge Gómez, member of the Lanquín community in the department of Izabal, was shot and killed. Since February 2003, Daniel Pascual, Juan Tiney and Rafael Chanchavac Cux, all national peasant leaders, have been subject to incidents ranging from death threats and robberies in which documents were stolen, to attacks. The son of Rafael Chanchavac, Daniel Chanchavac Zet, was kidnapped on April 4, 2003. His whereabouts remain unknown.

The election campaign of 2003 was lined with political violence. 30 candidates for different posts and party activists, mostly belonging to the opposition, were assassinated from April to November, 2003. Furthermore, 28 leaders or activist were survivors of violent attacks during the same period. 98 people were wounded when attending political meetings, and 15 political activists were threatened to life in the months leading up to the elections. A total of 299 persons were affected by threats of violence or violence during the election campaign. In October 2003, Nobel Peace Prize laureate of 1992, Rigoberta Menchú, was beaten by FRG-supporters in the Constitutional Court of Guatemala, after giving a statement criticising the unconstitutional inscription of Efraín Ríos Montt as presidential candidate. The president of the court, Mario Ruiz Wong, observed the incident without interfering. Rigoberta Menchú said “We are exposed to lynchings at every corner. This is the type of people that accompany the General. The difference compared to other incidents is that this time they did not cover their faces.” The day before the assault on Menchú, she had urged Guatemalans to use their vote in the elections to “fight the fear and say no to violence”. In a statement given to the daily

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164 Interview with three employees of Oxlajuj Ajpop in Guatemala City, October 29, 2003. The interviewees wish to remain anonymous.


Prensa Libre, Menchú also asked voters to resist voting for those who tried to buy their votes.\(^{168}\)

The US-based Lawyers Committee for Human Rights (LHCR) expresses concern for the safety of the staff of the Forensic Anthropology Foundation of Guatemala (FAFG). Members of the FAFG staff have been subjected to repeated threats and acts of intimidation in recent months and have recently received a written death threat. The LHCR sent a letter on the 7 of August 2003 to the government of Guatemala reminding the government of their responsibilities to protect those working in the field of human rights. They also denounce the continuing violence and acts of intimidation against other scientists, anthropologists, activists and journalists. “The Lawyers Committee continues to be concerned that not enough is being done to meet the acute security needs” and that “specific threats or acts of intimidation are not sufficiently investigated.”\(^{169}\) The Guatemalan people are also disappointed with the lack of political attempts to counter the insecurity. In a 2003 opinion poll by the daily newspaper *Siglo XXI* the question “What project, programme or service by this government has helped you or your family?” was asked. The most frequent answer was “none”, with 73.8 percent of the respondents in June and 76 percent in August when the poll was repeated. The respondents were also asked “Which are the most urgent changes that should be made by the next government?” The majority of the respondents (32 percent) answered “delinquency and insecurity.”\(^{170}\)

Those who attempt to protect and help the groups and individuals most vulnerable to harassment are themselves threatened: “The church tries to be there for people, we accompany the ones who want to report crimes or testify against the military. We often put ourselves at great risk when we help people, the same risk as they live with. I am always worried about my own security, but you get used to threats and attacks. Yesterday someone tried to push me off the road when I was driving home from a community.”\(^{171}\) In conclusion, the years of 2002 and 2003 are reported by several separate sources to have seen a deteriorating respect for the right to freedom of expression and peaceful association.

\(^{168}\) “Premio Nobel de la Paz llama a votar contra la violencia”, *Prensa Libre*, October 9, 2003, see [http://www.prensalibre.com](http://www.prensalibre.com).


Attempts to resolve the root-causes of the civil war

The civil war killed more than 200,000 people, a million became refugees, and 200,000 more were internally displaced. Large communities hid in the mountain areas for 10-15 years. In a population of 11 million, roughly 2.4 million were directly affected by the war. Given that Guatemalans tend to have large families, there is hardly anyone that the violence did not touch in some way; by an official estimate, the war also created some 40,000 orphans. The threat of renewed violence is pervasive, and so long as root causes of the war remain unresolved – the peace will remain incomplete and violent. The root causes that are frequently mentioned are the land conflict, exclusion, lack of participation, racism, poverty, lack of national identity and inequality. “The level of conflict has escalated hugely in the last few years, due to the worsening poverty in the countryside.” And nothing is being done about this”, says Dr. Roddy Brett, an investigator and campaigner for Amnesty with long experience from Guatemala. He is supported by Gustavo Arriola at the United Nations in Guatemala; “Fighting poverty is the most important thing for the durability of the peace. Guatemala has not become more equal since democracy was reintroduced in 1985”, he says. The only “root cause” that has been removed is the ideological cause for the Cold War-civil war of Guatemala, says Antonio Delgado of the Myrna Mack Foundation in Guatemala City. “Communication has improved, which leads to increased ability to handle conflicts. But some conflicts have deteriorated, like the land conflict. The government does nothing to solve these conflicts. The historical conflicts and structural inequalities caused the war and these problems persist. New laws for more equality have been created since democracy was reinstalled, but in practice there is just as much inequality and unfairness. There is a new secretary for women, but in reality women are worse off now, violence against women has increased.” Guatemala has refused to acknowledge the fact that the country is a multicultural country, which has led to a lack of shared national identity. Many today talk about the need for a national project - that democracy needs to become a national project – but at the same time

171 Interview with Rigoberto Perez Garrido, priest, Nebaj, Guatemala, October 1, 2003.
172 Extreme poverty increased from 15.7 percent of the Guatemalan population in 2000, to 21.5 percent in 2002, according to statistics from United Nations Development Programme in Guatemala. Extreme rural poverty was 31.1 percent in 2002, while the figure for urban Guatemala was 4.9 percent. 30.8 percent of indigenous people in Guatemala were extremely poor in 2002, compared with 12.9 percent of the non-indigenous population.
173 Interview with Dr. Roddy Brett, Amnesty International, in Guatemala City, September 2003.
174 Interview with Gustavo Arriola, UNDP, Guatemala City, September 2003.
175 Interview with Antonio Delgado, the Myrna Mack Foundation, Guatemala City, September 26, 2003.
176 Interview with Carlos Sarti, Fundación Propaz, Guatemala City, September 24, 2003.
acknowledge the difficulties, saying that Guatemala is not one nation, but several that are separate and polarized. Jaime Molina at Minugua in Guatemala City says that “Democracy needs to become a national project in Guatemala. There is no national agenda now. The system is used to increase the riches of few. Democracy in Guatemala is a luxury for the elite”\textsuperscript{177}. Nineth Montenegro, a legislator in Congress and one of the founders of GAM, agrees: “We have to create an identity and a project as a nation.”\textsuperscript{178} Guatemalans live according to deep divisions: between the countryside and the capital, rich and poor, men and women, educated and illiterate, propertied and landless, the Ladino (non-indigenous) minority and the Mayan majority (indigenous)\textsuperscript{179} – the included and the excluded. The 1995 Accord on Identity and Rights of Indigenous Peoples mandates a constitutional reform redefining Guatemala as a multiethnic, multicultural and multilingual nation. It lays the formal basis for genuine pluralism and for a more democratic political culture, overcoming the historic polarisation of Guatemalan politics and inviting the country’s indigenous majority to participate. The May 1999 rejection in a popular referendum of constitutional reforms that had been attacked by right-wing opponents halted the implementation of the reforms mandated in the Accord on the rights of indigenous people, and other key promises of the accords. Following the national election in the end of 1999, the conservative Guatemalan Republican Front (FRG) opposition party took control of the presidency and a majority in the legislature in January 2000. FRG leaders had not themselves signed the accords, and despite the new president’s initial pledge of support for the peace accords, there has been little success in delivering on the remaining commitments. The government committed itself to doubling notoriously low tax revenues as a percentage of GDP by 2000. This was later rescheduled until 2002, but that goal has not been met. Without adequate revenue, commitments to increased social spending, support for small-scale agriculture, and state support for multilingualism in the schools and the courts have faltered.

The policies of the government are not doing enough to limit the conditions of exclusion, marginalisation and discrimination by the indigenous communities\textsuperscript{180}. The political parties “have been indifferent to the needs and demands from the indigenous peoples that they refer to as ‘the other sector’”. They identify the indigenous as campesinos, rural people, without power.

\textsuperscript{177} Interview with Jaime Molina, Minugua, Guatemala City, October 8, 2003.

\textsuperscript{178} Nineth Montenegro speaking at \textit{La Bodegita} in Guatemala City, October 29, 2003.

\textsuperscript{179} There are two other small indigenous peoples in Guatemala, the Xinca and the Garífuna. The Maya are in majority with at least 60 percent of the total Guatemalan population.
or education. Many of the threats and attacks against land activists in recent years are related to the failure of the government to deliver an integrated rural development policy. The peace accords call for speedy resolution of land conflicts, facilitating access to land and other resources for campesinos, the vast majority of them indigenous. The historical problems of land conflict and socio-economic and political marginalisation for campesinos are now being accompanied by escalating levels of rural poverty and increasing unemployment, caused by the lowered coffee prices on the world market. Both the Minugua and the UN’s Special Rapporteur on the Rights of Indigenous Peoples, Rudolf Stavenhagen (during his visit to Guatemala in October 2002) have pointed out that the root causes that led to Guatemala’s costly and bloody conflict, have not been addressed, and the land conflict is one of the root causes. The increasingly poor campesinos are taking desperate measures to acquire or retain land taken from them, for example by occupying land. In January 2003, for example, four hundred farm workers armed with machetes and knives seized land in an area close to the El Salvador border, taking the unrealised land reform into their own hands. As a result, there is increased intimidation and attacks against them by landowners and their private security forces, and others. The two government agencies, El Fondo de Tierras (FONTIERRA), the Land Fund, and La Dependencia Gubernamental para la Solución de los Conflictos de Tierra (CONTIERRA), the Governmental Office for the Solution of Land Conflicts, established in the Peace Accords to facilitate campesino access to land via the free market economy and mediate land disputes respectively, have not, for a variety of reasons, made any significant impact upon the escalating rural crisis. “If you had a conscientious government, it would deal with the coffee crisis, the abandoned farms and the land conflicts instead of lending money to pay the PAC”. The government could buy abandoned farms and give this unused land to people who need them. That could be a first step to strengthening and liberating people”, says Frank Daniel, a journalist with the weekly Infopress Centroamericana. The failure of the two government agencies entrusted to handle the crisis in the Guatemalan countryside to impact effectively

183 See more about payment to ex-PAC and its effects in the section covering the non-violent conflict resolution indicator in this case study, pp. 42-43.
upon the land conflicts means that yet another promise of the peace accords has been left unmet.\textsuperscript{185} The Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society of 1996 acknowledged that the \textit{institutional weakness of the justice and public security systems} contributed to the conditions for civil war. It proposed constitutional amendments that would take policing and domestic security out of the hands of the military and instead establish a National Civilian Police (PNC) that would be “under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.”\textsuperscript{186} The agreement proposed constitutional amendments that would guarantee citizens “free access to the system of justice in the person’s own language, respect for the multiethnic, multicultural, and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms.”\textsuperscript{187} The justice system was profoundly compromised by authoritarianism during the armed conflict, and remains notoriously corrupt, ineffective, and inaccessible to the majority of Guatemalans. The depth of the Guatemalan justice system’s subordination to military power during the civil war was demonstrated in the report of the Commission for Historical Clarification (CEH), which was essentially a truth commission authorized by the parties in the Oslo Accords.\textsuperscript{188} The report’s authors noted that throughout the long decades of Guatemala’s armed conflict, the judicial system “[…] failed to guarantee the application of the law, tolerating, and even facilitating, violence.” “Impunity permeated the country to such an extent that it took control of the very structure of the State, and became both a means an an end.” The report concluded that by tolerating or participating directly in impunity, the judiciary became functionally inoperative with respect to its role of protecting the individual from the State, and lost all credibility as guarantor of an effective legal system.\textsuperscript{189} In 1996, more than a decade after the return to democracy, 50 percent of Guatemalans had no access to judicial remedies, 74 percent of the prison population had not been sentenced, and the

\textsuperscript{185} For a thorough account of the Guatemalan land conflict through an in depth study of the Ixil area, see Durocher, Bettina, “Los dos derechos de la tierra: La cuestion agrarian en el pais Ixil”, Guatemala: FLACSO, MINUGUA and CONTIERRA, 2002.
\textsuperscript{186} Agreement on Strengthening Civil Power 1996, para. 23.
\textsuperscript{187} Ibid., para. 10.
\textsuperscript{188} The CEH reviewed human rights violations during the armed conflict, and has made recommendations for reconciliation and preservation of the memories of the victims. The Catholic Church also published a report, entitled "Never Again" (Nunca Mas in Spanish), which was based on thousands of interviews.
\textsuperscript{189} See Conclusions number 10 and number 56 of the CEH truth commission report, available online at http://shr.aaas.org/guatemala/ceh/report/english.
country had no judicial career law\textsuperscript{190}. Reformers have strongly urged longer tenure on the bench in order to shield judges and Supreme Court justices from political manipulation through the appointment process. Guatemalan justices are elected for relatively brief (five-year) terms in office, although they may be re-elected. In the election of the new Supreme Court in late 1998 not a single magistrate of the Court was re-elected. According to the United Nation’s Special Rapporteur, this reflected the absence of any objective criteria for selection of the magistrates, which would seem to encourage reliance on partisan criteria\textsuperscript{191}. The Supreme Court named a large number of new trial judges who had not been screened or trained by the Judicial Training School, as is called for in the reformed judicial procedures. The Special Rapporteur made a very critical assessment of the quality of legal education in Guatemala. In Guatemala, those who teach law have not become stakeholders in the peace process. The six existing law faculties prescribe their own curricula and there are no state regulations governing legal education. The quality of education they offer is uneven, most schools pay little attention to human rights or constitutional law, and graduation alone ensures admission to the bar, without any sort of professional examination\textsuperscript{192}. The limited effects in practice of the reforms are discouraging. The sad picture was made worse when Guatemalans, despite deep discontent with the justice system, failed to ratify the constitutional amendments that would have enabled several justice system reforms to go into effect, in the popular referendum held in May 1999. By mid-2000 the national civil police proposed in the agreement on civilian power had largely completed its deployment. Minugua has observed its operations. Their July 2003 report concludes that the chronic institutional weaknesses of the PNC and the Government’s past unwillingness to adequately strengthen the state institutions responsible for preventing and combating criminal activities remains unchanged. “The current PNC budget (US$170 million) is allocated predominantly to salaries and is insufficient for the purchase of new or spare equipment or to provide operational amounts of fuel. An estimated 50 percent of all vehicles are in a poor state of repair. MINUGUA therefore calls on the Congress to appropriate more funding for the PNC in 2004, without which it will be impossible for it to confront common and organized criminal activities in an adequate fashion.”\textsuperscript{193}

\textsuperscript{190} Information available at the Minugua website: http://www.minugua.guate.net/comunicados/Carrera\%20Judicial1.htm.
The root cause of the war emphasised by Frank de la Rue, a 2004 nominee for the Nobel Peace Price, is a lack of participatory democracy. He believes that all of the other problems could have been dealt with peacefully if public participation in politics had been possible, and that frustration with being excluded led many people to taking up arms. He thus expresses faith in the theory that participatory democracy can handle conflicts peacefully. But now, without a democratic system open to participation, eighteen years into the new period of civil rule, people are increasingly disappointed with the system. The latest Latinobarómetro poll of attitudes in the region, shows that only 33 percent of Guatemalans think that “democracy is preferable to any other kind of government”, an 18 percent drop since 1996. “I am unsatisfied with democracy so far. We should have come further”, says Gustavo Arriola at the United Nations in Guatemala. He continues; “People expect a messiah, a strong leader who can solve all problems. When the leader does not live up to the expectations they get more disappointed and distance themselves more from political participation. They loose faith.”

Carlos Sarti of Propaz, a foundation for peace and communication in Guatemala City, agrees; “I am disappointed with democracy so far. I do not trust the government or the Congress. The Congress is no forum for debate. It is now run by the FRG majority and by special interests.”

The candidate for mayor in Nebaj, department of Quiché, of the URNG party, argues that “The government is only talking about democracy to please international interests.” Many are also emphasising that the weak institutions of Guatemala is easily used for undemocratic purposes.

The priest in Nebaj, Quiché, Rigoberto Perez Garrido is openly critical of the current democratic model of Guatemala, despite repeated threats and assaults: “Our worst criminals run the country. People are murdered for telling the truth. What kind of peace can we create under these circumstances? Can peace exist without justice? I do not know of any moral model for this.” “The democracy is being used for undemocratic purposes – for terrorist ends.” He does not think that it is strange that people’s patience is running out; “Ríos Montt not only runs free from justice, he is running the country’s legal system as president of the Congress. How do you think people react to this? We need some counterexamples to say to people that you are not allowed to commit crimes like this.” “The country is not becoming more and more

194 Interview with Frank de la Rue, CALDH, Guatemala City, October 2003.
195 Conclusions from the 2003 Latinobarómetro poll were published by the Economist, see: “The stubborn survival of frustrated democrats”, The Economist, November 1-7, 2003. In Guatemala, the poll was observed by the daily newspaper Siglo Veintiuno: “Sólo 33% apoya la democracia”, Siglo Veintiuno, November 1, 2003.
196 Interview with Gustavo Arriola, UNDP, Guatemala City, September 2003.
197 Interview with Carlos Sarti, Propaz, Guatemala City, September 24, 2003.
democratic, the last years have been the opposite, we are returning to the past. What is allowed in a democracy before it no longer can call itself a democracy? This democracy is definitely not creating a peaceful culture. The root causes of the war are still here with intolerance and racism. This causes dangers.199”,

Non-violent conflict resolution

Through lynchings and widespread criminality, impunity spreads through Guatemalan society more or less without boundaries. Guatemalans have identified the eradication of impunidad as a key to peace and security. It is simply not possible for a democracy without justice to create a peaceful culture of prevention. This section therefore looks at what is being done to strengthen the main civilian instruments available to non-violent conflict resolution; such as the national civilian police. Civilian institutions, functioning well, could help generate an entirely new culture, based on rights instead of fear and law without impunity. This section also looks at the role of the military in the democracy of Guatemala, and at the attitudes towards non-violent conflict resolution in the Guatemalan society as a whole.

The disbanded formerly obligatory civilian militias, the Patrullas de Auto-Defensa Civil (PAC), that spread terror during the war years and were officially disbanded in 1996, began to regroup in mid-2002. They operated under military control during the conflict, and were responsible for many of the human rights violations perpetrated, including executions and massacres of community members. Male residents of highland communities were obliged to serve as paramilitary forces, assisting the army. Although the peace accords stripped ex-civil patrollers of a formal authority, they have retained de facto power in many areas. In some cases they have in the last years of this study assumed leadership roles as auxiliary mayors or members of local municipal councils, often affiliated with the right-wing FRG. This legitimates their ongoing influence in the community and perpetuates old patterns of resolving conflicts through violence, creating a climate of fear and intimidation that obliges other community members to participate in, for example, lynchings in order to avoid reprisals. Since June 2002 they have demanded compensation for their forced participation during the

199 Interview with Rigoberto Perez Garrido, priest, Nebaj, Guatemala, October 1, 2003.

200 Guatemala, Nunca Mas, Impactos de la Violencia, Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG), Informe Proyecto Interdiocesano de Recuperación de la Memoria Histórica (Guatemala: ODHAG, 1998), Tomo 1, pp. 118-121.

49
war years, through co-ordinated actions such as mass demonstrations and road blocks. They have also directly threatened human rights organisations and members of the PDH in the rural areas, the same areas where the violations perpetrated with the participation of PAC members during the war such as massacres and mass rapes, was highest. President Portillo replied to their demands by calling them “heroes” and decided that they would be paid for their services\textsuperscript{202}. This has led to a new form of division and polarisation between different rural communities. Due to failure to act on the promises made, leaving many ex-PACs without payment, the ex-PACs took four journalists from the daily newspaper Prensa Libre and one human rights activist as hostages after a meeting with presidential candidate Efraín Ríos Montt in Huehuetenango, in October 2003\textsuperscript{203}. After the kidnapping the government were expected to rapidly send a delegation to mediate, on the request of the kidnappers. They were harshly criticised for not starting negotiations until 48 hours into the affair. The director of Prensa Libre, Gonzalo Marroquín, said that the government had shown “little or no will to look for a solution to the problem”\textsuperscript{204}. Many including the Procurator for Human Rights, Sergio Morales, blamed the government for the kidnapping, which was a result of broken promises on their part\textsuperscript{205}. In the countryside, the ex-PAC communities live side by side with communities of returned refugees and internally displaced. Those living close to the ex-PAC communities say that they try not to pass by there unless it is necessary, and when they do they walk fast without looking at anyone or speaking to anybody. People from the different communities did talk to each other before, but the renewed polarization due to the remobilisation of the ex-PACs, has increased fears and suspicion on the parts of their neighbours\textsuperscript{206}. The recompense of former PACs raises concern, with regard both to the impunity that former civil patrollers have enjoyed for the abuses they committed during the internal armed conflict and to the new abuses in rural Guatemala that are occurring as a result of their re-emergence. Moreover, since compensation for all victims of the internal armed conflict was a key recommendation of the CEH truth


\textsuperscript{202} In April 2003, the government signed Governmental Accord 228-2003, in which it established a payment of Q5,241.60 in three instalments to each individual civil patroller. The first payment was scheduled for the end of April 2003, whilst the remaining payments are to be made at the discretion of the government in situ in 2004. See Chay, Lucy, “Q2,442 millones para ex patrulleros”, \textit{El Periódico}, September 23, 2003.


\textsuperscript{204} “Gobierno, responsable”, \textit{Prensa Libre}, October 28, 2003, p. 3.

\textsuperscript{205} “The government is responsible”, said the Procurator for Human Rights to the Prensa Libre; see ”Libres después de 51 horas de cautiverio”, \textit{Prensa Libre}, October 29, 2003, pp. 2-3.

\textsuperscript{206} Interviews with residents of a community in Quiché, Guatemala, September-October, 2003. Interviewees wish to remain anonymous.
commission (which was formed under the terms of the 1996 Peace Accords), the payments of civil patrollers before any establishment of a national reparations programme for victims of the human rights violations during the armed conflict, is seen by many as rewarding some of the perpetrators of the atrocities that characterised Guatemala’s civil war, and as sending a message that is contrary to the spirit of national reconciliation embodied in the peace accords. Miguel Angel Sandoval, in the Centre for Legal Action for Human Rights (CALDH), has said that the payments signify a regression of several years in the peace process. The payments are reinforcing old fears and mistrust, causing renewed divisions and patterns of polarisation between communities. Furthermore, since two of the three promised payments are to be made by the next government of Guatemala, after the elections in the end of 2003, many have complained that the promise made by the Portillo government was an attempt to “buy” votes. Only by ensuring that the FRG remained in power could the former patrollers be guaranteed the two remaining instalments. This led other parties, one after the other, to promise that they would complete the payments after the elections.

Another central commitment of the peace accords was the redefining of the role of the military in a democratic society. The abolition of the notorious Estado Mayor Presidential (EMP) has been postponed several times. The EMP has been responsible for the security of the president and his family, but has also been involved in human rights abuses, such as the extrajudicial killing of anthropologist Myrna Mack in 1990. On October 31, 2003, they were actually dismantled by President Portillo. Up until that date, the Portillo government had been continuously increasing the agency’s budget, as well as transferring additional monies from other departments. According to the National Coordinator for Human Rights (CONADEHGUA), the EMP budget was doubled in the course of 2002, while the army in general received a 7.8% increase in its budget. Through transfers, the budget for the army approved by Congress was increased by 23 percent, and the transfers resulted in a 135 percent increase of the approved budget for the EMP. Money was taken from the Ministries for education, agriculture, communication, and communal development, as well as from the Ministry of the Interior. Particularly worrying is the transfer from the Ministry of the Interior.

208 In a speech in Chimaltenango on October 3, 2003, Oscar Berger of the GANA alliance promised the people that he would honour the commitments of the state. Berger promised to pay the ex PAC and provide cheaper fertilizers, see El Periódico, October 31, 2003, p. 4.
Interior, responsible for civil internal security, at a time of increasing insecurity. The PAN-party also transferred money to the military during the last three years of their four year term, resulting in an annual increase of the approved budget of approximately 10 percent. The first year of the FRG government, however, marked a significant increase in the transfers to the military that would continue and increase in their four years in power. In 2000 they increased the approved military budget with 35 percent\textsuperscript{211}. The EMP budget was increased by 65 percent from 2001 to 2003, although is would be dismantled in 2003\textsuperscript{212}. During all of the four years of the FRG administration, the EMP has received more money than has been approved by Congress. In 2000, Congress had approved 39.7 million Quetzals\textsuperscript{213}, and the EMP received additional money in the form of transfers from other ministries in the amount of 75.7 million. The budget for 2001 was increased to 69.8 million, and the EMP received 73.3 million of transfers. To function in 2003, the EMP was assigned 104.6 million Quetzals, and until the 7 of October (less than a month before its abolishment) it had received 30.4 million of extra support for that year, in three transfers. The last transfer, of 16.4 million, was announced 25 days before its eradication\textsuperscript{214}. “The Congress used to be the only body that could approve a change in resources, but the FRG left the possibility open to move the millions at their fancy”, says Ottoniel Fernández, a congressman for the UNE party\textsuperscript{215}. The transfers run contrary to the peace accords, Minugua has repeatedly stated. On October 31, the EMP gave way for the Asuntos Administrativos y de Seguridad (SAAS), and many Guatemalans fear that staff will be recycled from the EMP and the military to the SAAS. “We have to get a replacement for the EMP that does not just recycle their methods and visions.”\textsuperscript{216} Also contrary to the stipulations of the peace accords, the military has continued to participate in joint policing operations with the National Civil Police (PNC), in so-called Fuerzas Combinadas, Combined Forces. On March 6, 2003, Minugua reports, there was an anti-narcotics operation in the department of Zacapa, carried out jointly by the army, the Public Prosecutors’ Office, the Antinarcotics Analysis and Information Department, and agents of the PNC. Three suspects were detained and interrogated illegally and tortured by the military\textsuperscript{217}. The secrecy, impunity and

\textsuperscript{211} El Emporio de los Militares, Coordinadora Nacional de Derechos Humanos de Guatemala, CONADEHGUAM, Guatemala, 2003, p. 52.
\textsuperscript{212} El Emporio de los Militares, Coordinadora Nacional de Derechos Humanos de Guatemala, CONADEHGUAM, Guatemala, 2003, p. 68.
\textsuperscript{213} One Guatemalan Quetzal is 0.13 US Dollar (December 15, 2003).
\textsuperscript{216} Interview with Rigoberto Perez Garrido, priest Nebaj, Guatemala, October 1, 2003.
institutionalization of illegal practices in the military during the armed conflict, has led to widespread criminality and decay within the army itself.

In a October 1997 Gallup CID survey in Guatemala\textsuperscript{218}, respondents focused a lot of attention on the underlying causes of public insecurity in Guatemala, which they viewed as little affected by institutional reform to date. Ordinary citizens are reluctant to use the justice system, participants said, because they perceive that criminals will use bribes or threats of reprisal to intimidate justice officials. Persons involved in organised crime are perceived to be completely immune from prosecution. The public sees organised crime to be the work of ex-military personnel, the police, or ex-guerrillas, all of whom are thought to possess ample resources to guarantee their own impunity in the face of a weak and corruptible judicial system. The participants, very critical of the Guatemalan judicial system, faulted the government for not providing adequate budgets, personnel and facilities to support a judicial presence, especially in rural areas. What all of the respondents described as being institutionalised in Guatemala was the lack of citizen protections that are guaranteed in the constitution. In short, Guatemalans who took part in the study contend that the “values and practices of tolerance, trust, participation and accommodation”, which are thought to be crucial to liberal democracy, are sorely lacking in their country\textsuperscript{219}. The above picture might look less bleak if our participants thought that government officials and political leaders were seriously committed to reform. However, they emphasised that the practices of the authoritarian era still prevail. Judicial independence is undermined, they said, by the idea that “the executive power of the government can exercise direct pressure over judges and magistrates, or indirect pressure through the Public Ministry and the National Civil Police”\textsuperscript{220}. Similarly put, in Guatemala one sees a “trinity of impunity, institutional weakness, and failure to protect citizens that prevents the building of the rule of law and weakens civil society”\textsuperscript{221}. Tantamount to achieving effectiveness is the necessity of reforming the judicial system so that it is perceived by citizens as possible venue for dispute resolution. This requires, of course, institutions that are worthy of trust. However, in Guatemala, this might be accompanied by symbolic demonstrations of trustworthiness in the shape of convictions (that are not revoked) in some high-profile criminal

\textsuperscript{218} Gallup Consultoría Interdisiplinaria en Desarrollo S.A. 1997, cited in Dodson, Michael; and Jackson, Donald W., “Horizontal Accountability and the Rule of Law in Central America”, in Mainwaring, Scott; and Welna, Christopher, Democratic Accountability in Latin America, Oxford: Oxford University Press, 2003, pp. 250-253.

\textsuperscript{219} Dodson and Jackson (2003), p. 252.

\textsuperscript{220} Ibid.

\textsuperscript{221} Palma, Silvia Irene, 1999, “Percepción de las reformas institutionales de estado posteriores a los acuerdos de paz en El Salvador y Guatemala: el caso de Guatemala (Report of a focus group study commissioned by Texas Christian University and conducted through the Facultad de Ciencias Sociales of the Universidad Ravela Landívar in Guatemala), quoted in Dodson and Jackson (2003), pp. 244-254.
cases. This could work as powerful symbolic messages to citizens that for long have had a reason to be sceptical. Without justice, and, crucially, without belief that justice is possible within the justice system, there can be no trust in the legal protection or in a nation based on acknowledged rights. This has led to people taking justice into their own hands, in lynchings. In the rural areas there has been an increase in conflicts that the government seem incapable of resolving. These conflicts often result in violence and death, and are related to many communal political disputes, to the land conflicts, and to the increased criminality. Lynchings are directly related to the deficiencies in the legal system, leading people to taking the law into their own hands, according to the United Nations. Minugua reports 57 cases of lynchings affecting 139 victims, between July 2001 and June 2002, resulting in 21 deaths. Between 1996 and the end of 2002, there were 482 reported cases of lynchings, resulting in 943 victims, of which 240 were deaths. 65 percent of these lynchings occurred in zones where the armed conflict was most intense, and it is a predominantly rural practice. Minugua says that the ancient forms of conflict resolution traditionally practiced by indigenous leaders in these regions were destroyed during the civil war, and replaced by a pattern of violent and repressive reaction to conflicts. The Quiché area was the area most affected by the war. The UN-sponsored truth commission (CEH) concludes that 42 percent of the human rights violations committed by the military in the years 1962-1996 were committed in Quiché. Of the 669 massacres described by the CEH, 344 were in Quiché. The Quiché area is also the area with the largest amount of lynchings in post-war Guatemala. The phenomenon of lynchings in Guatemala is an important social indicator of the lack of faith of its citizenry in the government’s ability to provide an adequate and credible justice system, and of the authorities’ failure to uphold the rule of law. In a September 2003 opinion poll by the daily newspaper Siglo XXI the question “Are you or are you not in agreement with lynchings?” was asked. 24.1 percent of the respondents answered that they are in agreement. One out of four respondents actually believes that lynching is a form of justice. A female law student in Guatemala City, who wishes to remain anonymous, says “I think that the people have to use lynchings to achieve some kind of justice... even though I study law. They have no legal protection or real rights, so they have to do it. Who is going to create justice or punish the guilty? I do think that the communities become safer when

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they organise in lynchings. The result is good.\textsuperscript{227} Despite the gravity of the situation, the government had not by 2003 seriously investigated the causes of the problem. In 2001, the Secretary of the Interior announced a campaign to “educate the population so that they will understand that only the authorities may adjudge”. This strategy was based on the not so plausible hypothesis that the people of Guatemala engage in lynchings due to a lack of understanding about basic idea behind the laws of the country. The problem is that the people have no confidence in the justice system because it is inefficient and corrupt, and because it was an accomplice of the counterinsurgent apparatus of the state during the civil war, working against the citizens instead of protecting them\textsuperscript{228}. Lynchings also maintain the culture of direct confrontation that has survived since the armed conflict\textsuperscript{229}. One of the most important obligations of a democratic state is the provision of justice and security. Minugua has stated that the justice system of Guatemala does not work. “The violence during the civil war taught us to resolve our problems with violence. We see many political caudillos and leaders and ordinary people who do not hesitate to use violence to enforce their will, because violence has become a symbol of power. I believe that the violence is intimately connected to the impunity. In Guatemala there is a lot of violence because there is a lot of impunity. The system teaches you that those who are violent are not touched by the law if they are powerful. And the police are corrupt.”\textsuperscript{230} A strategy of preventing lynchings must include legal reforms guaranteeing an efficient justice system. It also has to limit the corruption of the state. Furthermore, it has to work to mitigate the conflict between the indigenous institutions and the state, meaning that the state has to acknowledge that Guatemala is a multicultural country and that the law must apply equally to all cultural groups\textsuperscript{231}.

By mid-2000 the PNC largely completed its initial deployment, and assumed full responsibility for public security. Before the Civilian Power Accord was even signed, the government had reached an agreement with the Spanish Civil Guard (GCE) to train and advice the new force. The GCE advisers wrote a draft of the enabling legislation for the PNC, without taking into account the accord being negotiated between the government and the URNG. The law passed in February 1997 disregarded many points in the Agreement on the Strengthening of Civilian

\textsuperscript{227} Interview with law student, Guatemala City, September 24, 2003.

\textsuperscript{228} Mendoza, Carlos and Torres-Rivas Edelberto (eds.), Linchamientos: Barbarie o “justicia popular”?., Guatemala: UNESCO and FLACSO, 2003, p. 113.

\textsuperscript{229} Vela, Manolo; Sequén-Mónchez, Alexander; and Solares, Hugo Antonio, El lado oscuro de la eterna primavera, Guatemala: FLACSO, 2001, pp. 383-396.

\textsuperscript{230} Interview with Sergio de León, the European Commission in Guatemala, Guatemala City, September 2003.

\textsuperscript{231} Mendoza, Carlos and Torres-Rivas Edelberto (eds.), Linchamientos: Barbarie o “justicia popular”?., Guatemala: UNESCO and FLACSO, 2003, pp. 120-122.
Power: it set out no professional standards or human rights requirements for the new force, and ignored the requirement that the new police force incorporate members of the diverse cultures in Guatemala. It also omitted any standards regarding the human rights content of the curriculum at the academy. Following strong criticism by the United Nations and human rights groups, some of these deficiencies were corrected. Most of the shortcomings remain, however, including grossly inadequate provisions for internal discipline and control. The national civil police have been weakened under the 2000-2003 FRG government. Between January 14, 2000, and the end of October 2003, there had been nine different directors of the PNC. During the same period there had been four different Ministers of the Interior. Constantly replacing the heads of two of the main civilian institutions responsible for internal security is not a strategy of a government seeking to strengthen civilian control of security. Mario Guillermo Ruiz Wong, the first Minister of the Interior in the FRG administration, was transferred to the Constitutional Court. He was a magistrate responsible for the inscription of Ríos Montt as candidate for president in the 2003 elections, in the summer of 2003. Byron Barrientos who replaced Mr. Ruiz Wong as minister of the interior was let go on charges of corruption (accused of embezzling 100 million Quetzals), but remained a legislator in Congress. Byron Barrientos was a Mayor in the army who infiltrated the guerrilla during the civil war. He worked in military intelligence during the 1970s and 1980s, when the war was most intense, and is said to have participated in illegal captures, tortures, threats and extrajudicial killings. Eduardo Arévalo Lacs was a general and had been Minister of Defence before he became Minister of the Interior. The last of the four Ministers of the Interior during this period, Adolfo Reyes Calderón is a civilian, but he is accused of being weak and unable to provide security. The FRG is the political party with the most retired army officials in its ranks.

Violations of rights of security, integrity and liberty of person, pertaining to cases of torture, cruelty or degrading treatment, arbitrary detention, kidnappings, hostage-taking and forced

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233 The directors of the PNC between January 14, 2000 and October 2003 have been: Baudilio Portillo Merlos, Mario René Cifuentes, Fredys Enrique Flores Lemus, Rudio Lecsan Mérida, Rony Martínez, Ennio Rivera, Luis Arturo Paniagua, Raúl Manchamé, and Oscar Segura Sánchez. The Ministers of the Interior during the same period have been: Mario Guillermo Ruiz Wong, Byron Barrientos, Eduardo Arévalo Lacs, and Adolfo Reyes Calderón. Sources: The archives at Prensa Libre, and Ronaldo Robles at the United Nations in Guatemala.
235 Interview with Ronaldo Robles, the United Nations Development Programme, Guatemala City, October 2003.
recruitments, constitute a significant part of the violations of human rights in the last years of this study. Prominent in this area of violations are the practices of the new National Civil Police (PNC). Among its members the use of illegal, violent methods persist, alienating people and hindering the expected respect by the citizenry. María Lemús, who is working for the Agrupación de Mujeres Tierra Viva, an organisation working to enhance the rights of women, has no faith in the police: “The police are part of the insecurity since they can be paid, or take you away without explanation.” Social cleansing is a method still in use to eliminate those considered “undesirable” such as street children, prostitutes and transvestites. No effort is made by the police to identify their killers, and sometimes the police are themselves accused of responsibility for these acts.

Emilio Goubaud Herrera, is helping young Guatemalans exit the street gangs. Many who try to quit are killed. Goubaud Herrera says that he knows without a doubt that the police are the ones that kill them. The URNG candidate for mayor in Nebaj, Quiché, says “There is a lack of interest in the youth. This leads to a strengthened culture of violence and increased use of drugs among the young. The police kill them if they do not behave.” The Guatemalan authorities and the news media estimate that there are approximately 200,000 members of maras in the country. Internal security in a democratic society should be the responsibility of the civilian police, says the peace accord, but people still trust the military for security. Journalist Frank Jack Daniel describes the militarised mentality of Guatemala: “The military is the maximum authority – it is the one effective institution, it builds things, it punishes people – this is how people see it.” This mentality and the dysfunctional police are being taken advantage of by the politicians. The FRG government has taken the deficits in the ability of the police to perform their duties as an excuse to increase the military budget, and let the military take over some of the police’s work. Excessive military spending has characterised the FRG administration, as illustrated by the 85 percent increase in the 2001 military budget, which greatly exceeded both initial budget approved by Congress and the military spending limit set by the accords. At the GAM office in Guatemala City, Ricardo Lobo says “We are watching an army that is getting more and more powerful, that has

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238 Interview with María Lemús, Agrupación de Mujeres Tierra Viva, Guatemala City, 26 September, 2003.
240 Interview with Emilio Goubaud Herrera, director of APREDE, Guatemala City, October 24, 2003.
244 Report of the UN Verification Mission in Guatemala (MINUGUA) for the Consultative Group meeting for Guatemala, January 18, 2002.
taken on functions that belong to the police. In communities such as Todos los Santos and Jacaltenango, the military is regaining control over internal security in violation of the peace accords. This increases the people’s fear again, and counteracts participation. The army is playing a game that they should not be playing. It is growing when it should be becoming smaller. There is an extreme political will to fortify the military. In a presidential forum on impunity arranged by CALDH in Guatemala City in October 2003, the PAN opposition party’s leader Leonardo Lopez Rodas stated that “In the crisis we are in and the incapacity of the national civil police… we cannot sit with our arms crossed. That is why I will put the military on the streets to achieve a powerful change on the 14th at 14.00 hours!" He repeated this message when he visited Nebaj, Quiché, on October 4, 2003, and throughout his candidacy. He said it to me when I met him in a restaurant on the 22nd of October in Guatemala City, arguing that article 244 of the Guatemalan Constitution says that the army is responsible for both external and internal security. Lous Costa, the advisor of Lopez Rodas, explains: “Lopez Rodas means that the Constitution is the highest law of the country. The peace accords cannot stand above the highest law. In the Constitution it says that the military has, as one of its responsibilities, to provide internal security. The people voted against a change of this provision of the Constitution in the 1999 referendum. The international community may say that we have to abide by the peace accords, but the people have spoken. We have to listen to the people."

On April 11, 2003, the Guatemalan army, with a force of around 300 soldiers, destroyed the rural community of El Maguey in Guatemala, in a way that resembles the tactics used during the war in the 1980s. 85 families were brutally removed from their homes, their houses were demolished, the school was burnt, their crops destroyed, witnesses say the military ate their animals and took all they had. The military occupation persists despite a ruling by the Constitutional Court in favour of the campesinos. The military action in El Maguey marked the first time since the signing of the 1996 peace accords that the Guatemalan army violently displaced a rural community. This occurred only four days after the people of El Maguey finally had received their official land rights, under a government accord on April 7. On April

245 Interview with Ricardo Lobo, GAM, Guatemala City, October 24, 2003.
246 Leonel Lopez Rodas, Presidential Forum at the National Theatre in Guatemala City, October 9, 2003.
247 Interview with Lous Costa, Advisor of Leonel Lopez Rodas (presidential candidate for PAN), Guatemala City, October 22, 2003.
30, the government reversed its first declaration and awarded the land to the military. This is a particularly clear example of how much power still resides with the Guatemalan military.²⁴⁸ According to the latest report from the Inter-American Commission on Human Rights, there has been a “grave deterioration in the rule of law” in the last years of this study. They express concern for the incapacity of formal and informal institutions related to human rights. The weakness of the administration of justice is related to the lack of financial and human resources and to the intimidations of judges and others working in the legal system. It is also worth noting, according to the Inter-American Commission, that the Ministerio Público are working very slow on investigations²⁴⁹. Many prominent Guatemalans have complained about the lack of political will in the FRG government to guarantee rule of law and promote non-violent conflict resolution. Helen Mack of The Myrna Mack Foundation says that the government has had no will to fight the violence, despite the fact that the state is responsible for guaranteeing security. Marta Altolaguirre, former director of the Inter-American Commission on Human Rights, warns that “so long as there is no integrated policy to counteract the violence, the violence will continue to increase. This year it has been evident that the authorities violate the law, despite the fact that they should be the good example”²⁵⁰.

In conclusion, despite the deployment of a National Civil Police in 2000, the last four years of this study have been marked by deterioration in the rule of law. This does not help the evolution of political culture towards non-violent ways of resolving conflicts. The destroying of the community of El Maguey by the military in April 2003 is a clear warning sign that old practices may be returning. Conflict prevention is not practiced by the government and violent conflict resolution in the form of lynchings and social cleansing are still common. The civil police have not been prioritised, on the contrary, the weaknesses of the new police have been used as an excuse to fortify the military and argue for the military’s place in internal security, contrary to the stipulations in the peace accord. The remobilisation of the civil patrols (PAC) have raised fears and caused renewed division between neighbouring communities that have only just learnt to live together, hindering peaceful reconciliation.

²⁴⁸ Conversation with Alvaro Revenga in Guatemala City, September 2003. Mr. Revenga has made a documentary about the military occupation of El Maguey.
SUMMARISING THE INDICATORS

The application of indicators of a *culture of prevention* to the case of Guatemala has helped to clarify the deficiencies, as well as some of the institutional advances. When examining indicator number one, we saw that separate statistics on violence showed deterioration in the *respect for the right to life and security of person* from 1999 onwards. With impunity continuing unabated, the *respect for the right to recognition as a person before the law, to equal protection of the law, and to effective remedy for acts violating fundamental rights*, has been hindered from evolving in the direction towards increased respect for the law. The third indicator, *Respect for the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association*, has highlighted the threats and assaults that seriously affected those defending human rights, expressing their views or investigating crimes in the period of this study. The years of 2002 and 2003 are reported by several separate sources to have seen a deteriorating respect for the right to freedom of expression and peaceful association. *The root causes* of the war persist, although limited advances have been made in the area of land conflicts and democratic participation. However, the land conflicts have led to more serious confrontations in recent years, and growing disappointment and frustration with democracy may become a serious problem if the trend continues. Some of the structural causes of the civil war, such as inequality and poverty, are growing more severe. The final indicator, *non-violent conflict resolution* did not help us find many positive signs in the search for an evolving culture of prevention in the last years of this study. The government of the last four years has caused renewed polarization between communities, and the army seems to have gained power over the civilian police that should be promoting security and defending law and order.
ANALYSING THE SLOGAN – CONCLUDING THE CASE OF GUATEMALA

There has been *formal* progress in the Guatemalan democracy. The military is officially “back in the barracks”, the former guerrilla is now a political party, there are multiple political parties, there is a Human Rights Ombudsman, and the governments have signed several international treaties on human rights as well as substantial peace accords. In 2000 the national civil police was put in place, and the decision to investigate clandestine groups was taken in 2003. There is also *practical* progress such as increased visibility and acceptance for the indigenous peoples, and a beginning ability for debate on issues such as racism\(^{251}\). However, Minugua considers that the last three-four years have been a regression when it comes to security, human rights, corruption, justice, and will to implement the peace accords\(^{252}\). The political strategies of the FRG government have been reinforcing certain patterns of violations which were being committed before the signing of the Peace Accords and their policies are aggravating rather than improving the lack of respect for human rights. The present rise in violence and intimidations threatens the rule of law, and has highlighted a crisis in governability. The visits and subsequent reports of the United Nations Special Rapporteurs have underlined the gravity of the human rights situation since May 2001\(^{253}\). The findings of the Special Rapporteurs have focused particularly on the failure of the Guatemalan government to implement the Peace Accords, the recommendations of the truth commission (Comisión de Esclarecimiento Histórico, CEH), and on ensuring the consolidation of the rule of law. An April 2003 report on Guatemala by Amnesty International argues that the Peace Accords are becoming a “dead letter”, and that the ongoing and increasing violence demonstrates that the country is “spiralling rapidly towards ungovernability”\(^{254}\).

A substantive and durable change in the nature of the Guatemalan state – from an authoritarian state to a democratic one, from a counterinsurgent state to a state in peace – has to include a transformation of the basic legal, institutional and operative foundations of the actions of the state when it comes to security. In Guatemala, the democratisation of social and political institutions has not managed to neutralise ideas and practices inherited from authoritarianism. For many observers, the problem with authoritarianism in Guatemala has become synonymous

\(^{251}\) Interview with Dr. Roddy Brett, Amnesty International, Guatemala City, September 2003.
\(^{252}\) Interview with Jaime Molina, Minugua, Guatemala City, October 8, 2003.
\(^{253}\) Param Cumaraswamy, the UN Special Rapporteur on the Independence of Judges and Lawyers, visited Guatemala in May 2001; Hina Jilani, the UN Special Representative of the Secretary General on Human Rights Defenders, visited Guatemala in June 2002; Rodolfo Stavenhagen, Special Rapporteur on Human Rights on the Situation of Indigenous People, visited Guatemala in October 2002.
with militarization. It is evident that a complete demilitarisation of Guatemalan politics is necessary for democracy to work peacefully, but it is equally evident that this is not enough. Therefore, other analysts have argued that authoritarianism is a phenomenon that penetrates the whole Guatemalan society - actors and institutions - and not just the military.\textsuperscript{255} Authoritarianism exists in the shape of alliances between elites (political, economical and military) in Guatemala. These authoritarian practices make it very difficult to consolidate a democracy that seeks to promote public wellbeing. Moreover, there exists a violent praxis in Guatemala, a habit to resort to violence to resolve political and social conflicts. The systematic and sustained use of coercive power by the Guatemalan state - including threats and violence - as a government instrument, the privatisation of state violence (meaning that the agents of state security use it for private ends), combined with the structural impunity and the very low capacity of the state to regulate and control the use of violence outside of the political context, contribute to the violentización of the social life in Guatemala\textsuperscript{256}. All of the factors above have contributed to the creation of a democracy that exists only in name in legal texts and in political discourse that is often empty of content in the shape of aspirations of a society - and in the diffusion of political ideas. Guatemala is a “hybrid regime”\textsuperscript{257}. Two conceptual elements coexist in the country, a legal and an operative concept that belong in different systems: the democratic and the authoritarian. In Guatemala, the “parallel powers” – unofficial, immune from prosecution and scrutiny – have created an architecture in which General Efrain Rios Montt is not the only power behind the throne. Their collective hold on power has become only stronger since the 1996 peace accords\textsuperscript{258}. Ruben Zamora, the editor of the daily El Periódico says that “Here the parallel power is not parallel – it is the actual power. This is a result of democracy in Guatemala. The democratic system has become dictatorial in the last four years. This democracy is easily used for dictatorial or oligarchic purposes. The leaders do not want democracy, human rights or rule of law. It does not fit their purposes\textsuperscript{259}.” Helen Mack, the prominent human rights advocate whose sister was killed by a military death squad, has said she does not expect the election to change anything in Guatemala. Ever since the peace accords

\textsuperscript{256} Arévalo de León, Bernardo, “Seguridad democrática en Guatemala”, 2002, p. 27.
\textsuperscript{259} Interviews with José Rubén Zamora, El Periódico, Guatemala City, October 28 and October 30, 2003.
the goal of the military officers has been to regain control of the country, including its major political parties. The army’s power is based on organised crime, from which has arisen a new social class of complicit officers and corrupt officials, and they protect themselves by presenting misinformation and threatening those who try to find the truth about the army’s crimes. The Peace Accords established a Commission to Strengthen the Justice System. Its initial report, “Una Nueva Justicia para la Paz”, pointed to the great difficulties facing reformers in Guatemala. Acknowledging that a culture of intimidation has enveloped the judicial system, the authors note that the tradition has been that “the apparatus of public power itself has been the source of this intimidation.

A 1993 study by one of the leading scholars of democratization, Larry Diamond, determined that ten of the twenty-two principal Latin American countries had “levels of human rights abuse that are incompatible with the consolidation of [liberal] democracy”. Since then, with a few important exceptions such as Brazil, things have only gotten worse. It seems that what Guatemala and other Latin American countries need more urgently than democracy, is good governance. Many Guatemalans worry that the levels of crime and violence in combination with very weak responses from the elected leaders may lead to complete ungovernability. “Among the people there is a perception that democracy does not work. People have no faith in the system, this leads to violence and there is a real risk of renewed violent conflict and ungovernability. There are early warning signs of ungovernability, but so far we are not there. The Supreme Court’s decision in the case of Ríos Montt and the payments to the PACs are warning signs”, argues Carlos Sarti of the peace foundation Propaz. In Guatemala the elite are stronger than the institutions. That is why people can stay in power despite anything they do. There are no institutions that are strong enough to enforce the law when the law disagrees with the behaviour of the elite, as is clearly illustrated by the case of the military occupation of El Maguey. ”Because nothing holds us back” (Por que nada nos detiene), was tellingly one of the slogans used by the FRG party in the election campaign of 2003. This attitude of total impunity and disrespect for human rights on the part of the authorities, coupled

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262 See Fareed Zakaria (2003).
263 Interview with Carlos Sarti, Guatemala City, September 24, 2003.
265 See pp. 49-50 of this essay.
266 Slogan by the FRG seen on a house outside of Santa Cruz del Quiché in October 2003.
with the ongoing and increasing violence and a non-functioning rule of law, has hindered the build-up of a peaceful society, and the evolution of a culture of prevention. The idea of conflict prevention is based on the assumption that everyone wants peace. In the case of Guatemala, we cannot say that everyone wants peace. There are many people who are “used to getting what they want through violence and special treatment above the law.” Peace and democracy means giving up positions and relationships with benefits. A situation of un-peace may be better than peace for those who are better off in an unequal country.

The legacy of antagonism and the fragility of the political and institutional framework have lead to a consolidation of the logic of violence. Non-violence in settling disputes is crucial for the evolution of a culture of prevention, and the ability for peaceful conflict resolution can be said to have improved. But yet, four out of ten Guatemalans sympathise with lynchings as a way of solving problems, and overall violence is rising. It is necessary to realise that in post-war Guatemala, the state does not possess a monopoly on violence, nor is it the only actor capable of violating the rights of citizens on a large scale. Not only powerful ‘state-like’ institutions, but civil society itself – individual citizens, members of municipal councils and citizen groups – can be capable of tremendous violence. Democracy is in no way incompatible with large-scale human rights violations in all levels of society. The case of Guatemala shows that the civil capacities for maintaining order, preventing crime, and punishing offenders must be strengthened and that the 2000-2003 government has in many ways worked in the opposite direction. They have undermined the civil police and used this as an excuse for strengthening the military, and they have used intimidation and violence as part of a political strategy. The case of Guatemala clearly illustrates that there exists no guarantee that democracy will lead to an embrace of social justice. Democracy in Guatemala coexists with a widespread tolerance for massive human rights violations on the part of the state and official institutions. Furthermore, the legacies of the war show no signs of abating over time in the case of Guatemala. On the contrary, the last four years of this study have been more violent and disrespectful of human rights than the previous years of the study. There is no guarantee that citizens of new democracies will not use their democratic rights to support past dictators, or that democratic institutions will not work to strengthen the power of those responsible for past wartime atrocities, as they have done in Guatemala. “Here democracy is not conflict prevention, since democracy does not work and does not include the majority of the people.

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267 Interview with Dr. Roddy Brett, Amnesty International, Guatemala City, September 2003.
People feel excluded. I believe in the conflict prevention potential of democracy, but not in the non-representational and excluding form we have here. It could even be dangerous. It creates new conflicts, and maintains the old\textsuperscript{269}, says Carlos Alvarado of the Rafael Landivar University in Guatemala City. This case study has shown that the practices adopted by the democratically elected government itself have affected the political culture in a direction away from a culture of prevention. Where governments engage in unlawful violation of human rights, political executions, disappearances, and so forth, this is likely to encourage violent crime among its citizens\textsuperscript{270}, hindering the evolution of a culture of prevention. If the violence continues on the very high levels experienced since 2000, and civilian conflict-resolution and prevention is not made a priority by the political leadership of Guatemala, the country may permanently consolidate the hybrid-regime or semi-authoritarianism characterising the country today. Semi-authoritarian regimes call into question the general expectation that democracy promotes human rights and peace, since those regimes show that elections can constitute the end of the process towards consolidated democracy rather than its initial phase. Semi-authoritarian regimes are determined to prevent further change, and this is the result of a deliberate decision to prevent democracy and human rights on the part of the elites controlling the process\textsuperscript{271}. If Guatemala remains a semi-authoritarian state, this could consolidate a culture of violence, and hinder the evolution of a culture of prevention.

\textsuperscript{269} Interview with Carlos Alvarado, Universidad Rafael Landivar, Guatemala City, October 28, 2003.


\textsuperscript{271} For a thorough discussion on “semi-authoritarianism”, see Ottaway, Marina (2003). On semi-authoritarianism and the implication for democratisation policies, see especially pp. 10-23.
CONCLUDING REMARKS

This essay has shown that definitions of conflict prevention and the new concept of “a culture of prevention” are vague, and that the international populism surrounding the idea of democracy as a precondition for internal peace has added to the lack of specificity in conflict prevention policies. I have argued that the policy community has adopted a too simple and unqualified view on democracy and its potential to prevent violent conflict that is not helped by the conceptual confusion surrounding conflict prevention. This essay has identified and analysed indicators of a culture of prevention, claiming that systematic attention to indicators of a culture of prevention can add to our understanding of the relationship between the consolidation of democracy and the evolution of a peaceful political culture. The main conclusion is that bad governance and policy can increase violent crime and hinder the expected evolution of a culture of prevention in a consolidating democracy. When governments engage in unlawful violation of human rights, political executions, disappearances, and so forth, this is likely to set an example that encourages violent crime among its citizens. Governments violating human rights have been associated with high rates of violent crime\textsuperscript{272}. Pacifying the state may therefore pay off in terms of pacifying society as well. A state may have signed all of the human rights accords and conventions, but without a practice of respect for the theoretical compromises, formal democracy or human rights treaties cannot make society more peaceful. Furthermore, without a truly open civil society the government may feel little pressure to comply with its promises, and if it does not guarantee the rule of law the democratic state cannot fulfil its human rights obligations\textsuperscript{273}. By putting peaceful actions into practice, governments can affect the practices and attitudes of citizens in a direction towards a culture of prevention. The way democratic procedures and institutions are developed and implemented, i.e. the way the democratic principles are put into practical use, needs to be monitored carefully in post-conflict peace-building strategies that include democratisation. Poorly designed democratic institutions and practices often do not, or cannot, promote peaceful co-existence. Instead, they can inflame and permanent communal conflicts. It may be necessary in many cases to move away from thinking about the resolution of conflict towards a more pragmatic interest in a society’s capacities to manage conflict without violence, i.e. actively help create a culture of prevention. Government systems that embody the main

\textsuperscript{272} Neumayer, Eric (2003, pp. 619-640.
\textsuperscript{273} Informe sobre desarrollo humano 2000, pp. 58-59.
hallmarks of democracy and have the institutional capacity and political will to uphold them have the best chance of durably helping to manage conflict without violence. 274. But democracy does not per se construct a political culture capable of non-violent conflict management. This requires, among other things, democratic leaders who respect the law and its citizens, and set a good example for its citizens. What happens when the democratic state does not provide the expected public goods? And worse still, what happens when the democratic state promotes injustice and acts illegally and with disrespect for the rights of its citizens? Rampant human rights abuses are often the prelude to violence. They reflect a breakdown in the rule of law, and if they are allowed to continue unchecked, the result will be weakened confidence in states’ commitment to the protection of human rights, democratic governance, and international treaties. This will encourage a climate of lawlessness in which disaffected peoples or opposing factions will increasingly take matters into their own hands. Thus, leaders must exemplify the culture of prevention 275. There is increasing recognition that international assistance to democratisation will have only limited impact unless there is a genuine political will and commitment to democracy within the ruling elite of the countries concerned 276. The indicators presented in this essay have enabled a structured examination of policies and practices adopted by governments. The indicators may need modification when applied to different cases. The indicator on root causes of the civil war is, as stated, only applicable when studying the evolution of a culture of prevention in a post-conflict context.


275 The Carnegie Commission on Preventing Deadly Conflict, Final Report, Executive Summary.