MILITARY RESISTANCE IN A TIME OF PEACE:
THE ONGOING MILITARIZATION OF DEMOCRATIC GUATEMALA

by

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Abstract:

Since the signing of the Guatemalan Peace Accords in December 1996, the struggle for compliance with substantial elements of the Accords is ongoing. In the sector of military reform, partial changes have occurred, yet the role of the military remains mostly defined by its conflict period traits. Evaluating the impact of the military institution in the prospects for compliance, we come to the conclusion that some military prerogatives, which run counter to the reforms planned, are maintained, and that this organisation of military and political power is currently preventing further restrictions of the role of the armed forces in Guatemalan politics and society.

Merci à tous ceux qui ont joué un rôle ou un autre dans le processus de recherche et de rédaction de cette thèse. Merci à ma famille, aux amis qui m'ont encouragé, mais spécialement au professeur Rojas et au docteur Baranyi. Leur aide et leur patience m'ont été d'un secours inestimable. Merci aussi à toi Signi, pour ton aide et tes multiples encouragements.

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Since the end of 1999, I have learned a lot from Guatemala. I hope to never lose touch with this country in which a lot of 'gringos' like me have let their hopes melt with those of the Guatemalans. As if, for a short while, we were Guatemalans. Out of respect for the suffering lived during the conflict years and the hardship of post-conflict reality, I cannot pretend I know how it is to be Guatemalan. I wish however, that my work helps others to learn how it must feel to have mixed hopes, the pains of a past which should never have been and a future uncertain but for its struggling nature.

"We have to understand what happened in order to make sure that these things will not happen again," says Edelberto Torres-Rivas. I tried, as a foreigner, to survey the existing literature and gather data in an attempt to understand a bit more the dynamics of post-conflict Guatemala. There is still a long way to go to speak of consolidated democracy in Guatemala. A long way has been travelled, too. There has undoubtedly been progress towards peace. Yet, current problems question the pace of consolidation and make studies of the dynamics of power and struggles for political space a much-demanded task.

A.C. Fournier (December 2002)

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List of abbreviations

AFPC	Acuerdo sobre fortalecimiento del poder civil y función del ejército en una sociedad democrática (Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society)
ANN	Alianza Nueva Nación (Alliance for a New Nation)
CEH	Comisión del Esclarecimiento Histórico (Commission for Historical Clarification)
DICAI	Departamento de Inteligencia Civil y Análisis de Información (Civil Intelligence and Information Analysis Department)
EMP	Estado Mayor Presidencial (Presidential Guard)
FLACSO	Facultad Latinoamericana de Ciencias Sociales (Latin American Faculty of Social Sciences)
FRG	Frente Republicano Guatemalteco (Guatemalan Republican Front)
MINUGUA	Misión de Naciones Unidas de Verificación en Guatemala (UN Verification Mission in Guatemala)
ODHAG	Oficina de Derechos Humanos del Arzobispado de Guatemala (Human Rights Office of the Archbishop of Guatemala)
PAC	Patrullas de autodefensa civil (Civil defence patrols)
PAN	Partido de Avanzada Nacional (National Advancement Party)
PNC	Policia Nacional Civil (National Civil Police)
REMHI	Project on the Recuperation of Historical Memory
SAAS	Secretaría de Asuntos Administrativos y de Seguridad (Administration and Security Affairs Secretariat)
SAE	Secretaría de Analisis Estratégico (Strategic Analysis Secretariat)
URNG	Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity)

Introduction

Throughout the 1980s and the 1990s, Latin American countries experienced the so-called “third wave of democratization” following a period of protracted authoritarian rule. Guatemala’s political transition to civilian rule began in 1985 even though its thirty-six year civil conflict did not end until 1996. A more profound period of political transformation began in 1996 following a long period of negotiation between the Guatemalan government and the guerrilla umbrella organization, the Unidad Revolucionaria Nacional Guatemalteca (URNG). The result of these negotiations was the signing of the Peace Accords in December 1996.

The Peace Accords required reform of many aspects of Guatemalan governance. Although all parties involved in the war signed the Accords, the current conflict is over the implementation of the reforms cited in the Accords. This debate has pitted those who see the Peace Accords as an opportunity for lasting peace in Guatemala against those who are determined to keep the status quo and reform as little as possible. While saying that there are two sides is an oversimplification of the current conflict, there are opposing forces that are in disagreement over Guatemala’s future.

For many, the post-conflict period in Guatemala is an opportunity for the institutionalization of democratic civilian control of the military. The post-conflict period is perceived as an opportunity for Guatemalans to fundamentally reform their political system and develop institutions that would make a return to an authoritarian past improbable. All the monitoring that has taken place and all the effort put into the negotiations and agreements have created the opportunity to develop concrete ways to consolidate democracy.

Unfortunately, Guatemala is again a priority for Urgent Action e-mail campaigns organized by Amnesty International, Rights Action and others international human rights NGOs. The present height of tension is reflected in the significant level of intimidation of land activists and human rights workers or other Guatemalan civil society workers, who are seen as too committed to meaningful change and compliance with the ambitious Peace Accords. Thus, most Guatemalan activists describe the current period of peace as an absence of overt violent conflict, but not as an absence of violence. This conjuncture creates a post-conflict period that constitutes a field of struggle between those sectors in favour of a significant political and socio-economic change and those who are attempting to make this chance for peace a missed opportunity for deeper transformation and genuine democratization.

Of the Accords signed during the peace negotiations, one involved a broad and substantial redefinition of the relationship between the army and the state. The Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, referred to here as the AFPC,¹ was the last of a series of nine accords and key elements of it are fundamental to reform the Guatemalan security apparatus.

Almost six years after the signing of the Peace Accords, the essential aspects of the institutional reform have yet to be carried out. Various organizations, including the United Nations Verification Mission in Guatemala (MINUGUA), have documented the stalemate in which the Peace Accords have found themselves in the past years, as the schedule for implementation for most of the measures has not been respected.

¹ The *Acuerdo sobre fortalecimiento del poder civil y función del ejército en una sociedad democrática* was signed on September 19th 1996.

The implementation of the AFPC reforms has been uneven. Certain indications lead one to believe that the progress of reform in this sector has been delayed or stopped and that, furthermore, a retrocession is observable. This analysis will consider why the redefinition of the role of the armed forces, a substantial component of the Peace Accords, is unevenly implemented or even receding.

The implementation of the AFPC has been hampered by both the historical power of the military and the military's remaining power. The preserved strength and power can be measured through a look at military prerogatives, which are defined as "acquired right or privilege, formal or informal, to exercise effective control over its internal governance, to play a role within extra-military areas within the state apparatus, or even to structure relationships between the state and political or civil society" (Stepan, 1988: 9).

There are three dimensions of military power that are particularly salient for understanding the uneven implementation of the AFPC: military institutional autonomy, military prerogatives, and the more tangible military resistance to reform. These three are interconnected: the prerogatives are the observable characteristics of the concept of military autonomy and this, in turn, provides the material and normative basis of ongoing resistance. Thus, the prevalence of high levels of military power in the defining of the military institution's role and influence on reformist policies are the main factors behind failure to conduct reform.

A core relationship exists between the role of the military institution in the process of compliance and the uneven compliance with the substantial measures attempting to define a new relationship between the state and the military institution. It is argued here that despite other factors of great significance, military institutional

autonomy explains the uneven application of the agreement, which calls for military reform and downsizing at the end of the 36-years old conflict. Given its position after the transition, the military had a determining influence on the process of compliance with the Peace Accords, which address reform of the military sector and security in general.

Autonomy and resistance ensure that core prerogatives of the military are maintained and that reforms addressing them are delayed or unevenly implemented. It is suggested that the armed forces' autonomy and resistance to change, composing current military power, explain the stalemate in military reform, which also illustrates the importance of reform of the military for democratic consolidation.

In a reverse definition of Clausewitz' view of war, and according to former General Gramajo, politics are the continuation of war. This illuminating observation on recent developments in Guatemalan politics, by a prominent military officer who was at the forefront of the military-led transition, has been reported by Jennifer Schirmer, who conducted a fair quantity of interviews with military officers in an attempt to grasp the military view of the transition (Schirmer, 2000). Following this theoretical lead, Schirmer illustrates that the post-conflict situation was and still is characterized by the continuation of war through political means, which prevents the normalization of politics and perpetuates the political use of repression. Thus, traits of the national-security doctrine are still present in the military's view of dissent and the use of selective repression.

A partial explanation for the relevance of such a political project can be linked to the observation that the context leading to the signing of the Peace Accords had not seen either party vanquished. The guerrilla movement was not posing a serious threat to state

security; the prevailing perception of the army was that it did not need to negotiate a settlement to end the conflict. This is a potential explanation for why accords were reached in Guatemala, after accords were reached in El Salvador at the beginning of the 1990's. The view that sees military extrication from the executive power as a tactic to preserve a certain level of prerogatives is given credence in that the institution was not forced militarily to negotiate for peace. Rather, it was the pressure coming from Guatemalan civil society and the international community that made the military open itself up to the possibility of a negotiated settlement. It is in this perspective that I consider the current role of these two other factors in the process set through the AFPC, in addressing the role and strength of the military in the post-conflict period.

The overall low level of compliance with the Peace Accords is often said to be the result of insufficient financial resources. However, certain aspects of the lack of reform can clearly be linked with governmental priorities. I make the distinction between lack of capacity and lack of will coming from the civilian authorities: military power and actions thwarting civilian initiatives are clearly more related to the lack of capacity, while one still acknowledges that civilian weakness in both capacity and will is also partly responsible for unproductive attempts at enacting the priorities set in the AFPC.

The fieldwork for this research took place between July and the beginning of September in the summer of 2001. The main task was to gather information in relation to attempts to implement reforms of the military sector (mostly initiatives coming from the legislative and the executive), as well as information on the military institution's behaviour in relation to these measures and the overall compliance with the Peace Accords in this area. Various documentation centres were visited, including MINUGUA's own resource centre and the library of the Congress.

Interviews with personnel from the United Nations verification mission and local NGOs were conducted, as well as with academics, governmental actors and two current and one former military officer. A total of twenty-three interviews were conducted. Personnel from the International Development Research Centre (Canada) provided a first list of contacts. These first interviews established other contacts with people from sectors of society not previously interviewed, like representatives of the military institution, or political parties.

In the half-hour to one and a half (1½) hour interviews, questions were asked in the same order, but permitted some flexibility in the conduct of the interview. Sub-themes were established as to provide some structure. The twenty-three interviews were, however, conducted in an open fashion, allowing discussion to evolve and concentrate on aspects of specific interest to the interviewee.

Each interviewee was presented with an informed consent form and told that the study and interviews would lead to the writing of a master's thesis on military reform and the observance and compliance, to date, with the AFPC².

A wide variety of documents have provided information on the elements examined, among them, the post-conflict context and the relationship between principal political actors and institutions. Newspaper articles, official publications from governmental agencies and non-governmental organizations (both local and international) provided material from a wide array of perspectives on the recent developments in Guatemala linked with military reform and relations between

² For the recent increase in human rights abuses and out of concern for the safety of those interviewed, the decision was taken not to identify them by their names but through referring more generally to their expertise.

institutions. Special attention is placed on specific events in which the role of the military and the conduct of the reforms were discussed.

Chapter 1 constitutes an introduction to the civil-military literature and Latin American specificities in the democratization era. It presents the military prerogatives used in this study to illustrate the role of the armed forces in resisting substantial reforms contained in the Peace Accords. This serves as an introduction to the power structure of post-conflict Guatemala and exploration of the factors characterizing the ongoing and unsteady democratization of civil-military relations in Guatemala.

In Chapter 2, the transition itself is studied, whereby the nature of the process and its origin are investigated. The development of the counter-insurreccional apparatus illustrates how military capacities expanded during the conflict period. Looking at the period from 1985 to the Peace Accords, it is shown that civilian governments served as façades. Tutelary or semi-democratic regimes were in line with the democratization project by the military to answer the international concerns for democracy and human rights abuses.³ Also, the experience from 1985-1996 shows the high level of military intervention that characterized Guatemalan political life. The transition, the origin of the process, and the forces present at the negotiations provide for a departure point for the study of military autonomy and institutional imbalance in Guatemala.

Chapter 3 focuses on the implementation of the measures concerning the military in the Peace Accords. What institutional level of compliance and institutional change has been achieved so far? Foremost, the observations in the period following the signing of the Peace Accords reveals that the ongoing institutional imbalance has been fed by

³ Comments to this effect are present in numerous works on the Guatemalan transition (Schirmer, 2001, Handy 1996, etc).

military resistance. Moreover, the maintenance of core military prerogatives is not a coincidence when the military confronts explicit goals set in the accord regarding the redefinition of the military's role, an outcome that was partly to be expected from the transition itself. Core prerogatives can be identified as the terrain where civilian authorities' actions are most likely to provoke military resistance, which is why we put the emphasis on certain specific elements of the planned reform of the military sector: for instance, budget reduction, redefinition of the armed forces role, and intelligence oversight being the main ones.

The emphasis is then placed on the fact that the military as an institution has failed to recognize its role in past human rights abuses and that this attitude defines the institution and its capacity for compromising in the consolidation era. Some authors note that the military's failure to apologize formally or more precisely, to assist the Commission for Historical Clarification (CEH), is an indication of the resistance to change within the military. This resistance will be analyzed and put in the context of post-conflict consolidation in Guatemala, as the overall plan which followed the signing of the Peace Accords has yet to bring substantial change to the relationship between the military, the state, and society.

Chapter 4 focuses on the complementary part played by civilian actors and international actors in the current context in which the military and its allies still have a significant hold on power, which permits them to resist further challenges to the state of military reform.

Factors defining the transition, the context of institutionalization linked to the Peace Accords and the difficult development of democratic control of the military are, in sum, an amalgam of elements linked to the high level of military prerogatives in post-

conflict Guatemala. The maintenance of these prerogatives is the antithesis of the military reforms planned in the Peace Accords, mostly in the *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society*.

The pursuit of reform of the military and the state is of primary importance in order for Guatemala to remain on the path of democratic consolidation. These reforms compose a basic level of civilian control and are the result of a negotiation involving the Guatemalan state, the guerrilla movements, and social actors.

The following chapter will be dedicated to a presentation of the transition to democracy theories and their application to the Guatemalan case. This departure point will serve as a jumping-off position in the examination of the evolving relationship between new political institutions and the military institution and to illustrate military autonomy and its impact on the relationship between military, state and society.

Chapter 1

Civil-Military Relations in the Latin American context

Latin America clearly has a regional specificity defining civil-military relations (CMR)⁴, the patterns of transition and specific issues of democratization as observed by J. Samuel Fitch in his book *Civil-military relations in Latin America*. Some elements of CMR reform in Latin America specifically address the switch from National Security Doctrine patterns to democratic patterns of civil-military relations. There is also a significant diversity of outcomes in these countries, which is pertinent for intra-regional comparative studies and in-depth case studies of Latin American countries (Fitch, 1998).

One essential component of democratization is the extent of civilian control of the military⁵. The scaling back of military prerogatives is used in the current study as a measure of the subordination of the military and the level of civilian control over the armed forces. This concept illustrates military influence over civilian authorities and the level of power that the military holds in various fields. Although knowing what is the

⁴ "Civil-military relations involve a multiplicity of relationships between military men, institutions, and interests, on the one hand, and diverse and often conflicting non-military men, institutions, and interests on the other...the relation between the armed forces as a whole and society as a whole...the relation between the leadership of the armed forces (the officer corps) as an elite group and other elite groups...and...the relation between the commanders of the armed forces and the top political leaders of society - it is the foundation of the management of the use of armed force and the armed forces" (Segell, 2000: 1).

⁵ Richard H. Kohn gives a straightforward definition of civilian control: "Every decision of government, in peace and in war -- all choices about national security -- are made or approved by officials outside the professional armed forces: in democracies, by civilian officials elected by the people or appointed by those who are elected. In principle, civilian control is absolute and all- encompassing. In principle, no decision or responsibility falls to the military unless expressly or implicitly delegated to it by civilian leaders". He further develops on the normative nature of civilian control and its intrinsic link to democracy: "The point of civilian control is to make security subordinate to the larger purposes of a nation, rather than the other way around. The purpose of the military is to defend society, not to define it. While a country may have civilian control of the military without democracy, it cannot have democracy without civilian control" (Kohn, 1997).

required level of control in order to speak of “consolidated democracy” remains abstract, a definite set of measures can be understood to form the core of a role redefinition for the armed forces.

Larry Diamond underlines the importance of this: “the overriding imperative in the coming years is to consolidate those democracies that have come into being during the third wave” (Diamond, 1997: 2). Guatemala is an example of this third wave democratization, mostly concentrated in Asia and Latin America, occurring during the 1970s and the 1980s. In the context of the signing of the Peace Accords, reform of the military and institutional development seeking to strengthen civilian control provide an opportunity worthy of study when drawing links between reform of civil-military relations and democratic consolidation. Of interest in Guatemala is the two periods perceived as distinct democratization steps. For some scholars, the transition clearly started in 1986 when a new constitution was drafted and a civilian president was elected. For others, the transition was truly initiated with the end of the protracted conflict, at the end of 1996. For our purposes, we will consider the two periods as 1985 to 1996 and 1996 to the present.

Felipe Agüero has studied the relationship between the strength with which a military institution enters the consolidation period, its role in the transition period, and the expected developments between civilian authorities and the military in Latin American countries. He clearly states that the reason for studying these transitions’ legal-institutional arrangements is to better comprehend what happened in Latin American countries after the transition period when democracy is sufficiently entrenched to ensure consolidation. In a recent comparative text, Agüero states “by contrasting the expectations about civil-military relations born out of the transitions these countries

experienced with the current state of military power and constraints, we can gain insight into the impact that democratic transitions can have on the quality of democratic governance” (Agüero, 1998: 384).

The unique history of political-military interactions in a given country is said to affect its transition as well (Norden, 1996: 424). Some of these manifestations of military presence and interaction with the Guatemalan population are considered highly problematic and are ongoing, as we will consider in the next chapter.

Nonetheless, a Guatemalan scholar explains that since the *apertura* in 1982, when the repression attained a genocidal peak, democratization has permitted more control of the military institution. For this interviewee, the general opening up of the political sphere created more space for participation and conjunction of opportunities that favoured the reduction of some military prerogatives (interviewee 2, August 2001).

To measure the level of military power, Alfred Stepan (1988) has listed eleven military prerogatives in his study of the Brazilian transition and “military politics”. Most of these identified prerogatives were to be addressed in the Guatemalan Peace Accords. For instance, “Active duty military participation in the Cabinet” was to be addressed through naming a civilian as Minister of Defence. The “role of the legislature” in supervising the defence sector has been the basis of some measures aimed at overseeing military spending for example. The “role in intelligence” of the armed forces was to be closely bound and civilian capacity was to be developed to replace military entities in this field.

A critique of Stepan’s approach is that certain prerogatives hold more importance for the military institution than others do. An evaluation of the armed forces political power, therefore, cannot solely be based on an account of the level of power for the

military on the different fields of prerogatives.

In *Democracy vs. National Security: Civil-military relations in Latin America*, Paul Zagorski identifies four flashpoints where military interest would conflict with steps of democratic consolidation. The biggest one is addressing past human rights abuses, followed by, in order of conflict potential: internal security, military reform, and state reform. The most fundamental prerogatives to the military institution are those, which if threatened, would affect the nature of the institution or its survival (often, this threshold is defined by the military institution itself).

In Guatemala, some of the military prerogatives were significantly reduced through the existing democratization process. However, a greater level of resistance to change is to be expected in the area of core prerogatives. The core prerogatives addressing the redefinition itself of the military institution have been preserved and explain the current stability of the state of the armed forces, and their ongoing presence in internal security.

Political opening in the new regime

Brian Loveman argues that during transition, Latin American armed forces have preserved some prerogatives and set limitations on democratization. The “ostensible compliance with democratic procedures, including elections, congressional debates, judicial deliberation, media reporting, and government succession, masks the permanent threat of ‘veto’ by the guardians’ swords” (Loveman, 1997: 132). According to Loveman, constitutional reforms are needed in order to address this remaining dimension of military control over the political sphere, as “important limitations on the transition and on key constitutional aspects of the subsequent political system were imposed by the

military and its civilian allies” (Loveman, 1997:135). An example of this are the measures taken by armed forces that are leaving power or politicians who have ceded to pressure to allow military officers that have committed human rights abuses during conflicts in Guatemala or other Latin American countries to avoid prosecution. The transition for Loveman, then, has been a consolidation of ‘protected democracies’, rather than true democratization per se.

Hence, the state of military power at the end of a conflict and the armed forces’ ability to preserve an institutional role definition based on some ideological remains of the conflict period, necessarily have an impact on the prospects for compliance with the Peace Accords. Without diminishing the significance of the institutional changes in democratizing countries, the imbalance within the structure of power and the importance of the role of the military institution in the transition to democracy are elements that have to be taken into account in the analysis of the post-conflict situation. In describing the democratization process in Latin America, Paul Zagorski states that the transitional setting only sets the stage for further confrontation:

With variations in each country, then, the transfer of power from military to civilian governments placed at least a limited amount of initiative in civilian hands. However, the initial balance between civilians and the armed forces is likely to be temporary, and the commitment of the armed forces to civilian rule is likely to be tactical or provisional. Thus, the transfer of power merely sets the stage for the struggle to consolidate democracy (Zagorski, 1992: 47).

J. Samuel Valenzuela comments on the notion of democratic consolidation and the concept of institutionalization. According to him, there are dangers in consolidation that are determined by certain types of institutions, in an ideal-type definition, making democratic consolidation an ambiguous term. This is why Valenzuela suggests that

“instead of focusing on the institutionalization, both formal and informal, that is compatible with – and even buttresses – the workings of a democracy, it is better to look at that which tends to undermine its operations – or what can be called perverse institutionalization” (Valenzuela, 1992: 62).

The recent book of Jennifer Schirmer, *The Guatemalan Military Project: A Violence Called Democracy*, is oriented around the characteristics of the military project for it to remain “guardians of the state” after the political transition (Schirmer, 2001). A very significant part of that military project is characterized by the necessity of repression of political dissent, as the military does not want to take the risk of seeing another contesting organisation developing into a source of instability for the nation⁶.

McSherry defines the ‘guardian’ nature of post-authoritarian armed forces as follow: “The security apparatus, ever alert to potential ‘threats from below’, remains a political actor that monitors and contains civil society. The latent threat of military intervention has the power to shape government decision-making and inhibit political participation by social groups” (McSherry, 1998: 16). What remains clear is the fact that the military has a pervasiveness for remaining in charge of the definition of its role and missions, which although the institution has left the structure of executive power, it is still widely autonomous within the circle of security and military affairs. For the importance of military intervention and presence in internal missions, and given the military solutions applied to internal problems, this institutional role definition

⁶ During interviews with General Gramajo, Schirmer and Gramajo discuss the “tesis de estabilidad nacional” developed by this Guatemalan official as an ideology of transition. Gramajo explains that selective repression will need to be carried for another twenty years, granting violence a fundamental role in the military democratic transition project (Schirmer, 2000).

necessarily restricts civilian authorities' options and in a vicious circle, does not encourage corresponding civilian institutions.

Brian Loveman speaks of 'protected democracy' as being necessarily antithetical to political participation. An example of protected democracies' features are the remaining national security laws in Latin America as a means for the armies to control political opinion disproportionate to their defined role: "Such laws often outlaw propagation of 'subversive' ideas, limit freedom of association, and otherwise restrict civil liberties and rights. They criminalize behaviour that otherwise would be legal (for example, suggesting the replacement of a republican government with a monarchy, or accusing a military officer of corruption)" (Loveman, 1997: 140).

Another worrisome dimension in the task of increasing participation in democratization lies in the military's unitary conception of the nation. This institution perceives itself as having a role in the defence of the nation and its values. The military is therefore against any official recognition of ethnic diversity. Political participation is often organised along ethnic lines in the Guatemalan highlands, as Mayan organisations have been fairly active all along the democratization process. Reported by Fernando Bustamante, for the military, "ethnic movements are seen primarily as a central threat to national security" (Bustamante, 1998: 355).

These latter points shed light on the difficulty of implementing change in CMR due to the inherited traits of a National Security pattern of CMR. Consequently, there are legitimate concerns about the potential danger resulting from professionalization of the military in Guatemala, where democratic control is still hypothetical. Democratic control of the military institution constitutes a fundamental dimension of the democratic state by the fact that this state agency can be used to reverse order that was set through a

democratic process or become (further) politicised. In general, in a democratic state, it is expected that the military will manage military affairs without interfering into politics, and that politicians will orient the direction of military affairs, but will leave the technicalities of military operations to military officers.

For his part, Agüero emphasises that these legal-institutional elements play a certain structuring role even in countries where the “rule of law” has not been particularly closely observed over the past decades (Agüero, 1998). This is in part why I examine the legal-institutional changes that have occurred in Guatemala and the significant actions by the different actors in impeding the institutionalization of such changes. Although not representing the entirety of military power, remaining military structures and lack of institutions ensuring civilian control of the military are indications of the level of military power. This added to other measures of how militarized a society is and how present is a military institution in various spheres of decision sets the global picture of military power.

In her doctoral thesis, Cathy Blacklock argues that regime theory does not allow for an accurate assessment of political realities: “a new regime form may not mean significant change in the structure of power” she states (Blacklock, 1996: 36). The military institution does not need to form government in order to conserve core prerogatives that maintain a structure of power not too different from the authoritarian period.

Cathy Blacklock also describes the useful contribution of neo-Marxists in the conceptualisation of the state itself as a structure of power. The ongoing pact of domination permits the continuation of existing power relationships despite institutional

changes. Neo-Marxism “provides a way of understanding that significant change can occur simultaneously with substantial stasis” (Blacklock, 1996: 42). For anyone closely following the unfolding of events in post-conflict Guatemala, this proves to be an interesting concept: a description of what changes through a regime change, in theory, and what still needs to be addressed in the military’s ties to civilian actors and the ongoing influence of the military in extra-military affairs.

The present study illustrates, in a more concrete way, the role of the military as an agent of resistance, impeding change in the relationship between the state, the military and society. In this sense, it seeks to give more credit to the view that the military institution still has significant weight in the power balance between agents of change and agents of the past in Guatemala. Despite their position of military superiority at the end of the conflict, the armed forces showed conciliation in agreeing to the signing of the Peace Accords. On the other hand, other factors entered into the military extrication from executive power and the brokering of peace a decade later. These contextual elements help to understand Susanne Jonas’ suspicious question of whether or not the armed forces were conciliatory at both steps because they knew they would be able to maintain certain prerogatives. This however, clearly conflicts with the transition to democracy process and the spirit of the Peace Accords (Jonas, 2000).

For Williams and Walter, just focusing on implementing civilian control is not enough when it is defined as an institution-building process. In their recent book on El Salvador, they discuss the encompassing dimension of military power and its ramifications in society. They do not necessarily equate military power with political institutions, but more inclusively and broadly, with the militarization of society. “Given

its monopoly on violence, the military can exercise political power whether or not it occupies the government". They further add:

"Demilitarization refers to the armed forces' 'decolonization' of the state apparatus and of everyday life, not simply a return to the barracks. Demilitarization at the state level consists of sharply reducing the military's traditional institutional prerogatives or 'reserved domains' and eliminating its ability to 'exercise tutelary power' over the political process" (Williams and Walter, 1997: 8).

This view has the advantage of exposing the non-institutional nature of military power within Guatemalan society and permitting to inclusion of more salient power defined through observable prerogatives, having a clearer view of the reach of military power. For instance, studies have shown that former civic patrollers are maintaining links with their local military bases. They are also likely to be used by the military and its civilian allies, mostly by re-mobilization, this time however, under the auspices of the current democratic process, as was the case with the 1999 elections when they were mobilized to campaign for the election of the Frente Republicano Guatemalteco (FRG).

The question raised by Jennifer Schirmer is whether the military has transformed enough to permit democratic consolidation (Schirmer, 2000). In the recent literature on Guatemala, some scholars argue that the military hold on power has diminished and that democracy is consolidating (De León, Torres-Rivas, Kincaid). However, all three remain alert to the dangers faced by the actual consolidation process.

Institutionalism and the advantages of a state-centred theory

In post-conflict Guatemala, the state has an inherent responsibility, as it is the actor that has the most responsibilities to carry out the implementation of the Peace Accords. As presented by Stepan: "The state must be recognised as more than the 'government'. It is the continuous administrative, legal, bureaucratic and coercive

systems that attempts not only to structure relationships between civil society and public authority in a polity but also to structure many crucial relationships within civil society as well” (Stepan, 1978, p. xii).

The military, as part of the state, participated in the peace negotiations. The military can also influence the process of compliance with the Peace Accords. This is why, in the sense understood by Stepan, we examine the constraints set by the military on the implementation of the AFPC; “the ways in which state structures and strategies define the options and strategies of the political opposition must be given close attention” (Stepan, 1985: 318). What is under scrutiny here is the capacity for military power to perpetuate itself and resist its downsizing through its actions and influence on political and civil society.

Ole Norgaard explains how, in the consolidation phase, institutions are independent variables playing a role in the consolidation or de-consolidation of democracy: “During consolidation, institutions become the independent variable because a successful consolidation process is characterized by a gradual change of values, attitudes, beliefs, and habituated actions within and in relation to the democratic institutions that make democracy ‘the only game in town’ ” (Norgaard, 2001: 15).

The central role for institutions that survive and come out of the transition period is acknowledged to be greatly relevant to understanding the dynamics of the consolidation period. The way a transition from authoritarianism occurs is a key factor in the consolidation of democratic systems. Whether a military dictatorship is removed through a pact among elites transition or with the military, is led by the military, or is a consequence of revolutionary change is said to have an impact on the lasting of democracy. This view might be accounted for by an historical institutionalist approach

(Aguëro 1998; Skocpol, 1985; Thelen and Steinmo, 1992). In such an approach a great part of explanatory power in the conduct of institutions in the consolidation period is given to the inheritances from the authoritarian period and the organisation of the transition made by these institutions.

The historical institutionalist perspective helps to shed light on how the military preserved its role during transition. The challenge is in showing that its grip on power is still significant and related to these strategies. The events of the last five years have demonstrated that the behaviour of the armed forces reinforces accepted values and norms. Its actual reaction in the face of the project represented by the Peace Accords shows that there is little evidence illustrating the internalisation of democracy by the military, other than basic principles permitting the election of civilian governments.

In the perspective of “normative institutionalism”, norms and behaviours are self-reinforcing forces that define the role of institutions in the long run, within the political process. As pointed out by Norgaard, “When normative institutionalism is applied, the problem becomes group (or institutional) identities hostile to democracy and democratic values, for example, allegiances to religious, class, or national identities” (Norgaard, 2001: 21).

The logic of appropriateness, or the identity, of an institution, may be incompatible with democracy. “In a dialectical and self-reinforcing relationship”, norms and actions do form institutions. Change in institutions is thus described as a process of adaptation. “A democratizing society will depend on the analogous democratization of its constituent parts, of civil society institutions [...] and of its executive institutions (public administrations, courts, the military, the police, etc.)” (Norgaard, 2001: 22).

As stated by Theda Skocpol, “[we] can hypothesize that one (hidden or overt) feature of all autonomous state actions will be the reinforcement of the prerogatives of collectivities of state officials” (Skocpol, 1985: p.15). The conduct of the military is observed in an attempt to understand the mechanisms of compliance for such measures as the reformulation of the military doctrine, the restriction of the military’s role to the defence of sovereignty and the budget and size restrictions imposed in order to reflect the corresponding structure of armed forces in a time of peace.

Eric Nordlinger explains how the political attitudes, interests and behaviours shared by a majority of military officers “in conjunction with certain political factors external to the armed forces, [...] have a decided impact upon the decision to intervene, the structure of military regimes, the praetorians’ governing style, [etc.]”. He further adds that “the differences among civilian politicians, government, and regimes are significantly greater than those found among their military equivalents” (Nordlinger, 1977: 5). These considerations give further strength to the view of the military institution as a factor of a unique nature, to be examined in its interaction with other factors explaining the conduct of military affairs.

The institutional variable holds great explanatory power and the relative autonomy that is still in the hands of the military, inherited from the conflict and transition periods, deeply embedded into norms and behaviours and fuelling the current power struggles, serves to explain the struggle of the Guatemalan political class and civil society to act on the commitment and compromise made concerning the redefinition of the military’s role and place. The “acquired rights or privileges” of the military are targeted in the Peace Accords in an attempt to enhance civilian prerogatives. Through a normative approach, we will illustrate the influence that military autonomy has on the

exercise of effective control over the internal governance of extra-military areas within the state apparatus.

When making the comparison of the legal-institutional legacy of transition and the conduct of the military institution in the current consolidation period, we borrow from the vocabulary of Neovi Karakatsanis (1997) in her study of the Greek transition: there is a definite need to consider “attitudinal change” or what Norgaard presents as “appropriateness” or “institutional identity” (Norgaard, 2001: 22).

Jennifer Schirmer concentrates upon that question: Has the military changed enough to permit democracy to last? To respond, she builds on evidence from many interviews. Schirmer (2001) and Susanne Jonas (2000), present the role of the Guatemalan military in the transition as a tactical position. The armed forces’ attitude and role perception, expressed through values, norms and concrete actions show that they have yet to change enough to permit the consolidation of democracy and is illustrative of the current armed forces’ impact on the prospects for compliance.

The overall understanding will be garnered through considering the constraints that the inherited institutions put on democratic governance, and the examples of military resistance, both in action and discourse. Solely crediting the transition legacy for Guatemala’s current difficulties in implementing military reforms is too shallow of an explanation; it assumes that decisions or outcomes of the current political process are solely historically constrained, with little consideration for the context of democratization and the role and will of political actors. However, legacy of the transition period also illustrates the armed forces’ perception of the democratization process and of their own role in it.

A close examination of the manifestations of military resistance to the curbing of precise military prerogatives is required. Therefore, this is a combined theoretical approach toward historical and normative institutionalism that will permit us to look closer at the role of the military institution in the conduct of military reform after 1996.

Given the fundamental role played by the military institution in Guatemala's history and transition, but also considering the centrality of the military institution within the state apparatus, this study deliberately puts the emphasis on the current military institution's conduct in the consolidation process. More precisely, the relation to the reforms undertaken to address the dimension of military power in a democratic society is examined.

The relationship between the military, the state and society in Guatemala is first and foremost affected by the military institution's capacity to maintain its core prerogatives. Other factors intervene in reinforcing this institutional linkage. These reinforcing factors prove less significant if considered in isolation from the main institutional variable: the current role of the military institution in protecting and defending its core prerogatives, in maintaining a "logic of appropriateness" which has not yet adapted itself to the deepening of democracy as required by the Peace Accords.

The historical dimension of military prerogatives

Civilian governments and authorities are said to have the upper hand in the present opportunity afforded by the current wave of democratization. Hence, a huge part of the democratizing process' fate would be in the hands of civilian authorities: "Civilian governments must transform this [military] tactical retreat into a strategic reorientation of the armed forces" (Zagorski, p.91). This author is correct in naming a challenge that

seems possible in many Latin American countries and has been partially met in some countries. Incremental change in civil-military relations has been very significant in many countries. In some, however, the challenge has been harder to meet.

When looking at the broader picture of how civilian authorities are to transform the military's tactical retreat into a strategic reorientation, Zagorski addresses day-to-day policy-making; "the success of any policy, well thought or chosen by default, depends on the concrete, mundane, day-to-day execution of policy initiatives. Civilians must effectively counter active or passive military resistance on a number of fronts concerning a number of important issues" (Zagorski, p.92). This kind of interaction has been going on in Guatemala around the implementation of the military reforms contained in the Peace Accords.

For Zagorski, the principal factors of democratic consolidation in the post-transition period are: the political strength of armed forces as they emerge from transition, the political strength of the elected government, and the judgment and political skills of the civilian government.

All three factors enumerated by Zagorski permit a better understanding of the autonomy of the military institution in this post-conflict period. However, the first factor sets military constraints on civilian actors, among them on civilian authorities, be they willing or not to conduce change. This is why we do not believe the context itself holds enough explanatory power for non-compliance. Civilian hesitations do take place within a context marked by the armed forces ongoing definition of their "appropriateness", their institutional identity, their ties to civilian allies, and the impact on democratic participation.

Zagorski places much emphasis on the human rights situation for an example of a flashpoint of military resistance. The actions of civilians would more likely trigger a reaction in these one areas identified by the author (past human rights abuses, internal security, military reform, and state reform). In these sectors, the military is led by the perception of what can affect its survival as an institution, or some of its prerogatives.

There are some political and economic factors that add to the current problems in curbing military prerogatives. In fact a major argument of those who believe that the military institution has fundamentally changed is that the context in which the military operates shows how much they are defending democracy by not intervening. They argue that the weak institutions of the post-transition period invite the possibility of a military coup. However, a coup d'état is only one overt way in which the military institution can intervene in politics.

The manifestations of military resistance to the curbing of its prerogatives, which was required by the *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (AFPC)* is an example of intervention by the military into politics. This accord sought to address the high degree of military prerogatives and redefine the relationship between the state, the military and Guatemalan society.

The concrete attempt made here consists then in isolating the role of military power in the equation explaining uneven compliance with the AFPC measures addressing the role of the military and its adequacy with a democratic post-conflict society. In Chapter 4, this variable is presented in its interaction with the weakness of the civilian component and the overall idea that the momentum for implementation needs to

be reinvigorated, in part through a closer international monitoring of the situation and support of civil society actors.

In the second chapter we conduct an historical overview of the military institution's role in Guatemala. Further development of military prerogatives and the modernization of the Guatemalan armed forces occurred in the Cold War era. Ideological grounds, based on the National Security Doctrine and the militarization of the Guatemalan society provided the military with an extreme sway over Guatemala's governance. From this demonstration we conclude that the historical legacy after the military's extrication from power, whether tactical or not, set the stage for difficulties in curbing such high prerogatives.

Chapter 2

Inheritances from the past: the military before and during the political transition

An interesting characteristic of the Guatemalan transition is that it occurred in two periods: the military-led transition of the mid-1980s and the more recent important opportunity brought about by the Peace Accords of 1996. It is widely acknowledged that Guatemala had been a hybrid regime between 1985 and 1996, as the armed forces kept the responsibilities they deemed necessary to continue leading the counterinsurgency campaign against the weakened guerrillas. Repression remained politically- and socially-motivated and yet, more selective.

The objective of this chapter is to account for the military-led transition as a factor in the standstill in the process of reforming the military in Guatemala and the historical role of the Guatemalan military. This section will look at the nature of the transition itself, which has been described as mostly coming from a reformer military institution. It sets the foundation for a closer look at the post-conflict period and the global historical picture of the development of military prerogatives during the conflict to understand more fully the context of peace negotiations, and the accord addressing the role of the military. It builds on the postulate that military extrication from power was part of the counterinsurgency plan of the Guatemalan armed forces.

Through an historical survey indications on the development of military prerogatives between the periods of 1954-1985, and 1986 to 1996 are gathered. Study of these two periods illustrates how the military force was strengthened as a result of the counterinsurgency period, in which the National Security Doctrine inspired the armed forces.

The conflict: 1954-1985

In 1954, a military coup overthrew the democratically elected government of President Jacobo Arbenz Guzman. The coup was carried out by the National Liberation Movement of Castillo Armas, with the covert help of the United States' Central Intelligence Agency (Costello 2001, Torres-Rivas 1998). The Arbenz government had proposed land reform and other measures unpopular among the large landowner elite. In the context of the Cold War, any land reform initiative like the one devised by Guatemalan leaders was perceived to be communist. Among the land seized with compensation was land belonging to the United Fruit Company, a powerful American company that had connections to the higher echelons of the American government.

The ten-year democratic experience ended without instituting the changes that would have set the stage for more equality and economic justice. The excesses of doctrinal ideologies of the Cold War swept away these possibilities. To quote Gert Rosenthal, Guatemalan representative at the United Nations, "The country became a theatre of the Cold War, in spite of the fact that most Guatemalans had probably never heard of Marx or Lenin" (Rosenthal, 2001).

Until the signing of the Peace Accords, the commanders of the guerrilla movement were ladinos (Guatemalans of Spanish descent). Armed opposition was soon countered by state repression tactics and state terrorism. Based on the state-security doctrine, this counter-insurgency approach, which was used more intensely at the beginning of the 1980s, was to lead to a level of violence that had all the characteristics of a genocide against the Mayan people of Guatemala.

The national security doctrine and the development of counter-insurrectional power

The countries of the American hemisphere were highly influenced during the Cold War by the ideological division of the world. The National Security doctrine as developed in the United States of America has found fertile ground in the Latin American armed forces. These forces would find in the doctrine justification for their intervention: the higher good of the state and the defence of the “patria” in front of the communist menace.

From the beginning, the army was mostly at the service of large landowner elite. In the 20th century, the army intervened into politics more through dictatorial regimes. The historical background of the Guatemalan state and society provided reinforcing conditions for the development of a National Security state:

The proclamation of independence in 1821, an event prompted by the country’s elite, saw the creation of an authoritarian State which excluded the majority of the population, was racist in its precepts and practises, and served to protect the economic interests of the privileged minority. The evidence for this, throughout Guatemala’s history, but particularly so during the armed confrontation, lies in the fact that the violence was fundamentally directed by the State against the excluded, the poor and above all, the Mayan people (CEH report, <http://hrdata.aaas.org/ceh/report/english/toc.html>).

The National Security Doctrine’s fundamental perception of the communist threat to Guatemala was to see any kind of social organization as a potential subversive activity. Not tolerating any potential subversion, the Guatemalan state enterprise of repression was massive and indiscriminate. It is estimated that 85.2% of the human rights violations during the conflict were perpetrated by the Guatemalan armed forces and 93% by the Guatemalan counter-insurrectional apparatus in total (see Bar graph 1).

Bar graph 1 – Entities responsible for human rights violations and violent acts, Guatemala (1962-1996) and **Bar graph 2** – Party responsible for human rights violations and violent facts

FUENTE: Base de datos, CEH.

Las columnas representan la responsabilidad de los distintos grupos en la comisión del total de los hechos, actuando solos o en combinación con otras fuerzas. Por este motivo, en la categoría "Ejército" se registran tanto las violaciones cometidas por elementos de éste, en actuaciones solas, como aquellas otras donde también participaron las Patrullas de Autodefensa Civil (PAC), los comisionados militares, escuadrones de la muerte u otros integrantes de fuerzas de seguridad del Estado. De igual manera, en la categoría "PAC" se contabilizan las violaciones cometidas por sus integrantes, actuando solos o colaborando con otra fuerza. Este principio rige respecto a las demás fuerzas, por lo que la suma de los porcentajes supera el 100%.

FUENTE: Base de datos, CEH.

El desglose de responsabilidades agrupadas arroja los datos siguientes: 93% corresponde a agentes del Estado, incluyéndose en esta categoría el Ejército, fuerzas de seguridad, PAC, comisionados militares y escuadrones de la muerte; el 3% a la guerrilla; y el 4% restante designa a otros grupos armados sin identificar, a elementos civiles y a otros funcionarios públicos.

(Taken from: CEH report, <http://hrdata.aaas.org/ceh/report/spanish/toc.html>)

The National Security Doctrine helped develop the sense of military corporatism; perceived status and privilege thus are even more embedded in the military's definition of its role and of the legitimacy of its interventions. The practice of the soldiers thinking of themselves as the defenders of the nation, as being part of the one institution defending the higher good of the country, was embedded in the National Security Doctrine's fear of world communism. Hal Klepak (2001) underscores the conception in Latin American armies of their role as defenders of Christianity as a regional trait defining the armed forces' internalisation of the National Security ideology.

Modernization of the Guatemalan military

During the Cold War period, American support was shown through financial help and military counselling. Military assistance was only cut in 1978 by the Carter administration. When the funding ended, the Guatemalan state turned to Israël and Taiwan to provide most of the military materials and advisors. The collaboration of these foreign governments has helped the development of military intelligence capabilities and the overall modernization of the Guatemalan armed forces.

One development of the counter-insurreccional power in the 1960s is the convergence of intelligence institutions under the direction G-2 of the military and the intelligence work of the Estado Mayor Presidencial (EMP). As well, a communication network involving all organizations from the security and intelligence sector was established. At the same time, complementing the militarization of the police forces and the recruitment of civilian militias was the development of special forces dedicated to counter-terror made up of the Kaibiles, who were the pinnacle of counterinsurgent forces.

The Military Assistance Program of the United States has been a decisive factor in putting together these counter-insurrectional institutions. Its contribution had grown from 1.7 million for the years 1956-1961, to 10.7 million for the years 1962-1967 (Torres-Rivas, 1998: 43). These years and the subsequent ones provided an occasion for the Guatemalan state to modernize its military equipment and to further develop the counter-insurrectional power.

Prior to democratization and the signing of the Peace Accords, a clear trend of the military institution attempting to militarize society was observable. Rachel Sieder has observed that “the counterinsurgency strategy developed after 1982 extended the influence of the armed forces into the lives of the rural population to an unprecedented extent, generating a profound transformation in the nature of military power” (Sieder, 1996: 82). Institutional change would only be possible if accompanied by profound change within the power structure. This penetration of the countryside has been vastly documented and is an aspect of the Guatemalan conflict that makes it even more significant.

Through the process of militarizing society and population control, it is believed that around 900,000 people served in the Civil Defence Patrols at their highest point in the mid-eighties (Torres-Rivas, 1998 Baranyi, 1995). These militias were asked to guard their village, check identification of people entering it, and report anything suspicious to the nearest military base. They were also involved in random recruitment operations and searches for guerrilla members, which were said to be voluntary though when a refusal meant one was branded as a guerrillero.

The counterinsurgency apparatus and the repression of dissent

The structure of counter-insurrection that developed has had additional strengthening in the military dictatorship periods. “Between 1970 and 1986, all Heads of State were military officers; before and after that date, even nominally elected civilians were dominated by the military. Officially sanctioned repression became the main cause of numerous excesses in the domain of human rights” (Rosenthal, 2001). The Guatemalan internal conflict lasted 36 years after beginning in 1960.

Levels of state terrorism rose through political repression and selective killings as expressed through massive human rights violations and destruction tactics in the countryside aiming at sweeping out the guerrillas. It is during the governments of dictators Romeo Lucas Garcia and Efraín Ríos Montt in the beginning of the 1980s that the intensity of the conflict dramatically increased. The Sandinistas had succeeded in grasping power in Nicaragua and the Guatemalan authorities felt pressed to stop the guerrilla movement for good by launching a bloody counterinsurgency campaign. At this point, the state started to implement a tactic known as the “scorched-earth” policy (*tierra arrasada*). The principle behind this destruction of the Guatemalan rural communities was to “remove the water from the fish” (*quitarle el agua al pez*). By destroying the land where the guerrillas would find food and support, the Guatemalan State believed it could end the conflict.

According to the CEH, supported by the United Nations, the Guatemalan army conducted 626 massacres during the conflict, for a total share of 93% of all committed massacres (CEH, 1999). Ricardo Falla (1992), a Guatemalan priest and anthropologist, explicitly exposes the planning behind the military massacre campaign conducted in the

Quiché area between 1979 and 1983. Other historical evidence supporting the belief that these massacres formed part of a planned enterprise was released in the Guatemalan truth commissions. These two commissions were conducted in collaboration with the UN and by the Catholic church of Guatemala⁷. An undertaking by the Human Rights Office of the Archbishop of Guatemala (ODHAG), the Project on the Recuperation of Historical Memory (REMHI) reached insightful conclusions based on its numerous interviews with victims of the violence during the conflict years⁸. One of the conclusions reached by the report was the following, in which the generalization of violence is stated:

The grave violent events which happened in Guatemala were not fortuitous, they responded to plans designed accordingly to the interests and necessities of those responsible. Counter-insurreccional violence was generalized against entire communities, including civil populations (REMHI, Tome IV, Translation by the author).

Disappearances were the most commonly used tactic to control the Guatemalan population. The victims of these disappearances were from all sectors of society. Anyone that could be characterized as an activist was suspect. Hence, students, trade unionists, human rights defenders and other members of various civil society groups were “disappeared”, tortured and murdered: “In Guatemala, torture was used systematically in the context of other serious human rights violations such as extra-judicial executions and ‘disappearances’ ” (AI, April 1998: 4).

⁷ The main differences between these two commissions are that the CEH was sponsored by the United Nations and the Recuperación de la memoria historica (REMHI) was conducted by the Archbishop of Guatemala Office for Human Rights (ODHA), and that the CEH exercise was limited to an historical clarification role while the REMHI report clearly identified perpetrators of human rights abuses that occurred during the conflict.

⁸ Two days after the public presentation of the REMHI report, Bishop Juan Gerardi Conedera, who was coordinator of the project, was assassinated. Since then, a judicial process closely followed at the international level has provided results. Agents of the EMP have been linked to the murder.

More than an estimated 200,000 people were killed during the course of the conflict. Forming roughly sixty percent of the population, the Mayans made up a disproportionately high proportion of the victims during the armed confrontation. During *la Violencia* (1980-1983), 83% of the victims were Mayan, mostly from the Guatemalan highlands (Departments of El Quiché, Alta and Baja Verapaz; 50% of the massacres registered by the CEH occurred in El Quiché). The ethnic dimension of the conflict cannot be ignored. It is acknowledged that, given the nature of the violations committed and the deliberate attempts to target the Mayan population, what occurred between 1980 and 1983 constitutes genocide⁹ (CEH, REMHI, Torres-Rivas, 1998: 80)¹⁰.

A two-period democratic transition

The military initiates the democratization process

In the mid-80s, relinquishing some power to civilians was part of the military's strategy to defeat the guerrilla movement, discredit part of the movement's demands, and address international pressure for democratization. Says Fitch, "In both Guatemala and El Salvador, a controlled transition to a limited democracy was part of the military counterinsurgency strategy" (Fitch, 1998: 47). The military-initiated transition has been described as a mixed solution: "a division of labour between a security apparatus kept intact to preserve military prerogatives and a civilian administration put forth to handle

⁹ In the Guatemalan penal code, which uses the same definition as in the Geneva Convention of 1949 for the prevention and punishment of the crime of genocide, genocide is described as being a crime perpetrated with the intention of destroying, totally or in part, a national group, an ethnic group, or a religious group.

¹⁰ Torres-Rivas discusses the planning of the counter-insurrection strategies and the consequences it lead to: "Del genocidio responde el ejército y su bien planificado accionar de más de 18 meses de aplicación". He suggests that the government of Lucas planned the military offensive and the operations conducting

foreign affairs and ‘the human rights problem’ ” (Schirmer, 1998: 6). Other authors speak of the military’s pragmatism in understanding that they had to give up some of their hold on power in order to address internal and external pressures (Zagorski 1996, Booth 2000). Additionally, it is widely acknowledged that the military extracting itself from direct political power in Guatemala formed part of a strategy of the military.

During the period from 1986 to the Peace Accords, the civilian governments served as façades. In 1986, Vinicio Cerezo was elected to the presidency in what was said to be an international public relations strategy for the military, as “few people were fooled into believing the elections [...] meant that the military was giving the civilian president a free hand” (Handy, 1996: 4). Tutelary or semi-democratic regimes were congruent with the democratic transition project by the military to answer international concerns for democracy and human rights abuses, discredit the guerrilla on the international scene, and retain political power that would permit them to win the war against the armed opposition.

Commenting on the state of the military position within the transitional context, Rachel Sieder puts great emphasis on the military strength and independence: “The Guatemalan military are notable for their operational and ideological unity and for the almost total historical absence of a tradition of negotiation and compromise” (Sieder, 1996: 84). In fact, the peace negotiations remained blocked for a certain time due to the military’s resistance to compromise.

genocide, while Ríos Montt’s only continued the application. He therefore places the emphasis on the institutional responsibility of the armed forces, rather than on one administration.

In addition, military actions should be examined in regard to the nature of the pact that was made among elites. This is underlined by Terry Karl when she puts into context the reality of such an alliance behind the origin of democratic rule: she argues that in a “transition from above” the terms of the transition are negotiated by the economic and military elites while not altering their institutions (Karl, 1990: 9). This type of “pacted” elite transition is the sort of logic behind the view which states there is no decisive break with the past in such cases, allowing the permanence of the same structure of power without the obvious form of institutionalization that was fundamental during the counterinsurgent past (McCleary, 1999: 190).

In the heartland, being the terrain of guerrilla operation, the military developed many initiatives to control local population in an attempt to make it impossible for the guerrilla to recruit and simply to operate under these conditions. In the 1960s, *Programas de Acción cívica* of the armed forces included local structures known as development poles or model villages. These programs were further developed in the 1980s. In short, population control initiatives received a greater impetus immediately after the major military operations of the years 1979-1983. These initiatives were pursued under the democratic regime of Christian-Democrat president Cerezo (Costello, 1997).

In 1985, an amnesty law was passed just before the transition to democracy stating no one would be prosecuted for political crimes committed during the conflict. A decade later this remained a contentious point in the peace negotiations, the URNG wanting it to be repealed. Grave human rights violations, such as torture, are not covered by this amnesty. However, not a single soldier had been convicted for abuses committed during the conflict period, until October 2002 when an armed forces Colonel was tried in

relation with the murder of an anthropologist in 1990. Only three former patrollers have been found guilty in the Rio Negro case¹¹.

The preservation of “perverse institutions” accounts for the way in which the military institution conducted its passage to a democratic system. In an example of “perverse institutionalization”, counter-insurrectional institutions were legalized in the new constitution adopted in 1985, the Civil defence patrols (or PACs) were renamed, not disbanded, development poles were newly opened, and the amnesty law covered all crimes committed after 1982 (Costello, 1997). About 500,000 patrollers remained one year before the signing of the Peace Accords, operating in the renamed Voluntary Civil Defence Committees (Baranyi, 1995).

In the end, one can observe that the modernization and the autonomy attained by the armed forces through the conflict years and the mechanisms behind militarization and population control have permitted them to be in a position of strength at the end of the conflict. Some argue the armed forces preserved a great part of this strength at the end of the conflict through the ongoing militarization of society rather than directly using executive power.

Negotiating peace

Regional pressures for peace arose in 1984-1986 when two initiatives eventually provided the basis for addressing the conflicts of Central America. Fearing the destabilizing implications of war in the region, the “Contadora Group” (Mexico, Venezuela, Panama and Colombia), worked with the foreign ministers of Central

¹¹ In 1982, inhabitants of the small community of Rio Negro, Alta Verapaz, were victims of three massacres. Survivors of one of them have testified in a trial and on November 21st 1998, three former

American countries to table a series of documents drawing international attention to Central America, promoting democratization and the end of armed conflicts in the region, restoring economic development and co-operation in Central America, and negotiating better access to international markets (Costello, 1997).

Another fundamental step following this Central American initiative was the Esquipulas process, inspired by Oscar Arias, then president of Costa Rica and also defended by president Cerezo of Guatemala. The governments of the region agreed to search for political solutions to their respective conflicts, and five years later, it had inspired the return to liberal democracy in Nicaragua, a general peace agreement in El Salvador, and the first tentative steps in the process of a negotiated settlement in Guatemala (Costello, 1997).

In Oslo in March 1990, a basic agreement on the search for peace through political means was reached, facilitating future dialogue. The cooperation of the Norwegian government and the Lutheran World Federation in facilitating dialogue and providing the terrain for negotiations proved to be the main determinant in this progress.

After a two year lull in the negotiations, a framework agreement was reached in Mexico City in January 1994 (encouraged by EU, USA, Mexico and participation of a UN mediator). By the end of the year, MINUGUA had begun to establish its offices in to verify compliance with the Global Accord on Human Rights, signed that same year. MINUGUA's mandate would soon be extended to cover provisions of the 1995 accord on Indigenous Rights and later, to monitor the implementation of all the accords.

patrollers were found guilty of murder. The three men were commanders of the patrol during two of the massacres that were executed under the command of the Guatemalan army.

The Peace Accords were signed on December 29th 1996. The commanders of the URNG (Guatemalan National Revolutionary Union, an umbrella organisation for the three guerrilla movements) and representatives of the government had been negotiating under the auspices of the UN and with the help of some countries that had identified themselves as “Friends of the Guatemalan Peace Process”. Before the umbrella accord on peace was officially ratified, both parties had signed a total of nine different accords on various aspects of Guatemalan society.

Still serving as a mediator in the Guatemalan peace process, the United Nations played an important role through MINUGUA. Reports on implementation of the Accords are made periodically and other reports are also published on specific issues, such as reform of the National Police or the human rights situation.

The international community has played a major role in the peace process in Guatemala, both in the brokering of peace and orientation of substantial commitments reached during negotiations. International influence has been one of the keys in sustaining the transition to peace and democracy.

“The weakness of the rebels as a military force was a precondition for the shift in role definition within the Guatemalan armed forces that led to the process of democratization in the 1980s” (Cameron, 1998: 228). This observation by Maxwell Cameron underlines the fact that the military would not likely conduct itself as a vanquished entity. In this line of thought, the context of the Peace Accords negotiation causes some scholars to note the army’s consciousness of a coming period of economic difficulty and the necessary institutional void and insecurity that would prevail through agreeing to the restriction of military policing, and that this was accounted for and seen

as an opportunity for the military to polish its image and that it eventually would support its continuing intervention in the countryside (Schirmer, 1998; FOCAL, 2000).

The transition impact

Possibly less determinant than other factors, the nature of transition is also significant in influencing the further unfolding of events linked to a country's democratization. Other characteristics of post-conflict Guatemala are: a decimated leadership, an authoritarian conception of politics, prevailing violence and insecurity, omnipresent corruption and a poor perception of the democratic system in general. As a partial but significant explanation for the population's view of the democratic system is the lack of compliance with the Peace Accords, increasing the gap between the commitments reached and the ongoing social exclusion of a huge proportion of Guatemala's inhabitants. Peace has yet to show its effectiveness in addressing root causes of the conflict that lasted for 36 years.

There are factors that indicate that the military's extrication from executive power was part of their counterinsurgent strategy. The upper hand of the military at the end of the conflict and the fact that it had to respond to international pressure contributed to the conditions for a relinquishing of executive power. These are complementary indications of how timely and appropriate the extrication was and how much it may have been part of the counterinsurgent strategy until the signing of the Peace Accords.

It appears that the political opening constituted by the Peace Accords was not as meaningful as thought. Some of the prerogatives to be curbed are as established now, and serious questions arise regarding the kind of opportunity that had presented itself during the transition from authoritarianism to democracy and from conflict to peace.

Deeper, more structural changes in the military sector had far to go, because the starting point was a relationship based on domination by the armed forces. During the transition period, instruments secured by the military institution suggest that a coherent plan to resist change existed in the post-conflict agenda. On the whole, Guatemalans were more hopeful in the second transition (represented by the signing of the Peace Accords). The ensuing events after the signing of the Peace Accords prove disturbing, but are in line with what was to be expected from a regime in which the perceived potential for transformation outstripped reality.

In view of the historic role of the army and the long conflict that has affected the Guatemalan population, the task of ensuring democratic control in this post-conflict society is challenged by military reluctance to see its main interests and prerogatives curbed. Other elements such as questions of internal security and the definition of security itself are sensitive issues to the Guatemalan military as well as for the whole of Guatemalan society, for which post-conflict violence is a major problem.¹² A wide array of factors at play gave the military a relatively strong position at the time of the signing of the Peace Accords. Susanne Jonas would later label the period following the signing of the Peace Accords as the period of “implementation wars”¹³.

The next chapter will also consider how the military institution has played a fundamental role in securing some of its core prerogatives, impacting on the level of compliance with the objectives set within the Peace Accords. Justice, impunity and their

¹² It is also especially the case for other countries in Central America (the example of El Salvador is daunting, with more violent deaths per capita in the years following the signing of peace).

¹³ Chapter 6 of Susanne Jonas' book on the two years and a half period following the Peace Accords, *Of centaurs and doves*, has the title *Implementation wars*.

relation with the armed forces' attitude toward past human rights abuses will also be addressed.

Chapter 3

Military power and its impact on compliance

In order to understand the dynamics of post-conflict compliance with the Peace Accords, the substantial components addressing the role of the military need to be examined. Measures from the Accords seek to transform the characteristics of a military institution organised along the traits of a conflict period. These range from reductions in the armed forces budget and personnel to the formal restriction of its role to external security. However, the armed forces' persistence in perpetuating the inherited nature of the military institution has involved considerable resistance to fundamental changes planned in the Peace Accords.

The armed forces also fail to recognise their role in past human rights abuses. This attitude is an illustration of the overall difficulty of fostering genuine change in a military while it faces the process of democratization. Through placing the emphasis on the conduct of the military institution in these processes of reform, we are able to account for the military's potential to defend its prerogatives when it is confronted with the potential of significant institutional changes.

The AFPC and other substantial components of the Peace Accords

The AFPC contains various institutional measures attempting to develop a democratic institutional framework. A significant part of the accord addresses the nature of the relationship between the state and the armed forces, as well as the redefinition of the role of the latter. Some significant measures of the AFPC are presented in Table 1. Some of these measures require modification of the constitution. Others rely solely on the

political will of the politicians to be implemented. An example of constitutional modification is in the re-definition of the security role for the armed forces. The AFPC states that the role of the armed forces has to be reduced to external security (defence of state sovereignty). In the Guatemalan constitution, which was inherited from the military-led transition, a role for the armed forces in internal intervention and policing is clearly allowed in the broad mandate for the forces.

Table 1 – Compliance with key measures in the AFPC

Measures contained in the AFPC	Second ¹⁴ timetable for implementation (2000-2004)	Compliance
Budget reduction (limit of 0.66% of GDP)	-----	No
Personnel reduction	-----	Yes
Armed forces deployment	Terminating in 2002	No
Military doctrine	Proposal to government and civil society due by 2002	Uneven
Constitutionally restricting the military's role to external defence	-----	No
Disbanding of the Presidential Guard (EMP)	In the 2000-2004 timetable, planned to be disbanded by the end of 2004.	Not in the process to be complied with.
Creation of a supervisory commission of intelligence organisations	The compromise was to present a bill in relation with this matter before the end of 2001.	No
Creation of DICA	The civil intelligence department was to be established before the end of 2001.	No

Among the expected results for compliance with the AFPC is a direct effect on military power and a reduction in the institution's role to solely external security. Among the constitutional amendments planned are the acceptance that the military's

¹⁴ The first timetable was for the years 1996-2000. The second timetable set a calendar for implementing the balance of the Peace Accords (2000-2004).

“function is to protect the sovereignty of the State and its territorial integrity”, “the President of the Republic is the Commander-in-Chief of the armed forces”, “ordinary crimes and misdemeanours committed by military personnel shall be tried and judged by the ordinary courts”, “no civilian may be judged by military courts”, and that the use of military forces on a temporary basis for internal matters is permitted, though tightly bound (Schirmer, 1998: 10). All constitutional modifications were part of a legislative package that was proposed to the Guatemalan population in the consultation by referendum held on May 16th, 1999.

Among those measures that do not require constitutional reform are budget reduction, military personnel reduction and the dissolution of the infamous military intelligence entity, the EMP. Thus far, the constitutional reforms have not been carried out because of the ‘No’ victory in the referendum on the four packages of reforms in May 1999. To a certain extent, the other sets of reforms have failed to be implemented as well. For instance, the budget of the military has been on the rise for the past three years, increasing about 300 M Quetzals this year. On the EMP dissolution issue, there has been little movement and its budget is also benefiting from transfers from other departments and state entities. However, there is a push to address this important element of reform, despite the inertia in the control and reform of the intelligence sector in general.

Susanne Jonas argues that the AFPC has an intrinsic value. New institutional structure is one of the components that can foster change by consolidating the internalisation of norms, encouraging specific behaviours, etc: “My starting point is that the accords, as signed, opened up the possibility for significant changes. Though not transforming Guatemala, they sought to modernize, rationalize, demilitarize, democratize,

normalize – and lay the basis for more profound transformation in the future” (Jonas, 2000: 137).

Many interviewees have described the AFPC as a departure point in the process of converting the military and the development of a civilian control capacity (interviewees 5, 7, 11). The vast agenda of the AFPC was a major piece in the negotiation process and sensitive commitments were made. The indisputable progress of reaching such an accord is however tarnished by the current stalemate facing the most substantial components of it.

An important aspect of the AFPC is the call to improve the administration of justice, in light of the dominating impunity and irregularities in this sector of the state apparatus. A ‘Comisión de Fortalecimiento de la Justicia’ (Commission for the Strengthening of Justice) was created to discuss the main problems: inadequate legal processes, slowness in the system, and lack of control in general, which all facilitate corruption and inefficiency (Martínez, 1998: 10). The uneven administration of justice and the impediments to its fair process increase the frustration of the population and constitute a form of “perverse institutionalization” as well, fuelling discontentment and insecurity.

Timetable problems

The first implementation calendar for the Peace Accords was set up to have a period of four years, 1996-2000, for the realisation of the compromises reached between the guerrilla organisation, URNG, and the Guatemalan government. Overall, the goals set for that period of planned application have only been partially reached.

The main operational components were agreed to quickly and the demobilisation of former guerrilleros and of active soldiers occurred rapidly. Problems with the timetable are more evident in measures of a more substantial nature, measures that would more significantly affect the prerogatives of the military institution.

The *Consulta popular* (national referendum) of May 1999 was an attempt to reform the constitution and implement the basic changes contained in the Peace Accords. After a multiparty committee reached an essential agreement, these implementation measures were to be submitted to the population for ratification through the referendum. The “No” side won and the content of the referendum options was rejected.¹⁵ This result is perceived to be a major setback for the implementation of the Peace Accords. Due to the low turnout, some have criticized the lack of governmental efforts to promote participation and publicize the content of the *Consulta popular*, especially in rural areas (interviewee 6).

The ‘No’ victory and the low voter turnout in this first democratic consultation have postponed the application of those measures deemed essential. For example, the redefinition of the role of the military so that its constitutional role is restricted to defence was one part of the package presented to the Guatemalan population. This means the military still holds a constitutional prerogative for its role in internal security. The whole context of the public consultation speaks to the difficulty of putting forward legal reforms to define the relationship between the state, the armed forces and the Guatemalan population.

After the ‘No’ victory, the three respective highest representatives of the

executive, legislative and judicial powers agreed to a new timetable for the period of 2000-2004. The balance of the Peace Accords has been assigned a new calendar, as compliance planned for the period of 1996-2000 left many tasks pending. Whether this new timetable meant more time to properly comply with the Accords or is perceived as a way to avoid compliance is one debate when studying the recent period and lack of measures taken in order to make the peace agenda move forward.

For some interviewees, the adoption of a new schedule for implementation at least shows that there is still an interest in compliance (Interviewees 1 and 5). For others, it shows that compliance with the first measures contained in the new calendar is crucial to gathering the political will to reform (interviewee 3). Some worry that compliance is highly unlikely as, in their minds, the current government cannot be viewed as a peace agenda promoter, nor a reformist one in security issues, and as MINUGUA is leaving in about a year, they expect lower international pressure and oversight. This last factor renders sceptics even more sceptical: they point out that if compliance cannot be reached under close international monitoring, what will it be without direct oversight nor close observation of the measures dedicated to the reform of CMR and other democratization issues? (Interviewee 7)

The legislative agenda also illuminates the will and capacity to comply with the commitments contained in the Peace Accords. After recommendations from the Comisión de Acompañamiento (Verification Commission)¹⁶ that ten specific initiatives

¹⁵ Four encompassing questions were asked and were defeated by majorities ranging from 53% to 59%. The turnout was 18% in this first democratic consultation since the ratification of the Peace Accords (Arévalo de León, 1999).

¹⁶ The Commission in charge of examining compliance with the Peace Accords and making priority recommendations. The Commission was created through an 'acuerdo gubernativo' in 1997 and was part of the Accord on the Timetable for the Implementation, Compliance and Verification of the Peace Accords. Part of the Commission mandate was to calendarize or re-calendarize goals and actions necessary to ensure

must be considered priorities by the present government, only three specific initiatives were chosen for implementation for the year 2001: the law on arms and ammunition, organising the transfer of the control of military production of ammunition under the auspices of the Ministry of Interior, and the habeas data, a law that would permit anyone to access the archives that the state has on them and which would restrict the type of information compiled (González, M.A., 2001). The implementation of these ten measures is to be closely watched, according to a representative from MINUGUA, as it will show the political will of the present administration to carry out the reforms (interviewee 3). In light of the fact that these legislative measures are yet to be carried out, the feasibility of compliance with the whole of the new timetable is questionable.

The military institution's role in explaining the current stalemate in the implementation of AFPC measures is discussed in the present chapter. In Table 2, military prerogatives as defined by Alfred Stepan are used to evaluate the situation in post-conflict Guatemala. They are evaluated in relation to the current role of the military in the eleven listed spheres of power. As an example, the very limited legislative oversight over the armed forces in Guatemala is considered an indication of a high military prerogative (Stepan 1988: 94)¹⁷. Overall this exercise illustrates the significantly high level of military prerogatives, which, according to this evaluation, would rate at 73%, 50% representing a combined level of moderate prerogatives.

compliance and the effective progress of the peace process. In face of the new timetable, the Commission will extend its mandate till the 31st of December 2004, this last year being also the first one of the next government (Comisión de Acompañamiento, 2000).

¹⁷ The criterion presented by Stepan for a high military prerogative in relation to the legislature is the following and is given here as an indication of the evaluation model used by Stepan in his study of Brazil: "Legislature simply approves or disapproves executive's budget. No legislative tradition of detailed hearings on defense matters. Military seldom if ever provides legislature with detailed information about defense sector, and top officials of the defense sector seldom if ever appear at legislative committee meetings".

Table 2 - Current level of military prerogatives in Guatemala

Prerogatives (list established by Alfred Stepan)	Evaluation of military prerogative ¹⁸ (Low, moderate, high)	Explanation
Military relationship to the chief executive	Moderate	The President has shown some authority. Sometimes unclear if the military has a role in decisions.
Co-ordination of the defence sector	High	The armed forces have kept the control of military affairs in their hands.
Active duty military participation in the Cabinet	Moderate	The Defence Minister is still a military officer. Usually no other minister is an active military officer.
Role of the legislature	High	Weak legislative oversight as seen in the military budget.
Role of senior career civil servants or civilian political appointees	High	Top defence sector roles filled by active-duty officials.
Role in intelligence	High	Ongoing. The EMP has yet to be disbanded. Worrisome indications of military presence in the countryside engaging in population control activities.
Role in police	Moderate	Many former members of the militarized police have been recycled in the Policia Nacional Civil (PNC). Former military officials and Minister of Defence have been appointed as Minister of Interior in the past. However, the police is not under direct overall control of active-duty military officers.
Role in military promotion	Moderate	Technically, the president makes the appointments. It has been observed that some promotions are favoured over others.
Role in state enterprises	Moderate	Armas y municiones – TV channel – Banco del Ejército But other institutions have been transferred.
Role in the legal system	Moderate	The <i>foros militares</i> have been eliminated, restraining the use of military tribunals for discipline matters. Yet, patterns of intimidation in human rights trials when military officers are involved.
Constitutionally sanctioned independent role for the military in the political system	Moderate	Military intervention are undertaken when ordered by the executive, but the legal system is deficient.

¹⁸ Evaluation model adapted from Alfred Stepan (1988: 94). Using Stepan's model, this list of prerogatives was applied to the Guatemalan case and the strength of the different prerogatives was evaluated.

On military resistance and compliance

In an accounting of the peace implementation period, it is seen that measures addressing the armed forces' budget and size, the redefinition of the role of the military and constitutional reforms in general are each areas of non-compliance. A few measures for change will be considered in this chapter and the fate of some of them will also be analysed in an attempt to connect them with the defence of core military prerogatives.

Some elements show direct action from the military in obstructing reform, as being an agent of stasis. Whether the demonstration is based on illustrations of more active resistance by the institution or the perseverance of ideological elements opposed to a substantial change in mandate, an account of the various opportunities for change helps to understand the military power's involvement in relation to the uneven compliance of the AFPC measures addressing the role of the military and its limitation to external defence.

The armed forces' subordination: civilian oversight in general, budgeting and fiscal accountability

Military affairs: budget and personnel

In line with Paul Zagorski's four flashpoints of military interest, the budget is a sensitive sector of reform where military resistance can be expected, as the army's survival and integrity is perceived to be in question (Zagorski, 1996). In Neoni Karakatsanis's case study of Greece's democratic transition, Greece is a textbook case of compromise. The military's importance was emphasised when the budget was increased but the military was also made more accountable, when some officers were taken to task for past human rights abuses (Karakatsanis, 1997).

In the areas of military budget and accountability in Guatemala, the progress has been uneven. The recent increases in the military's direct budget and the growing amounts of money transferred to the EMP are indications that the government has failed to control this aspect of the new developing model of civil-military relations. It also signifies that the military institution has been successful in preserving a certain level of influence and even autonomy in determining its share of the national budget. The reduction of the military budget has not been respected and reduction in size represents only a qualified success, as there have been unequal reductions among personnel from different levels to the benefit of officers.

Even though compliance with budget reduction measures was reported for the first two years following the signing of the Peace Accords, a recent report from MINUGUA states that budget reductions have not been carried out and that the last budgetary exercises, which allowed growing amounts of money to the military, do violate the accords:

For what concerns the military budget as established within the Peace Accords, unfortunately, the amount of money allowed 913. 6 millions of Quetzals (approximately 118.6 million dollars) does not respect the reduction goal, which constitutes a clear setback for compliance with the compromise reached. Additionally, the Mission considers worrisome that, during the previous government, the Peace Fund (Fonapaz) has transferred funds coming from the selling of state's assets for buying military equipment] (MINUGUA, 2000; translation by the author).

Furthermore, at the end of August 2001, the budget comprised an increase of 300 million Quetzals in the military's directly allowed budget (roughly 38 million USD). This hike presents a clear contradiction with the commitments established within the Peace Accords for the army, its structure, its role and deployment during peacetime. This budget does not take into account the possible transfers from other state dependencies,

which could be, for example, for covering the costs for helping with the distribution of fertilisers, or the billing of services dispensed to the population through military installations (health, education programs for military personnel later billed to the Ministry of Education).

Halfway through the present year, a Guatemalan newspaper reported that 75% of the Ministry of Defence budget had already been spent and that transfers are likely to be necessary for the conduct of operations during the rest of the year. At this rate it is believed that the direct military budget for the present year could approximate 1.5 billion Quetzals (Garmendia, 2002). So far, the government has accepted the Minister of Defence's three requests for money transfers this year. More money had been requested in order to meet his increasing budget requirements. The Minister of Finance has sent a letter to the Minister of Defence explaining that the late October transfer was to be the last one, given the limit set by the Peace Accords. It is not known how the likely remaining expenses will be covered. We can observe in Bar graph 4 that during the last few years the military budget target limit of 0.66% of GDP set in the Peace Accords has not been respected.

Bar graph 3

(Information from the Stockholm International Peace Research Institute (SIPRI), The *SIPRI military expenditure database*, <http://first.sipri.org>)

Bar graph 4

(Information from the Stockholm International Peace Research Institute (SIPRI), The *SIPRI military expenditure database*, <http://first.sipri.org>)

Transfers from other dependencies of the state are redirected to the Ministry of Defence. According to the Peace Accords, these transfers are not permitted. Some transfers are made at the request of the Ministry of Defence, when, for example, services are offered to military personnel, such as health or education. The bills are sent to the Ministry of Education for training of military personnel, which is supposed to be comprised in the budget envelope allocated to the military, not surpassing 0.66% of GDP.

Also worrisome is the fact that the Guatemalan armed forces execute their budget under the blanket of secrecy. Not much is known of the way in which the budget is used other than for the salaries paid to the soldiers and officers. In its report of May 2002 on the Peace Accords commitments made in regard to the armed forces, MINUGUA expressly mentions that the armed forces have been found to give incomplete information to Congress. The authorities of the armed forces have also invoked military secrecy over expenses (MINUGUA, 2002c).

On another point, the objectives seemed to be attained for personnel reductions. The 33% reduction target has reportedly been reached in compliance with the Peace Accords. According to MINUGUA, as of September 28th 1998, 31 423 personnel were still on the armed forces' payroll. The Policía military Ambulante was totally disbanded as early as 1997 (MINUGUA, 2002c). However, anthropologist Jennifer Schirmer points out that these reductions would have been attained through previous manipulation of the amount of soldiers (numbers provided by the army, using its Table of Operation and Equipment) and use of loopholes in order to maintain the higher-ranking officials and specialists in post (Schirmer, 1998). A Guatemalan military analyst, formerly involved in the peace process, blames it on the URNG for not having required more information

on this issue and using the personnel tables provided by the military counterpart. He specified during an interview, that the URNG might have been tricked on this issue. According to this military analyst, it is a problem, which entails the responsibility and conscience of the URNG alone, since it was a compromise made during peace negotiations. This analyst nonetheless believes that reductions in military personnel would be a good way for the military to be more reflective of the post-conflict period and deployment (interviewee 1).

According to Susanne Jonas (2000), the armed forces must have known that it would be extremely difficult for the civilian authorities to pressure them to comply with the content of the Peace Accords in an environment so much characterized by post-conflict violence, delinquency and insecurity. The above-mentioned analyst of military affairs in Guatemala commented that the armed forces had made a few commitments with which they knew they would not have to comply. For example, planning so many reductions in personnel creates expenses. Therefore, you would logically expect the military budget to be on the rise. It is believed that the military started with inaccurate registries, and thus did not need to reduce too much, or has been eliminating mostly the soldier positions and saving the officers' jobs (interviewee 1). Hence, demobilisation within the military would have to be described as a success, but a mysterious one. In September 1998, the active personnel corresponded precisely to a 33% reduction from what it was at the end of the conflict.

Table 3 – Reduction in personnel

Commitment	Reported level of personnel
Military personnel (-33% of the <i>Tables of Organization and Equipment (TOE)</i> of the Armed Forces which authorized a total of 46,900 personnel in active service in the final stage of the armed conflict).	31,423 personnel as of September 28 th 1998. - 15,477
Policía Militar Ambulante (Totally disbanded – part of the overall 33% reduction).	0 personnel (Reduction of a total of 2421)
Ordinary Mobile Military Police Extraordinary Mobile Military	- 699 members (March 1997) - 1,722 members (December 1997)

(Source: MINUGUA, 2002c)

In early August 2002, while visiting an assembly of former PACs President Portillo promised he would resolve the issue of compensation for their contribution during the armed conflict that they have been lobbying for during the past months. This was a significant move by the president, as there seems to be a general opposition to such a measure and the announced tax that would help finance it. During the same speech, Portillo announced a reduction in military personnel and budget. He claimed that the reduction in troops would be welcomed by the high command of the institution since it is in the Peace Accords (Arellano, 2002). Various reactions from NGO workers and other parties' elected representatives have underlined the fact that the most significant salaries are paid to the officials of the armed forces and that a true enterprise of reduction would have to involve a reduction in officials as well. Former military officers Otto Pérez Molina and Julio Balconi Turcios approve of the criteria set by civilian observers (González M. 2002).

Military intelligence and civilian oversight

One of the main tasks in addressing the *desborde militar* (military intervention into politics) is the development of efficient civilian oversight in the sector of intelligence, given the expertise the military inherited from the conflict period. Some civilian institutions were put in place as planned in the first calendar for compliance. They however fail to fulfil the role they have been designed to fill. Other institutions from the counter insurrectional past have yet to be disbanded, despite the fact that in some cases they were to be disbanded during the first period for compliance, before the end of 1997.

The *Secretaría de Analisis Estratégico* (SAE) was put in place as an intelligence structure charged with transmitting information to the president regarding present or future threats to national security. This includes channelling information coming from other entities to the presidency. However, agents of this institution have been reported to gather intelligence material themselves, which is against the SAE legal nature (Interiano, 2001).

The *Secretaría de Asuntos Administrativos y de Seguridad* (SAAS) is now also operating and is perceived as the civilian counterpart of the EMP. Often, the reason given for not dissolving the EMP is the non-readiness of its civilian counterpart. The SAAS also operates under the weak legitimacy of a presidential decree, which is not sufficient to insure the durability of an institution meant to replace the EMP and to fulfil the task of presidential security. It would be detrimental to presidential security if such an institution were to be reformed every time a new president is elected.

As the example of the EMP shows, when governmental sectors argue that the civilian counterpart still needs time to be ready to take this military intelligence

structure's place inside the security apparatus, the old system is maintained. For these matters, a progressive build-up of civilian capacity and the integration of civilians into the security sector of government have advantages. However, one downfall is the delay of implementation of fundamental changes based on the argument that civilian capacity building still has far to go.

A fundamental component of the Peace Accords is the disbanding of this presidential general staff (EMP) and the creation of a national intelligence system composed of military and civilian units, with proper oversight mechanisms exerted through Congress. According to the new timetable for compliance, the EMP will slowly be disbanded and replaced by the SAAS. Technically, as of 2004, the EMP should be entirely disbanded.

Recently, one of the main concerns has been the planned reform of the intelligence apparatus in order to increase civilian control and avoid the use of its institutions for internal repression and human rights violations. Some sectors of civil society, mainly human rights groups, argue that "practices of the past" are still used by the EMP, an organisation officially designed to ensure the president's protection, whose staff remain accused of the April 1998 murder of Archbishop Juan Gerardi.¹⁹

MINUGUA places great importance in each of its reports on the situation of compliance for the disbanding of the EMP. It is considered a major issue and has been identified as a priority by the UN verification mission. It is always one of the first

¹⁹ Gerardi was assassinated on April 26 1998. After three years, three military officers linked to the EMP and a civilian (a priest that shared the parochial house where the murder occurred with Archbishop Gerardi) were convicted as co-authors of the murder. The decision has been appealed and at the beginning of October, a new trial was ordered, erasing four years of procedures and appeals. The judicial adventure has been closely followed by MINUGUA for which the latest event could delay the application of justice (MINUGUA, 2002b).

examples that Guatemalan NGOs resort to when they want to illustrate the state of non-compliance with the Peace Accords and the severity of this non-compliance. It is also resorted to when lobbying at the international level for the international community to pressure the Guatemalan government to observe compliance with the Peace Accords in general.

A proposal made by the president in 2000 brought its share of protests. It consisted in partially institutionalizing intelligence reform through an ‘*acuerdo gubernativo*’ that created a civilian department of intelligence within the Ministry of the Interior. It was said that this new institution would not prevent the abuses of the past committed by military intelligence organisations and that the legislative nature of the decree did not give a lasting character to the institution, as the possibility exists that a new president could revoke the creation of this institution. According to human rights organisations, such a department needs a legal basis from regular legislation (Fundación Rigoberta Menchú Tum, 2000). The Constitutional Court revoked the presidential initiative, giving the reason that the president cannot legislate in a way that citizens’ rights could be infringed upon. The publication of the Institute for Comparative Studies in Penal Science, The Judicial Observer (El Observador Judicial) eloquently demonstrates why such a legal measure is inappropriate for the implementation of intelligence structures such as the Departamento de Inteligencia Civil y Análisis de Información (DICAÍ). Referring to the unconstitutionality ruling from the Constitutional Court on this specific decree:

The arguments that motivated the unconstitutionality ruling of October 18th 2000 are based on the fact that the President emitted a decree under the faculty which is conferred to him through constitution article 183 e), with the object of creating an intelligence organisation, but without the previous enactment of a specific law on this theme by the Congress, where the

juridical nature of such an organisation is created and regulated, and more precisely, **without the establishment of juridical norms that are to clearly regulate its functions and the legal means of its control (for example, parliamentary oversight)...**" (Arce Gordillo, 2000: 2)²⁰.

The presidential decree that created the DICA, in place of a bill of law that would grant this institution the legal support it should have, leaved its existence up to the discretion of future presidents.

In the field of intelligence reform, some particular measures do not need public consultation and were binding on the Guatemalan State and the Guatemalan army at the time of commitment to the Peace Accords. A few bills of law have been brought before Congress in attempts to implement legislative oversight on the military institution and specifically for the legislative body to exercise control over various aspects of this institution such as budgetary planning and military intelligence activities. Useful oversight requires strengthening the Defence Commission and institutionalization of other measures from the AFPC, among them, a Commission supervising intelligence work. Most laws in this field that have been brought before Congress evaporated, as they were transferred to legislative commissions and were never processed through.

For reasons close to problems identified above, the strengthening of the oversight role of the Congress has not happened in substance. Existing commissions are highly criticized and initiatives to create others face the common legislative difficulties and barriers linked to the general political climate. There is clearly a need to improve Congressional oversight of the armed forces in general, for budgetary issues, and for mandates and operations of the military organisation like intelligence services.

²⁰ Bold added to emphasize the link between the work of democratic institutions in creating new intelligence structure, the current lack of oversight of military affairs and the understanding (at least in some sectors) that things need to be done properly in order for institutional change to be of significance.

Military doctrine: deployment and involvement in internal security matters

Ongoing militarization of internal security and its disruptive impact

Also addressed in the AFPC is the necessity to redefine the military's role to better reflect the principles of an institution dedicated to ensuring the territorial integrity of the country. Specifically, this means assuming a role of protection in the face of external threats. Within the Peace Accords, internal security is reserved for the newly created National Civilian Police (PNC). Scholars defend the necessity of a clear and well-defined institutional responsibility in the security sector as a way for the civilian authority to exercise control over the military institution. Making the mandates clear, argues Arévalo de León, is a way to control what is done by the military. (Arévalo de León, 1999: 65). In reality, the military is widely used internally in a clear contradiction to the content of the Peace Accords, where it is stated that the military is to be dedicated to protection of external borders and state sovereignty:

The role of the Guatemalan armed forces is defined as that of defending Guatemala's sovereignty and territorial integrity; they shall have no other functions assigned to them, and their participation in other fields shall be limited to co-operative activities. The measures laid down in this Agreement ensure that the doctrine, means, resources and deployment of the armed forces are in line with their functions and Guatemala's development priorities (AFPC, par. 35).

The current interventions of the armed forces in internal matters are quite varied. It varies from patrolling with the PNC for public security purposes to protecting environmental reserves and fulfilling other tasks that can be executed by an institution with logistical support and a widespread presence in the countryside. Many Guatemalans question the use of military forces to conduct such tasks as well. Their presence in the current context of consolidation is detrimental to the development of corresponding

civilian institutions and permits the legitimacy of and justification for the military budget and the military's ongoing intervention in these sectors.

For Fernando Bustamante, internal policing has a detrimental effect on military professionalism and distorts the relationship between citizens and military personnel (Bustamante, 1998: 361). This is a lucid observation, especially in a case of protracted civil conflict where the military was the main institution responsible for gross human right violations. Furthermore, according to Arnolfo Brenes, the use of military forces for functions other than external defence inhibits the development of corresponding civilian democratic institutions (Brenes, 1998).

The current Guatemalan administration has resorted to the military for fertiliser distribution, as it was argued that the military was the only institution to have the material resources and the internal presence to carry out such a task. Adding to Brenes and Agüero's more theoretical concerns, MINUGUA has directly criticized the internal use of military forces: "The army's participation in tasks of internal security implies a grave setback in the demilitarization process of public security as developed in the Peace Accords" (MINUGUA, 2000, translation by the author). In a press communiqué released on February 15th 2001, the Mission further comments on the use of soldiers as a support force for the National Civilian Police:

"The use of military forces as a temporary solution for problems of insecurity has not proved to be effective, as the mobilization has not brought an objective betterment of the situation, nor a diminution of the amount of crimes. For the most part it has only augmented the risk of human rights abuses" (MINUGUA, 2001e, translation by the author).

A vast joint operation, named 'Saturación', was developed in February 2001 when a wave of crime brought the government to use combined patrols of the PNC and the

military in an effort to increase security in the city streets by their combined presence. Since chronic violence reigned in the streets, some inhabitants welcomed this initiative, while representatives of human rights NGOs argued it was a clear setback for the security parameters as defined in the Peace Accords (Prensa Libre, February 9th 2001). With the crime-fighting justification and the population's own feeling of insecurity, some argue that the climate of violence could have been created by the state to justify the call to the military. Similar plans of combined patrolling have been used in the past with not much success, according to a security analyst and a human rights activist (interviewees 1 and 9), and the presence of the military in the streets is worrying as Guatemala is recovering from a long period of conflict and some sectors of society may be scared by such a remilitarization (Rodriguez et al., 2001: 3).

The existence of a written order requiring all PNC commissioners to send military zone commanders copies of their detailed incident bulletins is another sign of the militarization of public security (MINUGUA 2002c).

Resorting to military force to resolve internal security problems has been fairly frequent during the post-conflict period. The imposed and renewed "Estado de alarma" as a response to a massive escape in a high-risk prison has also been criticized. On June 17th 2001, seventy-eight dangerous criminals escaped the high security establishment in Escuintla. A state of alarm was originally declared for a month and was renewed through July 2001. In the province of Totonicapán, military tanks were sent to control protests against a tax raise on basic consumption products (the IVA tax raise in August 2001). The troops withdrew after a brief presence, avoiding any confrontation with the inhabitants of Totonicapán.

The reform of security has yet to circumscribe the conditions of military intervention. For instance, the ‘ley del orden público’ has not been modified although it has been described as a remnant of the authoritarian period. As a ‘loi d’exception’, it is insufficient to codify the terms for domestic military intervention.

What is also feared is the possible use of military power by a certain group of civilians to further its own political goals. Even after the signing of the Peace Accords, the armed forces were used to defend large landowners' properties in land disputes with local communities through the use of destruction tactics, which were common throughout the conflict. Deployment of military forces in the countryside has further explanations:

“the inefficiency of the mechanisms established to implement the Peace Accords as well as the scorched-earth tactics being utilized [again] in the Guatemalan countryside reveal that the government is not only acting to protect landed property and its own corruption rackets, but is also using the army to underwrite the interests of national and transnational capital” (Black, 1998: 14).

This is an example of how internal policing can lead to a distortion of civil-military relations. In this case, this is reminiscent of how the military and the state were tied to a group of large landowners and the economic elite for a period of Guatemala’s history.

The military’s involvement in internal security tasks has been criticized for its impacts on human rights and on the legal system. The armed forces have not received proper training for internal tasks and this use only exposes the population to a higher risk of violation of rights. This is the notion that the military lacks the competence to carry out the tasks of the penal system corresponding to an “Estado de derecho”. According to an expert from the Institute for Comparative Studies in Penal Science of Guatemala, the actual penal system of Guatemala reflects the fact that the military has won the battle and

instituted its post-conflict system and laws (interviewee 4). In the *Observador Judicial*, Rodriguez Barillas gives an interesting explanation as to why the military vision of a penal system still prevails in Guatemala:

“the continuing and undue involvement of the army in internal security sectors has impeded the strengthening of the police forces, but even more, of the civilian criminal investigation organs. Repeatedly, the incapacity of civilian institutions has been invoked to justify the intervention of the army and with this pretext a lot of material resources has been redirected to the military institution. The result of these policies has been to favour the military control of the crime persecution instances, especially for criminal investigation, and with it have been maintained the vices, abuses and deficiencies of the past” (Rodriguez Barillas, 2000: 5; translation by the author).

One of the main problems is that the ongoing involvement in internal security tasks deters the professionalization of the Guatemalan army. As it is now, they are engaged in the American-backed “War on Drugs”, which proves to be a high-risk activity. The problem identified by Arnolando Brenes is the following: this task justifies the existence itself of the Central American armed forces (Brenes, 1998). Some retired and active military officers are accused by the United States government of taking part in illicit activities, for which their visas allowing them to travel to the United States were recently revoked. Drug trafficking is reportedly the principal reason for the American government’s support of the Guatemalan military.

The armed forces also justify their presence in some areas based on the environmental work they do. These reasons and others serve to maintain a level of a military presence in everyday life that is not justified in a society that is supposedly on the path toward demilitarization and where civilian institutions need to be encouraged, strengthened and take the lead in assuring these tasks.

The PNC in Guatemala has now reached a total of more than 20 000 staff as recommended within the Peace Accords. On the other hand, it appears that this goal could have been reached more easily in 1999 instead of 2001, if money coming from the reduction of the military budget had been used to finance the development of the PNC.

The referendum held in May 1999, which proposed a change in the constitutional role of the army, was not approved. Therefore, the current status quo of role definition cannot be presented as solely a legacy of the transition period, but also due in part to lack of civilian action. While this may be the will of the population, it can also be seen as an acknowledgement of the difficulty in implementing such a change and the influence of the armed forces' view of their own role in society and internal security on this matter.

The military doctrine

The military doctrine is said to inspire the whole military culture and thus, is described as an internal mechanism of control. The importance of the military doctrine is in the effect it has on military education and in the armed forces' conception of their mandates, role and missions in a given society. When looking at how the military doctrine has been reformulated, including role and mission redefinition, the observations lead to criticism, since it is not convincing that the military has a significant understanding of civilian participation and expected leadership.

A tentative document on the military doctrine was presented by the armed forces in December 1999 and, at first received the approval of then President Arzú Irigoyen. Pressure from civil society organisations and MINUGUA drove the president to conclude that it was only a draft paper and that broader consultation had

to be conducted in order to formulate the military doctrine. A Guatemalan scholar identifies what a new military doctrine could constitute – a precise definition of internal security and the differentiation of military and police tasks. This doctrine would be the base of a needed *política militar*²¹ which itself is suggested by the AFPC (interviewee 2).

On the last “day of the armed forces”, the high command of the military handed its new version of the military doctrine to the President and Guatemalan society. The document was mostly based on the version presented in 1999, which had been rejected as a valid military doctrine by MINUGUA and various NGOs from Guatemala and abroad on the basis that it was too inspired by counter-insurrection elements and had not been the product of wide public consultation. The latest version of the document is perceived along the same lines by some analysts of Guatemalan politics (Inforpress Centroamericana, 2002). In the presentation of the supposedly “new” military doctrine, it is seen that the high-ranking officers still define their role and presence as one that justifies intervention in various aspects of internal security.

What are noteworthy in the current document are the mission reference and the concentration on the military mission as defender of the constitution. The Peace Accords should be mentioned in the mission definition even if the modification of the military role has not been carried out. Jacobo Vargas-Foronda has discussed this idea in a text submitted to Guatemalan organisations and papers. He mentions that the doctrine should not reproduce the explicit mandate of the 1985 constitution, but

²¹ The term *política militar* is defined as the democratic strategy of addressing military prerogatives and developing institutional civilian control of the military.

should also state that it recognises the principles set in the Firm and Lasting Peace Accord (Vargas-Foronda, 2002: 7).

This presentation to President Portillo of a ‘new’ version of the military doctrine has failed to take greater civilian input into consideration and has not given proper deliberation on the two years of discussion by a mixed group of academics, NGOs, government officials and military officers, retired and active, on the various dimensions of a new ‘política militar’. An entire chapter of this discussion was devoted to the military doctrine in a democratic society. The latest version of the military doctrine is said to be available for open discussion, but the current text would have failed to take into account significant points agreed to during the Latin American Faculty of Social Sciences (FLACSO) project ‘Hacia una política de seguridad para la democracia’ (Toward a security policy for democracy)²².

A clear difference lies in the reference made, in the latter document, to a definite type of threats (external) for which the function of the military institution is clearly defined (Proyecto ‘Hacia una política de seguridad para la democracia’, 2001: 33), while the proposed text for the doctrine as yet to incorporate this concept. Peculiar in the doctrine text, is the reference to the ongoing importance of ‘acciones de asuntos civiles’ during wartime, making a connection with the maintaining of Departments of Civilian Affairs, reportedly still operating (as explained in the next section of this chapter) (Guatemala, 2002).

A former military officer remarked that the new text has been an extension of the previous effort but that the new military doctrine now needs “a process of social

legitimization, to grant it more ground and transcendence” (López Bonilla, 2002). However, the current document did not start on the basis of a wide integration of civilian input. Social legitimization of this version will likely not be possible or would not, even if supported by civilians, fulfil the role of a military doctrine ensuring that the military institution is closely bound by values which emanates from its own context, its society.

Many elements of the proposed doctrine are unnecessary irritating elements, which were formulated by the Armed forces in a somewhat isolated process even though the reviewed version of the military doctrine had failed on similar grounds in 1999. This illustrates the resistance to significant change in role definition. The paradigmatic changes in the armed forces’ perception of their role has yet to happen, or at least to have concrete impact on the compliance with role definition as elaborated in the Peace Accords.

The militarization of the countryside

Official MINUGUA reports address the problem of internal military mobilization that still reflects the pattern of the armed conflict: in some areas of the country, the army has maintained “the same geographical deployment that existed during the armed conflict and the lasting presence of some detachments is not justifiable within the mandate of national defence” (MINUGUA, 2000, translation by the author). Progress is now stalled in moving toward a deployment more consistent with the post-conflict reality, and a few detachments have even been re-opened. As shown in Table 4, there are

²² The Facultad latino-americana de ciencias sociales, sede Guatemala, has organized this substantial project of discussion on the various dimensions of a security policy for Guatemala, which lasted for more than a year, during 2001-2002.

now more military detachments than before the end of the conflict. Clearly, the creation of the Fuerza de Tarea Maya on September 1998, and the ensuing opening of fourteen detachments (with five new ones among them) reflect that there is resistance to demilitarizing security and that this has an impact on the means of participation for citizens, and demilitarization in general (Vela, 2002).

Table 4 – Variation in the number of military detachments

Year of reference	Number of military detachments
1995	104
2002	115

(Source: Manolo Vela, 2002)

The verification mission has also found that within the military zones, the ‘Unidades de Asuntos Civiles’ [Departments of Civilian Affairs] have role definitions that are incompatible with the end of the armed confrontation: “escuadras de operaciones psicológicas” [Psychological operations squadrons] and “sargentos especialistas ideológicos” [ideology specialist sergeants] exist, among others. Added to this, local reports produced by these entities include judgements on local populations’ political affinities and information on local leaders and individuals that had links with the guerrillas during the conflict (MINUGUA, 2000). This does not correspond with the relationship that should be developed between armed forces and society. Schirmer asserts, “the maintenance of military and social intelligence networks in the countryside [...] contradicts the Accords’ intention of strengthening civilian power and control over military hegemony” (Schirmer, 1998: 12). Some view the maintaining of internal

security and other general tasks as a strategy of the military institution to keep control of the local communities²³. These units obviously serve specific information and control goals that, unfortunately, perpetuate the counter-insurrectional characteristics of the military institution's presence in the countryside²⁴.

According to a verification official with the Public Security and Armed Forces division of MINUGUA, a military deployment is maintained that has the objective of population control. This verification official elaborated on the necessity for the military to confine itself to the function of defence and that recent involvement in internal tasks has demonstrated a step back in the demilitarization process. He adds that in light of the non-compliance with the budget reductions planned for the military institution, the strengthening of the PNC is prevented (interviewee 3). A new deployment is seen as essential and a corollary of this would be a more sustained police presence in isolated communities and in areas where the military had high influence during the conflict.

It is important to reflect upon the role of the military when one notes the ongoing use of the military for internal security tasks. This situation may encourage ongoing intervention in a country where limited resources are needed by civilian institutions. The internal mandate justifies the budget and attitude of the armed forces. In a regional

²³ Comment made by an anonymous high-ranking military officer, Interview August 2001. A lawyer specializing in human rights issues also defended this point of view during an interview in August 2001. Both noted that, through participating in various social programs, the army has to do less effort to keep control of the countryside, and that their ongoing will to maintain a presence in rural communities is driven by their counter-insurgent vision.

²⁴ A Guatemalan researcher from the Association for the Advance of Social Sciences in Guatemala (AVANCSO) has been working on the effect of and reasons for the military presence in small communities in El Quiché. The conclusions of her study seem to indicate that the military will to maintain a presence in the countryside is oriented toward incrementing or maintaining military control of these areas. She recently has been intimidated in various ways. AVANCSO is the association with which anthropologist Myrna Mack was working when she was assassinated on September 11th 1990. Her case is considered a paradigmatic one, and the Myrna Mack Foundation works in countering impunity and its impact. It was formed by her sister Helen Mack and other human rights activists, including the now Secretary of the Strategic Analysis Secretariat, Edgar Gutierrez.

context of weak external threat, the armed forces *raison d'être* rests on its current power to manoeuvre for resources and internal missions. In turn, the internal missions can be used to help them better their image inside Guatemala and before their external supporters, among them the United States government. However, as stated above, the armed forces cannot at the same time transform their relationship with the political sphere and society in general while holding to some significant prerogatives and without changing their attitude toward political change in Guatemala and the historical reality of the country.

Accountability for past human rights violations

Neovi Karakatsanis studied attitudinal change within the Greek military following transition. She explains that Greece should be seen as a model for post-authoritarian civil-military relations. Augmenting the military's budget while prosecuting some officers in relation with human rights abuses secured a situation in which national reconciliation was possible and where the military institution did not feel threatened (Karakatsanis, 1997). The reality in Guatemala is fundamentally different. A framework has been proposed in the Peace Accords that plans significant reductions in the military budget. The level of military spending identified in the Peace Accords has not been observed in the recent years. Moreover the armed forces have not collaborated on the human rights component either, as illustrated by the military attitude during the CEH investigation.

The current pitfalls are linked to the difficult political context as much as the remaining structure of power. The objective of this section is to examine the basic characteristics, values and military actions in relation to civilian actions addressing military officers' immunity. The distribution of power is a major factor influencing the

citizens' perception of democracy and the dialogue over participation and legitimacy as linked to the political situation and systemic impunity.

Beyond the AFPC, there are a few actions that must be taken to significantly transform the relationship between the state, armed forces and society. One element often mentioned is a shared account of the past, which could partly be attained through the condemnation of past human rights abuses and the observance of the CEH recommendations.

Institutionalized impunity

An interviewed Guatemalan lawyer specializing in human rights issues stated that the confrontation between a democratic system and a military system of justice has been won by the military (interviewee 4). The continued impunity in Guatemala and the involvement of the armed forces in domestic security missions creates a situation in which the criminal investigation system reflects the military way and its dominance. In the military's participation in and organisation of the justice system, the human rights lawyer emphasises the role of community networks established by the armed forces and the reconversion of former patrollers into various community organisations, while maintaining close links with local military bases.

To summarise, Susanne Jonas describes the consequences of instituted military impunity: "Impunity is corrosive to democracy because powerful sectors that were beyond the law during the military era remain so even after the transition. A crucial indicator of civilian control is whether the military is accountable to a constitutional judiciary. When this accountability is lacking, confidence in civilian government and the

rule of law is undermined” (Jonas, 1998: 23). Putting an end to impunity is conducive to peace in that it makes of politics something other than just the continuation of war through other means. The complex relationship between the military, the state, and the citizenry, make impunity a dimension that eventually has to be addressed in order to build confidence between these three sectors.

The conviction of a few military officers for human rights abuses would hold the advantage of not antagonizing the military institution too much and providing a minimal, yet significant, level of accountability of the military institution. In fact, the current legal processes attempting to bring military officers to justice are aiming at involving the intellectual authors of mass violations. Millett recognises that “the most difficult issue in creating a new relationship between the military and the rest of society involves ending the virtual immunity officers enjoy in their actions toward civilians.” (Millett, 1995: 74).²⁵

Probably, the most positive point concerns the ‘foros militares’, as the essential work has already been done in this field. Today, the crime of a soldier is judged for its nature instead of the status of its perpetrator. No civilian can be judged by a military tribunal and military personnel that commit legal infractions are prosecuted in the mainstream justice system. However, this transformation must be placed in the context of a justice system paralysed by structural problems, threats and intimidation, missing

²⁵ There are few prosecutions for past human rights abuses in Guatemala. The involvement of civilian patrollers in the massacres at the beginning of the 1980s was a way for the military to secure impunity. The argument was “indians were fighting indians” and that therefore, there could not be any serious allegation of genocide nor emphasis on the military’s high-profile role in conducting the ‘scorched earth policy’ campaign. Police forces were also under control of the military. Arguably, the problems of the judicial system are related to the climate of impunity and intimidation that prevails. In every important recent case brought to Guatemalan trials, it was the pattern that some witnesses, judges, or prosecutors had to leave in exile. There are two major processes following their course in the Guatemalan legal system aiming to bring

resources and training—all factors that render the administration of justice quite hazardous and perpetuate the structural impunity.

Human rights issues in Argentina over the prosecution of military officers accused of human rights abuses during the ‘dirty war’ and military unrest would prove Zagorski’s flashpoints identification to be right. Even in Argentina, where the military was left in a disadvantageous situation after the Malvinas/Falkland conflict with Great Britain, military unrest has been disruptive to the policy-making addressing the past human rights abuses committed during the ‘dirty war’²⁶.

This issue is a serious one in Guatemala. The extent to which massive abuse to basic human rights was conducted weighs a particular burden on civil-military relations and in the encompassing relationship between state and society. Military cohesion is considerably high on the issue of avoiding prosecution for past human rights abuses. One example is the Noack case. While CEH investigations were being done, Guatemalan Colonel Otto Noack admitted during a radio interview that the armed forces had committed excesses during the conflict years and that the institution should ask for the country’s forgiveness. “For this, Noack was charged with breach of military discipline (Noack had been made disponible (sic) in July 1997 and could no longer serve as army spokesperson). He was arrested and jailed for thirty days in the Cuartel General” (Schirmer, 1998: 31).

accountability for the massacres perpetrated during the 1979-1983 period. In each process, both high command (Alto mando) of former dictators Romeo Lucas García and Efraín Ríos Montt are denounced.

²⁶ A change was recently observed in Argentina when, on July 11th 2002, Leopoldo Galtieri, one of the four military dictators to rule between 1976 and 1983, and 42 other officers were either arrested or where put under arrest warrant for past human rights abuses. Some analysts worry about military unrest, given the difficult economic and politic context through which Argentina is going at the moment. However, no major incident of military unrest has been reported in relation with these legal actions at the time of the writing.

The military recognises a version of the facts different than the one established through the process of the CEH and the REMHI project. That the military was waging a war on communism and the conduct of war necessarily involves casualties are points made by current and former officers. Analysing the overall lack of military collaboration with the CEH work and in establishing the truth in general, Schirmer adds:

“The narrative of truth appears to be the one area where the army has yet to display a capacity to compromise, and indeed comply, with the tasks and spirit of the CEH. This may tell us more about how entrenched the army’s identity is to the counterinsurgency past than any other aspect of the degree of compliance with the accords” (Schirmer, 1998: 33).

During the conflict, the state apparatus was directly involved in planning and committing massive human rights violations. This historical burden has to be addressed in order to bring a credible change in civil-military relations. As observed by Mark Ruhl, “The limits of civilian control are highlighted by the inability of democratic governments to imprison more than a handful of officers for past abuses of human rights” (Ruhl, 1998:258).

For some of the people interviewed (among them a scholar and a civilian, both working for international organisations and specialists of security issues), a few cases of significance – i.e. the bringing to trial a few of those responsible for the massive human rights abuses committed during the conflict years, would suffice to restore confidence and address the roots of military impunity (interviewees 2 and 14). Other commentators who were involved in the peace negotiations do not give great relevance to such processes, and even question their popularity among the general population (Interviewee 15).

According to Neil J. Kritz, “establishing an official overall accounting of the past is often an important element to a successful transition, providing a sense of national justice, reckoning and catharsis” (Kritz, 1999: 598). This is one of the main problems in Guatemala, where reconciliation is hampered by the lack of will to reach a common definition of the past, as illustrated by the military’s lack of co-operation during the CEH’s investigations:

“The Clarification Commission [CEH] noted that the army provided very little information to the Commission. This approach has been consistent with the attitude taken by members of the institution in relation to military involvement in human rights abuses. In its Eighth Human Rights Report, MINUGUA observed, “the army’s general attitude was one of lack of cooperation in efforts to clarify the involvement of its senior officers in human rights violations” (WOLA, 2000).

In an arguably significant move, President Portillo recognised a few cases before the Interamerican Commission of Human Rights as cases of governmental responsibility. The government compromised in that it agreed to a process of negotiating solutions for these cases. These could lead to trial if the negotiations do not work. If we look closely at these cases, which are disputes over compensation, some other political actors have denounced the president for his cooperation although no structural opposition has been put forward. Is this related to the fact that state recognition of its responsibility for a massacre and an apology (and/or compensation) does not necessary represent a direct threat to military officers involved? A certain opening, hence, may be possible in this field if no confrontation with members of the armed forces is foreseen.

However, the need for some sort of historical repair and the international obligations of the Guatemalan state make a strong case for the necessity to curb military impunity, be it in a mostly symbolic way. International human rights principles and

treaties compel the Guatemalan State to investigate these violations carefully to ensure that institutions and individuals responsible for them will be held accountable:

“The victims of human rights violations have the right to justice as upheld in domestic legislation and numerous international human rights standards, including the American Declaration of human rights and duties of man (Article 8), the American Convention of Human rights (Articles 8 (1) and 25), the Universal Declaration of Human Rights (Article 8), and the International Covenant on Civil and Political Rights (Article 2 (3))” (AI, April 1998: 2).

The notion of “crime against humanity” implies actions of a state toward another, but also violations of a people’s rights, crimes against populations or ethnic groups. (Annuaire de la Commission du droit international in François Rigaux, 1993: 73) The grave nature of such crimes implies the obligation for prosecution. Guatemala has signed, for example, the Geneva Convention on the prevention and punishment of the crime of genocide. This convention was active when genocide was perpetrated against the Mayan population between 1980-1983.

At the time of writing, two significant judicial events have taken place involving military officers: the conviction of a military officer for the murder in 1990 of anthropologist Myrna Mack and the reversal of the conviction of three military officers and a priest for the murder of Bishop Juan Gerardi in April 1998. The first event has been welcomed as the first conviction of a military officer for a human rights abuse that occurred during the armed conflict. However, the other two military officers, investigated due to the nature of the chain of command, were found not guilty.

The Mack trial, while failing to fulfil all the hopes put in it, constituted a significant first step. On the other hand, the cancellation of the thirty-year conviction for the four perpetrators in the Gerardi case is perceived as a grave setback, precisely for the nature of Gerardi’s death and the symbolism in it. A new trial has been ordered and the

issue remains unfinished after more than four years. The Mack case may not be over too, for there are many possibilities for appeal and the general inconsistency of the Guatemalan justice system.

Systemic intimidation

Do the current lack of justice and the remaining dominance of the military explain the resurgence of social repression that characterized the years of conflict? Many Guatemalans now say that the present climate is not the sort of atmosphere you would expect peace to bring and it is much more like the climate just before the great violence unleashed in 1980.

In the same line of thought, one can observe that the system of repression has not substantially changed. Clear patterns of intimidation have been documented and information has been gathered regarding the participation of military forces in the conduct of intimidation of human rights activists, forensic anthropologists conducting exhumations of mass human graves, peasants claiming access to land and actors of the judicial system.

In a recent article in the New York Times, the present climate of fear and its impact were reported as directly linked with recent attempts to make the military institution accountable for its past abusive relationship with civil society. These relations have not fully changed, if we consider the still numerous abuses of basic human rights in this context of evolving civil-military relations:

“Robberies, assaults and death threats have set back many of Guatemala's human rights groups in the months since several of them filed lawsuits here and in Spain that charged former military leaders with genocide. Human rights advocates fear that after many years of trying to hold the military accountable for past abuses, they have gotten dangerously close to officers past and present who still wield power and influence over the government of President Alfonso Portillo.

The police insist that abductions and other incidents — most of them unsolved — are merely part of a general increase in crime. But human rights advocates noted that in many of the break-ins, for example, thieves left valuables untouched while taking only computer and documents containing testimony and research related to exhumations and genocide lawsuits” (Gonzalez, New York Times, Nov. 5th 2000).

Adding to the current generalized feeling of insecurity, in each trial mentioned in the previous section, lawyers, judges, and witnesses have had to leave the country in response to intimidation (most of the time taking the form of death threats). It was the case in the Gerardi trial when the judge in charge inquired about the political motive for the first time. The seriousness of the threats he received has made the judge seek refuge in Canada. In the Gerardi case, a former military specialist from the presidential guard was under trial, as well as two high-ranking officials.

During the visit of Hina Jilani, Special representative of the Secretary-General on Human Rights Defenders in May 2002 in order to assess the situation of human rights defenders, she came to daunting conclusions. The Special Representative expressed concern regarding the ongoing violations committed against human rights defenders:

The existence of a climate of fear in which human rights defenders are working, which is due to the violations they are subjected to, such as threats, intimidations, disappearance, and even killings. Some sectors of the society are particularly targeted: those who are seeking truth on past violations (human rights NGOs, forensic experts, judges, lawyers, witnesses); those who are fighting for economic and social rights – particularly land rights; those who are denouncing corruption; and indigenous people. The perpetrators of these attacks are reportedly illegal clandestine groups. Allegedly, some of them have links with State institutions, in particular the police and the army (Hina Jilani, Press Release, June 12th 2002).

Table – 5 Statistics on a portion of human rights violations during the period from 1 July 2000 and 30 June 2001 and 1 July 2001 to 30 June 2002

	Complaints admitted		Violations alleged		Violations verified		Violations confirmed	
Period	2000-2001	2001-2002	2000-2001	2001-2002	2000-2001	2001-2002	2000-2001	2001-2002
Right to life ²⁷	39	34	85	89	65	48	29	38
Right to physical integrity ²⁸	42	118	188	551	121	326	107	255
Total	81	152	273	640	186	374	136	285
Increase - variation in percentage	87%		134%		101%		<u>115%</u>	

(Source: Thirteenth and Twelfth reports on human rights, MINUGUA, www.minugua.guate.net)

The Special Representative expressed concern about the faxed death threats to eleven prominent human rights defenders who met with Jilani during her visit. The fax was signed “Guatemaltecos de verdad” (True Guatemalans), and issued, in violent language, a threat that the eleven people would suffer the consequences of their actions. The Special Representative urged the Guatemalan government to “take appropriate measures to investigate thoroughly these deaths threats and to guarantee the right to life and physical integrity to the [...] persons [mentioned in this specific death threats case]” (Hina Jilani, June 12th 2002).

The increase in human rights violations is worrisome. Already this year, there have been four times as many violations as for all of last year. Table 5 shows an overall increase of 115% between the two most recent observation period for MINUGUA, for

²⁷ Right to life is defined by the following two categories: “Extrajudicial executions or deaths in violation of legal guarantees” and “Attempted extrajudicial executions” (MINUGUA, 2002).

the total of “right to life” and “right to physical integrity” categories of violations. The links between these violations and state institutions is not clear. It is however a basic presumption of many observers, including MINUGUA, that connections exist between some agents of the PNC, the armed forces and postwar patterns of human rights violations (MINUGUA 2002a).

A synthesis of military resistance

For some reasons, major changes aimed at redefining the military institution are not being implemented, even if they originated from the period of negotiation that ended the thirty-six year long conflict. The discourse surrounding the internal use of the military (in conditions still undefined) and the political use of military forces in public security sectors legitimize the maintenance of the military budget and personnel.

The alleged manipulation of personnel tables during the negotiations and the manoeuvring displayed by the armed forces in order not to alter their personnel and financial resources is indicative of the real corporate will of the armed forces. The conjunction of a military budget, which does not corresponds to the limit set in the Peace Accords, the war-time deployment of troops, and the ongoing military role in intelligence, does nothing to dispute the impression that the military has not internalized the concept of a restrained military with a clear definition of its external defence mission.

Furthermore, the observations made by the United Nations Verification Mission in Guatemala on the deployment, budget and size of military forces make a clear case against the use of the military for internal security tasks in the present context. As

²⁸ Right to physical integrity is defined as follows: “Torture”, “Cruel, inhuman or degrading treatment”, “Ill-treatment”, or “Excessive use of force” (MINUGUA, 2002).

significantly as the prevention of the development of counterpart civilian institutions, the recourse to military personnel for internal security tasks is disruptive to the purpose of demilitarization when new internal missions serve to justify the maintenance or augmentation of the armed forces internal deployment and budget – characteristics corresponding to a conflict era level and use of the resources.

Of the changes required as per the Peace Accords, the armed forces clearly fail to comply with some of their obligations. It is obvious that military deployment, for example, still reflects the levels of deployment in place at the end of the conflict. Reform of military instruction and doctrine also faces the armed forces' attitude and its lack of will.

The study of the military's new missions in internal security has been divided over whether the impacts are necessarily harmful to post-authoritarian regimes. New missions have an essential role in reorienting military objectives and strength. However, if reoriented toward internal tasks without the assurance that a fundamental change has occurred in terms of military attitude toward security and the full acceptance of military subordination to democratically elected civilians, the effect is likely to perpetuate the dominance of the military institution and to justify its presence in spheres which could be occupied more efficiently (or more securely) by civilian counterparts.

An analyst of military affairs comments on this point and the necessity of recognising the inadequacy in using the military for internal security tasks: "To call the army to patrol deteriorates the little that has been institutionalized. Using the military for internal security tasks is dangerous [...] We can't complain about abuses to human rights

if we place them [soldiers] into these situations in which the abuses occur” (Interviewee 1)²⁹.

There is ongoing military dominance in the intelligence field, partly due to the institution's expertise in this domain. Due to its historical involvement in conducting state repression and the massive grave human rights violations, which can in part be attributed to various dependencies of the intelligence structure, intelligence officials are feared to remain powerful outside the existing and dismissed structures. Reluctance of political actors to address the dissolution of the EMP for instance illustrates the intimidation that could be felt, and potentially, the pressures to keep it operational.

Douglas Kincaid notes how the lack of public security works for a “remilitarization”. He makes a comparison between Guatemala and El Salvador for the post-conflict periods: “Quite evidently, the demilitarization of politics has brought with it no guarantee of improved public security; instead, the perceived rise of crime and violence in the 1990s has resulted in increased citizen insecurity and, as evident in both cases, a tendency toward “remilitarization” (Kincaid, 2000: 52). In this context, the remilitarization is justified by elements from the military institution as well as from civilians that are facing pressures relating to public security. The danger identified in this case is the tendency for the military to resort to national security concepts and means in addressing public security, therefore impeding the reinforcement of citizen security.

As addressed above, the legal-institutional transformation still has far to go in the sphere of civilian control of the military. It appears from the study of the military's attitude in the face of significantly reduced prerogatives that the deepening of democracy

²⁹ “Llamar al ejército a patrullar deteriora de lo poco institucionalizado que se ha logrado. El uso de los militares en seguridad interna es peligroso [...] No podemos quejarnos de abusos a derechos humanos si

in Guatemala will continue to be an arduous task. In Guatemala, the military has remained a dominant actor during parallel and complementing processes of the democratic consolidation and partial demilitarization.

For its circumstances at the end of the conflict and the remaining strength of the armed forces, the Guatemalan state was in a very difficult position after the signing of the Peace Accords to make a reality of their content. The complex interaction between civilian authorities, elected politicians and the military institution sets the stage for uneven compliance with the measures addressing military prerogatives. Values, attitudes, beliefs and actions have to be considered for their impact on a newly democratic regime (more so with the end of the conflict), on the whole agenda for reforming relations between the state, the military and society. Many characteristics of the present post-conflict period strengthen the deployment and preservation of traditionally strong military prerogatives.

Individual military prerogatives do not all have the same weight on the consolidation of democracy and measures to foster civilian supremacy. The problem is not the number of officers to be tried or reductions in the military budget; it is precisely the unaccountability and the lack of civilian oversight, which are examples of the barriers to curbing military power in the current consolidation period.

The degree of military resistance looks to be higher when the military defends its officers' immunity from prosecution. It is not known whether or not the military would resist as much an attempt to curb its budget drastically to the same degree that it resists participating in national reconciliation initiatives. According to some interviewees, among them an officer from the Guatemalan armed forces, the military's continuous

nosotros los ponemos en tales situaciones donde se pasen esos abusos".

defence of criminals is detrimental in the long run to the institution itself³⁰ (Interviewees 13, 14). Hence, we cannot infer from observations of military attitude toward human rights issues that further attempts to significantly curb other prerogatives would garner the same reaction.

However, the recent unfolding of events showing the armed forces' resistance to the curbing of its prerogatives explains how the current resistance in the human rights sector is linked with other issues. Is a trade off possible to progressively develop civilian prerogatives? Probably, seems a fair answer. However, as it is now, with the attitude of the military and the weakness of political institutions, parties, Congress, leadership and social action in general, the military feels little need to compromise.

In light of the above considerations, an assumption could be made that the process of CMR reform in Guatemala has focused too much on the institutional measures, and not enough on aspects of qualitative change and the internalisation of democratic values in the military.

Nonetheless, the armed forces and their allies do everything they can in order to avoid outright confrontation. We could argue they do not have to demonstrate outright resistance at the moment. Procedural democracy is an ally. Progress in addressing military prerogatives is slow and even receding in some cases (civilian oversight on the military budget for example). At the moment, the political class has not sought to implement change in a methodical way. The current administration provides the military with a stable situation, an equilibrium in which it is free to organise resistance for future challenges. The international context, which is not conducive to outright resistance, has

³⁰ Analysts say that the institution also protects military personnel involved in common crime, "asaltos", bank robberies, and drug trafficking on top of being totally opposed to the prosecution of military officers

carried the momentum necessary for pressuring Guatemalan actors to come up with the Peace Accords. On the other hand, the momentum for compliance is passing and pressure has somehow faded, thus leaving the door open for political manoeuvring on the international scene and internally by the military powers and their civilian connections.

Chapter 4

The wider context: the role played by other actors

In an editorial addressing the recent “mini-coup” by former civil patrollers in the Petén area in northern Guatemala, the New York Times noted that Portillo had promised progressive change but that it now seems “Mr. Portillo is either unable or unwilling to stand up to the military, and enforcement of related aspects of the Peace Accords has essentially stopped” (Editorial page, New York Times, July 19th 2002).

The political class might not have the force nor the will to implement basic measures of civilian control of the military and this has fundamental consequences for the state of civil-military relations in general: “If civilian authority over the armed forces is not exercised at the governmental level, the control that can be developed by organizations from civil society on the formulation, monitoring, budgeting and control over policies of defence and security, as much as armed forces behaviour, is almost non-existent” (de León-Escribano, 1999, translation by the author). In part, civilian inaction is attributable to military resistance or at least, is reinforced by the armed forces’ autonomy. This consideration is essential when looking at the armed forces’ political role in post-conflict Guatemala.

Immediately after the release of the Peace Accords, Susanne Jonas argued that “decentaurization” of the state, addressing the prevailing power of the military, was “the precondition to strengthening civilian power and genuine democratization” (Jonas, 1997: 7). Was the nomination of a colonel as Minister of Defence and the indirect removal of twenty generals in early 2000 a manifestation of a seizing of control by the President and the civilian authority? “In a bold move [...] President Portillo named Colonel Juan de

Dios Estrada Velasquez as Defence Minister. Under the rules of rank used by the military, all 20 army generals [must] either resign or take a leave of absence, since they cannot outrank their commander” (Flakus, 2000).

The analysis of the situation is complicated by internal struggles within the political class and the military, as it is not known whether these power struggles signify a greater affirmation of civilian control because a military faction could be behind the political move. Needless to say, coup rumours followed this presidential decision. According to a former high-ranking military officer, this move did nothing to assert civilian control and, on the contrary, is the manifestation of the militarization of the civilians, in this specific case, of politicians. The generals that lost their postings were involved in peace negotiations, while the newly named officers did not participate and held warring positions during the conflict (Interviewee 8).

The division amongst civilian actors

A higher level of involvement of civilian authorities is essential for Guatemala to remain on the democratization path, given the nature of the commitments contained in the Peace Accords and their expected impacts. Military power is the prevailing factor that explains the current difficulties to implement the reform in the security sector. This factor can be pointed out for the reasons explored in the previous chapter. It cannot however be singled out for the intervening nature of complementary factors. In order of relative importance, other significant elements are: the various connections between the armed forces and civilian allies and the lack of civilian involvement in meeting the objectives set in the Peace Accords, and the level of international involvement in the ongoing

democratization process, whether it is the United Nations verification mission in Guatemala or the proximity and general influence of the United States of America.

“Military resistance and the civilian lack of political will are two faces of the same coin”

According to a military affairs advisor working with an association fighting against impunity in Guatemala, compliance with the Peace Accords “has entered into a ‘no urgencia’ state, and the main fear is that the path toward their application is getting lost by civil society and that in these circumstances, remilitarization can occur” (Interviewee 9). The absence of a common agenda and of a certain expertise on the military among civilians makes this military affairs advisor suspicious of a return to the conditions that permitted a *desborde militar*. According to him, “Guatemala is now losing the opportunity to relocate the military into its propitious role in a democracy”, and if military personnel end up seizing power again in Guatemala, it will not be of their own making, as they are only waiting for the “ripe fruit to fall” (Interviewee 9). This point of view adds a new perspective to the ones that stress the importance of the military’s plan to perpetuate the militarization of Guatemala.

Arévalo de León has an explanation for why the armed forces’ role in the reconversion process has been predominant. It explains, in part, the failure to carry out some fundamental aspects of reform of the military role and strengthening of civilian power:

“In reality, resistance has not been necessary. The absence of a policy that would lead to concrete actions in making military subordination effective and the ambiguous measures adopted by civilian authorities, has left – from the signing of the Accord on a Firm and Lasting Peace – the conduct of the institutional reconversion process in hands of the military, which it defines and conducts in terms of its convenience” (Arévalo de León, 2001, p. 11; translation by the author).

This passage explains that democratization cannot be led by the military itself. However, it fails to mention the fact that the military's reluctance to conduct change, detrimental to its influence, has an effect on the civilian actions oriented toward implementing institutional measures to make demilitarization move forward and produce a real reordering in the structure of power.

One objective of this chapter will be to discuss the structural difficulties of civilian involvement in military affairs. This is a complementary explanation to the inherited structures from the transition period and necessary in qualifying the current opportunity to curb military prerogatives.

Linked to the main problem of the capacity of the Guatemalan State, lack of legitimacy also impairs civilian participation and civilian capacity to assume democratic control of the military. Evaluating civilian authorities' will and ability to conduct change can prove difficult in a context in which the military has participated in the negotiation of the accords, but where also the implementation of reforms has encountered many obstacles, due to military entrenchment in society.

Civilian involvement in military affairs

The lack of civilian capacity for responding to the challenges ahead could be explained through historical reasons, as Guatemala has lost so many leaders to the conflict, and as the military retained control over the military structure and apparatus for the whole period of the conflict. Inverting Clemenceau's citation to the effect that "War is much too serious a matter to be entrusted to the military", the Guatemalan military, while it had provided a political opening in the mid-1980s, still held a firm grip on military matters and counter-insurreccional operations for the purpose of

getting rid of the armed opposition. The military believed at the time that governing was too much of an important task to be left to civilians.

For instance, according to most of the people interviewed, the actual difficulty of the transition is linked to low civilian capacity and involvement in military affairs, for which forming civilian cadres in military aspects is identified as a priority.

Other weaknesses facing civilians participating in military affairs are the volatility of interests and the difficulty in agreeing on a specific agenda, on a way to proceed to carry out the changes needed to foster civilian prerogatives. Hence, the current difficulties of the civilian authorities in addressing military prerogatives cannot be summed up as pragmatism or waiting for proper timing.

Furthermore, at times, a misunderstanding by the civilian side of how civilian control is exercised can have counterproductive effects; for example, President Arzú would have seen military subordination in terms of order-obedience relationships only. Sharing this conception would lead one to believe that the act of naming a Colonel as Minister of Defence was a clear affirmation of civilian control. This conception of military subordination was too simplified: a personalization of civilian control. Civilian control cannot be summarized as the exercise of presidential authority, says a Guatemalan scholar and researcher (Interviewee 12).

A civilian Minister of Defence?

Of the constitutional modifications deemed necessary to foster civilian control of the military, the accession of a civilian to the post of Minister of Defence is an important one. A recent presidential decree intended to name a civilian as Minister of Defence by granting a symbolic military rank to this civilian post. Technically, then, there would be

no problem under the current constitutional regime. However, this *modus operandi* weakens the principle behind having a civilian in charge of military affairs, as this post is of a political nature.

The upheaval within civil society organizations was substantial. They argued that there should not be a need for militarizing a civilian or that, at least, it required further discussion. The Myrna Mack Foundation believes that such a measure could deepen the existing gap between civilians and soldiers, for the reason that a great deal of respect is given to hierarchical ranks within the military and granting these through a temporary political decision would depreciate them. Such a political measure could be perceived as alienation of the military officers and a disruption of the chain of command³¹ (Fundación Myrna Mack, 2000, p.2).

Furthermore, the inclusion of civilians in the bureaucratic apparatus of defence is as important as placing a civilian as head of the Ministry of Defence, if not more. A military analyst even suggests that a civil vice-minister be first instituted to develop a civilian infrastructure within the Ministry of Defence (Interviewee 1).

This approach bases its merits on the premise that it permits a coherent participation of civilians, following their training in the defence field. A token appointment of a civilian as Minister of Defence would do more harm than good if used only as a façade. On the other hand, the highly symbolic appointment of a civilian, of a respected diplomat or scholar for example, could also send an important message to society as a whole that significant changes are on their way. Delaying needed reforms is too often excused by the alleged necessity of the armed forces' knowledge and expertise.

Changes in the capacity of civilian institutions

For matters of internal security, there is a necessity to strengthen civilian power so that it is less and less necessary to resort to military aid in controlling crisis and to avoid furnishing a situation favourable to continued militarization. An interviewed analyst of military affairs with a human rights organization explains that, in theory, civilian power is increasing incrementally. However, when a problem occurs, there is a longing for military participation; the police or the government declare themselves unable to provide security and as a consequence are unable to govern efficiently, therefore not taking the steps needed to develop incrementally civilian institutions' capacity and making political declarations of the reforms in the security sector (Interview 9).

Arévalo de León elaborates on the need for politicians to adopt measures that are compatible with the momentous opportunity to consolidate democracy that Guatemalan society now faces. Otherwise, return to the use of methods from the past or even the possibility of a disruption of democratic governance, a coup d'état for instance, can hardly be ruled out. He further adds that "the final objective of a reconversion process has to be the development of conditions that preclude the use of military force, even in conditions of weak governance, for the resolution of political or internal security problems, and which make the military incursion in politics unsustainable" (Arévalo de León, 1998: 4).

³¹ " Esto porque la mentalidad militar percibe el uso del uniforme y el GRADO MILITAR (en este caso GENERAL) como un honor que se consigue paso a paso en el curso de la carrera militar [...] y no solo por una decisión política temporal " – emphasis in the text.

To strengthen civil power and democratic institutions, a democratic state needs to base its legitimacy on hegemonic power rather than coercive power. In the Guatemalan context, most Guatemalans are victims of exclusion and the current social movements are in hopeful anticipation for the effects of signing of the Peace Accords to be felt, addressing the causes behind the armed conflict (access to land, exclusion, poverty). The Guatemalan state is now facing more overt and diverse claims from civil society, which in turn, are managed through ongoing use of coercive power to maintain formal democracy in place without having to fundamentally change the political and economic structures.

The problem of political participation

In Guatemala, the impact of the conflict years has been phenomenal in affecting civic participation. Civilian leaders from various spheres have been decimated, leaving Guatemala with a culture of fear and a lack of leaders. The ongoing repression and intimidation lived by Guatemalan activists make social and political participation a serious risk. Impediments to genuine participation remain due to the military's historic role and the discrepancy between what is expected from the military within the democratic reform of civil-military relations, and what really occurs.

Additionally, there is not a wide knowledge about security and military issues within civilian authorities and civil society in general. Poverty in Guatemala offers the first reason as to why leadership is scarce. Paired with the disappearance and murder of most of the leadership from the left during the war, the intimidation also takes its toll in explaining the low levels of involvement in security issues.

Plus, in the recent years, political participation has remained dramatically low. The turnout was 18.5% in the Consulta Popular of May 1999, arguably the most significant occasion for Guatemalans to have an effect in the application of many fundamental aspects of the Peace Accords. Popular participation in elections has not increased in a significant way since the end of the conflict (as illustrated in Bar graph 5). The following tables show the increase in registered voters, the diminution in the percentage of invalid ballots, and the declining proportion of registered voters who actually vote in the presidential elections. These observations are not completely negative. However, the numbers show that in order to form the next government, a party could gather less than one-fifth of the registered electors (approximately one-seventh of the population of voting age), and win. The next elections are scheduled for the end of 2003. Reactivation of the auto-defence patrols is seen to be related to the proximity of the elections, given the historical link between the PACs and the ruling FRG. more precisely its leader and current president of Congress, Efraín Ríos Montt.

Table 6 - Parliamentary Elections

Year	Total Vote	Registration	Vote/Reg	Invalid	Pop. Size
1982	1,074,392	2,356,571	45.59%	n/a	7,315,000
1985	1,904,236	2,753,572	69.16%	12.6%	7,963,000
1990	1,808,718	3,204,955	56.44%	14.1%	9,198,000
1994	731,357	3,480,196	21.01%	12.0%	10,619,000
1995	1,737,033	3,711,589	46.80%	6.4%	10,619,000
1999	1,800,676	4,458,744	40.39%	3.6%	11,788,030

Table 7 - Presidential Elections

Year	Total Vote	Registration	Vote/Reg	Invalid	Pop. Size
1982	1,079,392	2,355,064	45.83%	9.6%	7,315,000
1985	1,657,823	2,753,572	60.21%	n/a	7,963,000
1990	1,808,718	3,204,955	56.44%	14.1%	9,198,000
1991	1,450,603	3,204,955	45.26%	5.2%	9,467,000
1995	1,369,828	3,711,589	36.91%	3.8%	10,619,000
1999	1,800,676	4,458,744	40.39%	3.1%	11,788,030

(Taken from: Institute for democracy and electoral assistance:
http://www.idea.int/vt/country_view.cfm)

Bar graph 5

(Source: Institute for democracy and electoral assistance:
http://www.idea.int/vt/country_view.cfm)

In a policy paper published one year after the election of President Portillo and the FRG government, the Canadian Foundation for the Americas provides interesting data on a survey held in 2000 in Guatemala: 86 % of respondents claimed that political parties did not act in the best interests of the country, and 74% said to be dissatisfied with democracy. As observed, this illustrates that the general population is growing increasingly disillusioned with democratic politics (FOCAL, 2000: 8).

The dissatisfaction with democratic institutions combined with other factors render the situation even more complex and show how much things are made more smooth and undemanding for a military institution which has no clear commitment to changing its role and doctrine. In the mid 1990s, Millet observed that:

“Reform of the civil-military relations in the region still has far to go before the transition to effective civilian rule and meaningful democracy is complete. Weak civilian leadership, paralysed judicial systems, struggling economies, and rampant criminal activity provide the temptation to return to some form of authoritarian rule. The strong support given Ríos Montt in Guatemala’s 1994 congressional elections underscores this danger” (Millet, 1995: 75).

Attempts by opposition politicians

Some attempts have been made by opposition parties in order to carry out legislation furthering compliance with the Peace Accords in general. Unfortunately their attempts are disregarded by the FRG majority in Congress, and have little impact other than sporadically showing that the need to make appropriate institutional changes is still defended.

Commenting on the work of the Defence Commission, an interviewed analyst argues that it is mostly an inefficient commission. The fact that the party in power lets a representative from the Alianza Nueva Nación (a coalition formed of the URNG and

left-leaning parties) preside over the Defence Commission illustrates what little importance is given to this commission by the governing party (Interviewee 1)³².

In August 2001, Nineth Montenegro proposed the 'Law for the dissolution of the Estado Mayor Presidencial'. One reason for promoting this topic was, of course, to comply with the AFPC regarding this institution, but also to avoid duplication. As introduced earlier, the Secretaría de Asuntos Administrativos y de Seguridad de la Presidencia (SAAS), created through governmental decrees 32-2000 and 73-2000, has a prime objective to "provide logistical support and civilian nature security to the President and Vice-president of the Republic" (Montenegro, 2001). In order for the dissolution to be effectively carried out and to avoid security flaws, the law proposes the creation of a *comisión de liquidación*, which would be composed of representatives from Congress, the President and from the Estado Mayor de la Defensa. (Sandoval, 2001).

This last initiative put forward illustrates that some politicians are taking action, hoping to make the peace agenda move forward. In the text of the initiative, the rationale for addressing the present situation and dissolving the EMP takes into account the inaction of the present government in this area:

"The existence of two entities with the same functions is a political, administrative and budgetary distortion that needs to be addressed immediately. The President of the Republic is qualified to take the present resolution, and having failed to enact it for more than a year now, the Congress of the Republic is then entitled to legislate on this specific problem and through it, to comply with one of the commitments of the Peace Accords" (Montenegro, 2001, translation by the author).

³² Nineth Montenegro was president of the defense commission for a set period. She was fulfilling that function at the moment of the interview.

Another specific initiative was also drafted to implement a Supervision Commission for Intelligence Organizations, inspired by the content of the Peace Accords on these matters. The initiative was brought before Congress on October 10th 2000 and was subsequently sent to the Legislation and Constitutional Points Commission for its study and report. Three representatives of the Unionista Party drafted this proposal. In their 'Exposición de motivos', they illustrated the need for "an intelligence system more democratic and transparent, recognized by the Guatemalan society, with better political control, and which, more than anything else, answers the growing necessities for intelligence asked for by Guatemala and the Guatemalans" (Rayo, 2000).

Most legislative measures, when not proposed by opposition parties and marginalized, are at best ill addressed and the motivation to pass them seems to be deficient. The bill creating the DICA was inadequate for the tasks the DICA would encounter; other Congressional measures designed to increase the oversight of the armed forces have been delayed and do not attract much interest within civil society.

The lack of will or ability shown by civilian actors is to be put into perspective by examining the other factors permeating the Guatemalan context, such as the inheritance or legacy from the conflict and the manifestations of military resistance (in line with the democratization project as part of a military counter-insurgency strategy but also working to re-legitimize the military institution).

Consolidation and development of civilian prerogatives appear a daunting task, but many analysts of Guatemalan politics emphasize the long road Guatemala had to travel, from incipient democracy in the mid-1980s to the signature of peace, then to the current battle for the implementation of the Peace Accords. However, the previous administration, with fewer ties to the military, had not succeeded in bringing about

announced changes. As president, Arzú said that he would disband the Estado Mayor Presidencial when its mandate ended. The promise failed to become reality.

The current lack of progress, the observation of ongoing military influence in the justice system, the military's resistance to relinquish doctrinal elements from the National Security state are all indicators that the emphasis put on the low and incremental capability of civilians in explaining the current stalemate has to be considered in light of the relationship between the forces exiting the authoritarian past. The narrowness of political space open to civilian authorities and civilians in general, and the fact that most military prerogatives are perpetuated by a conception of armed forces still oriented toward internal security, make full outright military resistance unnecessary. In the present situation, it is reassuring that while the current administration is highly delegitimized no formal coup d'état has materialized.

Connections between the FRG and the military

As a complementary definition of how civilians, political parties, and other organizations intervene in explaining the uneven compliance considered here, the presence of former high-ranking military officers in politics, and the connections established between them and the military institution are indications of how the structure of power has evolved. Hence, part of the explanation coming from the lack of will or capacity of civilian authorities can be attributed to the connections between the military institution and allies within civilian authorities.

According to the interviewed leader of a known human and social rights NGO based in Guatemala, the governing FRG is highly discredited and this puts governance at risk, as "never in Guatemalan history has a party lost confidence and legitimacy so

rapidly” (Interviewee 10). Hegemonic power is far from reach and the current government has to resort to coercion to impose its political will. The low legitimacy of the government is paralleled with the use of force.

For instance, the presidential appointment of Ríos Montt’s son as commander of the most strategic military brigade (Mariscal Zavala) and his accession to the highest military rank without observance of due process is said to be an example of how the politicians are politicizing the military, or at least, disrupting military customs through nepotism (Interviewee 1). According to a high-ranking officer in the Guatemalan army, the current highest-ranking officials are there solely for the reason that they are aligned with the top political elites of the FRG (Interviewee 13). This has to be considered in relation with the presence of former military officers in the FRG and the extensive clout of the former dictator turned president of Congress.

Through regular legislation, many AFPC commitments can be implemented. For this matter, the lack of action on some measures can more directly be attributed to a lack of political action from the government. Some of the choices made by the government are illustrative of the manner in which the government acts in front of dissension and how it manages its security issues. These responses have much to do with the nature of the party leadership and their views on the use of military recourses for internal security functions; for example, some ask the question: why were two of the last three Ministers of Interior ex-officers of military intelligence and more recently, also the former Minister of Defence? (Interviewee 8). There are obstacles to naming a civilian as minister of Defence, however, the nomination at the Ministry of Interior is purely political. How can the current administration respond with credibility to Guatemalans and international observers about the ongoing militarization of this post?

An interviewed human rights defender, working with a well-known NGO, asks along the same lines: “How can a civilian be named as Minister of Defence when active and retired military officers are given posts that should be held by civilians? There are very few advances [in the demilitarization process], actually, there is more of a remilitarization” (Interviewee 11).

Susanne Jonas asks, can the “decentaurization” of the Guatemalan state be conducted by the centaurs? She underlines the fact that the leader of the ruling political party is a former dictator. Can the counterinsurgency structure be dismantled in such circumstances? The presence of former dictator Ríos Montt and other military officers in the FRG and the FRG’s links to the ex-PACs and ex-Comisionados militar (military commissioners) networks are worrying factors in the consolidation period. In a period of opportunity to address the causes of military interventionism, diminish military prerogatives and increase civilian capacity for exercising control over an external security oriented military, much could be lost.

Recent events around the PACs compensation

The recent indications to the effect that networks of ex-PACs and military commissioners have been reactivated in several rural area is certainly worrisome and would indicate the necessity to transform the structures of power not only at the institutional level, but in society in general.

The actual unrest of former “patrulleros” in the countryside has lead the New York Times to write that a “mini-coup” had occurred when the ex-PACs led demonstrations in the northern department of Péten, closing roads and seriously damaging the country’s reputation in the tourism sector (Editorial page, New York

Times, July 19th). The ex-PACs are asking for monetary compensation, a “resarcimiento” for their collaboration with the armed forces during the armed conflict.

The overall response in Guatemala has not been very positive to such a demand. The party in power is said to work in favor of the compensation in order to secure the support of the many ex-PACs who supported the FRG in the 1999 election. At that point, they acted as an efficient network of support for the party, which has known ties to the armed forces. While most people mention the disruptive character of supplementary tax, many also mention the fact that they do not want to see ‘the victimizers’ being compensated while the victims of the PACs and armed forces are left with pending cases.

MINUGUA has observed that many PAC associations are still active, having reformed or changed their appellation in an effort to show that they have disarmed. In a very recent report, MINUGUA observed that despite some PACs having disbanded, there is a growing concern about “their possible reorganization in new forms”. The current mobilization for compensation shows that the network of ex-PACs can reform punctually and that, well organized, their influence is not to be discounted. Close ties are still maintained between former PACs groups and military bases.

Ríos Montt is apparently considering running in the upcoming elections. He has already tried two times, but a resolution from the Constitutional Court prohibited his participation in the previous presidential elections on the basis that he had attained power through a coup d'état. However, according to Ríos Montt, the constitution does not have retroactive power, therefore it does not apply to him. Montt ruled from March 1982 to April 1983 and the constitution was drafted in 1985. Some recent surveys might make Montt rethink the possibility of running for president as they show that his popularity has dropped. A recent *Prensa Libre* article mentions that 72.2% of Guatemalans do not have

“confidence” in the general (*Prensa Libre*, July 18th 2002)³³. Nevertheless, promotional articles are already spreading in the countryside, with the party logo and the General’s name on it in anticipation of the next presidential election, at the end of 2003 (*Prensa Libre*, October 25th 2002).

The international community’s role

According to Susanne Jonas, if no substantial international pressure is felt, including significant American participation, little will change in Guatemala and the military will be more reluctant to obey some basic changes for the democratization of civil-military relations (Jonas, 1996).

In relation to the international community’s participation in the Guatemalan peace process, the pressure that was felt by both the government and armed forces have significantly helped in providing the opportunity for peace, in parallel with the military removal from executive power after having achieved an unprecedented level of power through the development of the institutions of counter insurrectional power (as illustrated in chapter 2). It appears that another step has to be taken in order for the international community to bring back the agenda for compliance at the forefront.

The international context has also an influence on the decisions taken by institutions within Guatemala. This is a factor among others, which affects the armed forces’ perception of its role, of the corresponding changes it has to make in order to adapt to democracy. Currently, the international context has failed to present enough of a threat for the Guatemalan armed forces and government in implementing the measures of the AFPC.

³³ The question asked was ‘Do you have confidence in General Ríos Montt?’

However, the American insistence on the “War on Drugs” contributes to the maintenance of a significant level of military intervention in the realm of internal security. In fact, according to Agüero, the emphasis by the Americans on military involvement in domestic issues could have a counterproductive effect in the long run. In a comparison between southwestern Europe and South America, Agüero specifies that the external defence orientation fostered by interaction with the North Atlantic Alliance Treaty Organization (NATO) and the role played by civilians within that organization has had a positive role in the developing of civilian supremacy (Agüero, 1995). In the comparison, the domestic emphasis of new missions given to South American armed forces has not been as conducive to military subordination as was the case in southwestern Europe.

At the moment, external security threats to Guatemala are vague and remote images of increased tensions with Belize turning into an open confrontation or some sort of spill-over effect from Chiapas (Mexico) into the northern part of Guatemala. The former is even less of a possibility now that an OAS mediated agreement has been reached in the fall of 2002.

The regional environment is defined by the *Tratado marco de seguridad democrática* (Security treaty) of Central American countries. This treaty initiates the formation of a defence community in the region. There seems to be a clear understanding of the role for politically negotiated solutions to potential conflicts between Central American countries, as they clearly voice that they renounce the use of threats or force as means to resolve their disputes. (Tratado, article 26 b). The treaty was signed in December 1995, and can hardly be seen as a panacea. It is difficult to see how the changes implemented within one country would necessarily be closely followed by

corresponding change in a neighbouring one. For example, more institutional reforms have been followed through in El Salvador.

These last developments are fundamental for security in the area and the reduction of regional threats. In this sense, the more stable situation between Guatemala and its neighbours removes another justification for high military spending and personnel.

The consultative group on Guatemala met in February 2002, and presentations by various actors from Guatemala's government and civil society were made on compliance with the Peace Accords and the overall socio-economic situation. Fearing a negative consensus on Guatemala by the international community, just before this February meeting in Washington, President Portillo fired a few military officers from the Interior Ministry, arguing that this was a demilitarization of the department. Shortly before, however, the recently replaced former Minister of Defence had been appointed to the Ministry of Interior.

A delegation of civil society groups was also participating in the meeting. Significantly, the following point is the first to be mentioned in the list of demands made by civil society groups attending the Consultative group meeting:

Demilitarization of the society and of the State, which implies a reduction in the military's budget and formulation for a new military doctrine with the participation of civil society. These should occur within the framework of the Accord on the Strengthening of Civilian Power and the Function of the Military in a Democratic Society (WOLA, 2002).

The United Nations Secretary-General Kofi Annan recommended the extension of MINUGUA's mandate to the end of 2003, fearing that there would be 'no guarantee that Guatemalan institutions would be strong enough to assume added responsibilities by the

time of the planned departure of [MINUGUA]" (United Nations, 2002). MINUGUA's planned departure at the end of 2003 is a situation about which human rights NGOs and others are very concerned. MINUGUA played an historical role in monitoring, first the human rights accord and finally, all of the accords contained in the Accord on a Firm and Lasting Peace. Its departure will leave the balance of compliance with the Peace Accords in a sort of orphan situation. Some fear that if compliance was remotely possible when Guatemala counted on the presence of MINUGUA, when it is gone, compliance would be virtually impossible.

Its presence is serving monitoring purposes but also has the advantage of representing the international community's eyes during the post-conflict period for compliance in Guatemala. The reports made by MINUGUA on the state of compliance with the Peace Accords are valuable independent sources when foreign countries evaluate their level of financial commitment to Guatemala and the conditions attached.

The UN has also monitored a "truth commission" process that formed part of the Peace Accords, the CEH. This commission investigated past human rights abuses, without naming the perpetrators. The perceived weakness of the Commission has brought criticism both in Guatemala and abroad and questions about the use of a Commission with apparently no direct legal consequences. However, recently, the Commission's findings were used in demonstrating the genocidal nature of repression in Guatemala, especially in the attempt made by the Rigoberta Menchú Tum Foundation for the Spanish *Audiencia Nacional* to accept hearing the case against Guatemalans accused of various human rights offences during the conflict. Its value is in its investigative nature and the information it gathered on the nature and extent of repression and human rights violations during the conflict.

Although at the moment there is a lack of international attention regarding compliance with the Peace Accords in Guatemala, the international context remains favourable to the securing of procedural democracy. For instance, the adoption of the Inter-American Democratic Charter in Lima, Peru (September 2001) favours institutional continuity in Guatemala since respect for democratic values is a condition for membership in the inter-American organizations. All this is in the context of unmet hopes for democratic reform to lead to the broader benefits of democracy: the betterment of the socio-economic condition for the people.

Furthermore, the way in which the September 11th terrorist attacks have changed the definition of security in the western hemisphere has had its effect on the demilitarization process. On October 10th, President Portillo mentioned his intention to name a National Security Commissioner for Antiterrorism. The new official was presented as being in charge of protecting the national territory in the eventuality of a terrorist attack. A retired general was appointed to this post on October 12th. The President's appointment of a retired military officer as anti-terrorist commissioner at the end of 2001 sends an inappropriate political signal about the demilitarization of the State's structures. This event was denounced by human rights NGOs for the fact that it further strengthened the armed forces in national security matters.

The combination of both international actors' awareness and actions, and civilian participation in Guatemala has to be considered when defining the current factors affecting compliance with the Peace Accords. However, the study of these two categories of actors also shows that they are complementary to the armed forces resistance to major changes in its institutional nature. These two complementary factors are part of the overall picture of the impact of military power in making the implementation of the

components of the Peace Accords that deal with the role of the military in a democratic society.

We will conclude with a synthesis of historical and institutional factors that make the Guatemalan army the main factor of insufficient compliance with the reforms called for by the Peace Accords for the redefinition of the relationship between the state, the military and society.

Chapter 5

Conclusion

This thesis sought to understand why the redefinition of the armed forces' role, a substantial component of the Peace Accords, is unevenly implemented and even receding in some cases. To answer this question, the inconsistent compliance with the AFPC was used as the departure point for studying the role of the military in the post-conflict period, at the same time as other factors are put into perspective.

In an interview in August 2001, a verification official for the Public Security and Armed Forces division of MINUGUA noted that the fate of the new compliance schedule would show the current position of the government and would illustrate its political will to carry out the reforms (Interviewee 3, August 2001). In that sense, on the whole the outlook is negative, since, as demonstrated in chapter 3, most of the reform remains unfinished.

Although in the first years following the signing of the Peace Accords the total military budget went down, when the FRG government came in it went back up significantly, partially due to transfers coming from other departments that were approved by the executive. A significant reduction has been achieved in military personnel, in the context, however, of a deployment still reflecting the imperatives of wartime armed forces. The process to reform the intelligence sector is also stalled and the military doctrine has yet to integrate the demilitarization of public security and to reflect the spirit of the Peace Accords.

The historical approach adopted has permitted a demonstration of a correlation between the building of the counter-insurrectional apparatus in Guatemala, the strength it

established for the military institution, and the current balance of implementation which aims at putting together the institutions participating to civilian control.

The period of implementation or the “implementation wars” was taken into account when explaining that military power influences how some key reforms in the military sector cannot be implemented. The explanatory power of these observations is seen as complementary to the role and position of the military at the signing of the Peace Accords. Through a detailed look at some precise elements of democratic reform, it was observed that military prerogatives were secured and that civilian authorities were either unwilling or incapable to address this, even if supported by the international community.

In accordance with what has been observed, military strength developed during the conflict through the modernization of the armed forces and through the development of a complex counter-insurrectional apparatus. This was a period marked by the over-development of military capacity. The strength of the military during and after the transition has consequences in the conduct of the institution in the later period where implementation of civilian control measures is scheduled to take place.

In summary, an agenda was set at the beginning of the post-conflict period by the Peace Accords. This agenda encompassed both demilitarization and the institutionalization of a new role for the armed forces reflected in a clear definition of mandate within the exercise of public security. Failure to comply with this agenda gives credence to the belief that the military-led democratization project, the strength of the armed forces at the end of the conflict and the related inability of civilians to conduct reform in the military sector are all connected. Stephen Baranyi and Christopher Louise noted in 1998 that “the failure to pursue this policy agenda will certainly embolden those critics who suggests that the army’s true long-term intention is one of retrenchment in

Guatemalan society” (Baranyi, 1998: 46). Unfortunately, the current study contains many elements which reinforce this perception of the Guatemalan armed forces’ long-term intention.

Furthermore, ways in which the military institution continues to militarize Guatemalan society have been illustrated. If the armed forces were truly disinterested in internal intervention and population control enterprises, the military institution would show more signs of compliance with the peace agenda: be it to comply with the re-deployment required by the Peace Accords, the respect of civilian jurisdictions, some sort of a recognition for the institution role in abuses to human rights committed in the past, or participate in an inclusive process of redefinition of the military doctrine inspired by the Peace Accords.

Public insecurity in Guatemala has also been a reason for military intervention, in turn serving as a legitimization of the current military presence in the countryside and military expanses. This is a cycle that needs to be broken so that militaristic solutions become less frequent.

Somewhat predictably, the low level of civilian action has accompanied implementation problems. This observation is a complementary explanation to the current stalemate. The institutions put in place by the military, its attitude in general and its ongoing actions of intimidation, all have a structuring effect on the civilian portion of the equation. Nonetheless, allies of the military, playing the card of ongoing militarization, are in favour of greater military presence in internal security, and oppose attempts to curb the military budget and end immunity of officers from prosecution for past human rights abuses.

It is hoped that in the long run, a change in elite and a strengthening of international conviction might influence the military to change its attitude, or at least to make tactical choices that would serve the peace agenda. However, the evolution of these two factors is not likely in the near future.

The relative weakness of civilian authorities and the nascent institutionalization of public security provide a context which helps explain the difficulties of compliance with the Peace Accords. However, the influence of the military institution can be seen in both factors: in the role it played in the transition and the establishment of the current democratic regime, and in its current implication for the definition of public security.

The Peace Accords represent an opportunity that should not be underestimated for its potential to bring change to Guatemala. However, as the momentum diminishes and the current hybrid system is consolidating, further challenges might prove more difficult. It is in the atmosphere of military role definition and intervention that civilian hesitation takes place. In the face of military definition of its own role and the partial “appropriateness” of the institution in a democratic society, the responsibilities of civilians are made more difficult to accomplish.

It is certainly worrisome that the MINUGUA’s monitoring has not galvanized international pressure for compliance, or more significantly influenced the agenda of the present government. If it can be argued that the international context has been favourable to a surface demilitarization of the Guatemalan state, it is not clear that the current context will naturally lead to the deepening of civilian control or demilitarization of society. In fact, in a context where there is such a lack of compliance with a peace contract that received international recognition and approval, one is tempted to say that

what is really on offer for Guatemalans is formal democracy and that it is not antithetical to the securing of military prerogatives such as immunity from prosecution, an increased budget for the military in a context of scarce resources, or the ongoing justification of the Guatemalan military in internal security.

The recent years of the Portillo administration have been characterized by continuing non-compliance with demilitarization measures. Its party is now gearing up for the next elections to be held at the end of 2003. The declared presidential candidate for the FRG is the current president of Congress, Ríos Montt. Although he has lost some popularity as expressed in recent surveys, the manoeuvres deployed by this party to increase their chances for re-election are worrisome and will have further consequences.

In such a context, the impetus for a breakthrough in the stabilizing relationship of an hybrid system of CMR has to come from domestic and international pressure, which in turn will force the military institution to shift from historically constrained choices and attitudes, to accepting institutional change conducive to its subordination to elected civilians. Only then will the present equilibrium between the use of formal democracy and the ongoing entrenchment of the military in society become an opportunity to move further in the process of democratic consolidation.

One of the departing assumptions of this thesis is the importance of civilian control for the consolidation of democracy. In this sense, it builds on the identification of problems between the military institution ongoing power and the consolidation process and therefore stresses the importance of internalisation of democracy by all significant actors. Not only does democracy have to be recognized as “the only game in town”, it necessitates a commitment to express the will to change the inherited traits of the former

authoritarian structure of power: Institutions evolve and their norms and behaviours can come to be more in line with the requisites of civilian control of the military and democracy, institutions are factors of consolidation or de-consolidation.

By definition, a consolidating democracy has not attained all aspects of democratic political life. I do not argue here that the nature of transition impedes democratization in its essence; I glanced at the importance of democratization of CMR for the entire process of consolidation. The extent of military retraction has to be qualified: in Guatemala, the potential for the implementation of democratic control over the military has not followed the process of democratization in general, and the inauguration of a new period, the end of the justification for the maintenance of a counterinsurgent power structure, has yet to bring about all the changes it promised. In this spirit, this study provided a more detailed institutional analysis of a particular institution which affects the Guatemalan peace process, the armed forces.

Democratic civilian control of the military is an essential component of a consolidated democracy. The history of Guatemala has been marked by the depth and pervasiveness of military power which also had a significant impact on the stasis characterizing the current period of implementation of the Peace Accords. For the benefits of the “third wave of democratization” not to be lost to an undertow, the studies and evaluation on how to bring about these important institutional changes have to seek how to address the role of the military institution in the ongoing democratization process.

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