

Security Sector Reform in Guatemala

Introduction/Background

For 26 years, from 1960 until 1996 and the signing of the Accord for a “Firm and Lasting Peace”, Guatemala was the setting of one of the bloodiest of Latin America’s Cold War armed conflicts. During this period, a national security doctrine militarized the state. The last provision of the Peace Accord in Guatemala, the ‘Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society’, signed by the government of Alvaro Arzú and the URNG, publicly acknowledged the institutional weakness of the public security system which contributed to the conditions for civil war, and provided the blue print for security sector reform in Guatemala. It is within this detailed, comprehensive, and often noted “overly-ambitious” framework that Guatemala has undertaken the task of reforming its security apparatus, with one of the major aims of subordinating the military to civilian authority and control (Jones, 2000, p. 147).

In May 1999, in a referendum in which only one out of every five citizens voted, the constitutional reform project—the backbone of the peace accords—which contained some key ingredients for successful SSR, was defeated. Since the signing of the peace, there have been substantial changes in the security apparatus, but the military continues to play a significant role in Guatemalan society, and other security institutions remain weak and often inefficient. The Government faces the enormous challenge of how to efficiently and democratically address the chronic violence that continues to envelop and destabilize Guatemala’s fragile democracy.

Military Reform

Constitutional Reforms that would have consolidated the separation of police and army functions, and would have greatly reformed the military were defeated in the 1999 nation-wide referendum and have been considered a major setback for military reform. Under Article 244, the army continues to have the explicit constitutional responsibility for maintaining internal security, although under the control of the President. As a result, the pace of reforms to the Guatemalan military has greatly depended on the incumbent President and his administration who have a *carte blanche* in dictating the role of the security forces. President Arzu’s establishment of civilian supremacy over the military was a major accomplishment, and he has achieved some other important successes. The army trimmed its overall size, shrunk its budget, civil patrols that controlled rural areas were demobilized, and even a new military doctrine and educational system were established in late 1999 (Ruhl, 2005, p. 61). President Portillo made some moves that appeared to continue military reforms, such as altering military leadership on several occasions. As a result of his alliance with former military dictator Efraín Ríos Montt, Portillo has been noted to contribute to the ‘politicization’ of the armed forces by giving senior appointments to loyal officers (Ruhl, 2004, p. 144). After 2000, under his presidency, the army’s

internal mission and budgets were both expanded. Although the Guatemalan armed forces' budget was supposed to be reduced, official military spending ballooned to over US \$198 million in 2001, a level not seen since the war (Ruhl, 2005, p. 71). A sense of crisis in the area of public security that emerged since the signing of the peace accords has resulted in the decision by both governments of Arzu and Portillo that the army should participate in internal security missions jointly with the Guatemalan Police (ibid). The army has been assigned to continue patrolling the streets and in rural areas, a number of military posts that were closed down in 1996 were reopened against the spirit of the peace accords (Jones, 2000, p. 148). Allegations of corruption and human rights abuses by military leaders continue, and security forces are often deployed to suppress agrarian disputes, which often result in violence and the use of excessive force by the military. According to Amnesty International, the upsurge in political violence and repression that targeted human rights defenders, legal personnel and journalists, and has characterized Portillo's administration (2000–2003), has been noted as a direct consequences of the continued control still held by Ríos Montt (Amnesty International, 2005). Since 2004, under the current Presidency of Oscar Berger, there have been substantial changes to the armed forces and an active effort to safeguard human rights. Berger has also made a pledge to replace corrupt senior military officials (Ruhl, 2004, p. 145). The Guatemalan military has decreased in size from 27 000 to 15 000, and it is transforming its forces to co-operative peacekeeping missions. Such a reform is exemplified in Guatemala's recent peacekeeping mission in Haiti. In 2005 the Bush administration released US \$3.2 million in military assistance as a reward to Guatemala for its progress in overhauling the military, and in 2006, US \$900 000 will be given to train and modernize the Guatemalan Armed Forces, specifically the units which hunt narcotic traffickers (Lumpkin, 2005).

Ministry of Defense Reform

The failure of the constitutional amendments prevented appointing a civilian minister of national defense; as a result, the minister of national defense continues to be a military officer. However, this officer arguably holds his position at the discretion of the President, and has tended to represent the interests of the President rather than the view of the armed forces (Ruhl, 2005, p. 75). The minister of defense continues to be the principal coordinator of the defense sector, and virtually only military officers continue to hold all the planning and policymaking positions in the ministry (ibid, p. 76). In 2004, the minister of national defense had only one senior civilian adviser (ibid). In 2003 Portillo established a Governmental Accord on National Defense Policy, creating a new civil-military structure for developing defense policy, to be led by a six-person Collegial Leadership Committee composed of militaries and civilians. This new arrangements has not yet led to increased civilian co-ordination, as the Ministry of Defense continues to develop its own plans, doctrines, and educational curricula (Ruhl, 2005). Although plans were developed for additional educational and human rights reforms to the military

academy curriculum, the incoming defense ministers have not been bound to continue educational initiatives that were initiated by their predecessors early in the reform process. There continues to be no coherent plan for modernizing military education (Ruhl, 2005). President Berger has recently altered some laws governing the military and the chain of command, and he has proposed to create a permanent human rights office within the defense ministry (SOAW, 2005; Ruhl, 2004, p. 146).

Intelligence Reform

The Directorate of Intelligence of the Military General Staff (D-2) has had a long history of human rights abuses and interference with the criminal justice system. The peace agreement provided for the restructuring and creation of new civilian intelligence agencies, more specifically: a Department of Civilian Intelligence and Information Analysis (DICA) in the Ministry of Interior, to collect information related to internal security; and a Strategic Analysis Secretariat (SAE) to analyze intelligence received from both DICA and D-2, and inform the President (Ruhl, 2004, p. 62). Although under President Arzu SAE was created, military personnel were initially appointed to its staff (ibid). Furthermore, the army continues to be the primary gatherer of information on internal security matters. According to a MINUGUA report, military agents in some cases have continued to “carry out parallel investigations without having any authority to do so, diverting official police investigations, and obstructing judicial work” (Ruhl, 2004, p. 64). It was not until 2003 that the infamous presidential general staff (EMP-*Estado Mayor Presidencial*), who was often implicated in human rights abuses, was formally abolished (Ruhl, 2005, p. 145). President Berger plans to expand civilian intelligence capabilities as to limit military intelligence to activities relevant to the country’s external defense (ibid).

Police Reform

The peace accords established the creation of a new civilian police (PNC). The Guatemalan PNC copied much of its organization, structure, and disciplinary system from the Spanish Guardia (Byrne, Stanley and Garst, 2000). Since its creation, the 21 000-member PNC has been understaffed, poorly trained, and continuously under-funded. In the February 1997 crisis over creating the new National Civilian Police law, the government drafted and sent the law to Congress where it was passed, before the *Comisión de Acompañamiento* mandated to approve it had even been constituted (Jones, 2000). The law itself created a number of provisions (e.g. about eligibility for service in the PNC) that violated the spirit of the peace accords and threatened to leave the country with a militarized police force (ibid). Serious questions have been raised by the formation of the PNC by recycling of old security forces with virtually no consideration given their background. In violation of the accords and despite of protests by MINUGUA, at least 40 former army officer, 22 ex-officials of the Military Guard, and 180 former Mobile Military

Police members were accepted into the PNC (Jones, 2000, p. 151). According to Perez, (2003/04, p. 632), the growing crime problem has attributed to the Guatemalan's government decision to incorporate these former security agents. It was only in 2002 in response to wide criticism, especially from civil society groups, that the control of the PNC was removed from ex-military officers to a civilian who was appointed as Interior Minister. There is some civilian oversight of the police, specifically the Office of Professional Responsibility, whose main duties include investigating misconduct by police officers (US DOS, 2004). Although the ORP has made significant improvement in professionalism, its independence and effectiveness is hindered by the lack of support from the PNC leadership (ibid). Although no active members of the military serve in the police command structure, the government has increasingly relied on the army to support the police in response to the rising rates of violent crime. Moreover, military personnel are not clearly subordinated to police control during joint patrols or operations (ibid). MINUGUA stated in its March 1999 verification report, "... despite the fact that, on numerous occasions, the Interior Ministry has stated its intention to suspend the combined patrols in areas where the new PNC has been deployed, this has still not happened" (MINUGUA, 1999, p. 9). There is a USAID Mission contributing with a new crime-prevention plan designed to assist communities and local police. At the national level USAID will provide assistance to the government of Guatemala to build capacity in local police forces and educate the leadership on topics such as community policing, respect for human rights, and the management of scarce resources (USAID, 2005).

Non-State Security Actors

The post-war period has been marked by the growth in the privatization of violence in Guatemala. Private security firms multiplied since the end of the conflict, with private security officers outnumbering the police 3 to 1 (Sieder, Thomas, Vickers and Spence, 2002). Although the Ministry of Interior has the responsibility to regulate private security firms, little has done to investigate the more than 60 000 private security agents that work in the country and often fail to comply with the necessary legal requirements (US DOS, 2004). A great deal of political violence and the mobilization of former civil defense patrols marked the 2003 presidential elections, where the presidential candidate, former dictator Ríos Montt, was defeated. According to a report published by the Washington Office on Latin America in 2003, there are groups of clandestine structures made up of powerful business interests, retired generals, ex-soldiers, and ex-PACs that play an increasingly important role in organized crime and actively work to destabilize the peace (Byrne, Stanley and Garst, 2000 see next quote).

Judicial and Penal Reform

Despite the fact that in 1992 Guatemala became the first country in Latin America to enact comprehensive reforms to its Criminal Procedures Code, according to a 2000 report by the Washington Office on Latin America, the Guatemalan Justice System was almost non-functional. It also states that the authoritarian legacy and a lack of confidence in both the police and the courts are a reflection of the popularity of private and punitive solutions to crime, including a recent wave of lynchings. The Guatemalan Supreme Court President reported that the Court's budget for 2004 was insufficient and inadequate for even the basic needs of the judiciary (US DOS, 2004). Similarly, the Public Ministry has been hampered by efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of qualified investigators (ibid). The Guatemalan prison system is in crisis. It continues to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. The military continues to provide perimeter security for various prisons in Guatemala. The corruption of prison officials is endemic, which has also resulted in frequent breakouts by prisoners. The government however, continues efforts to reform the judicial system, and there is a 'Modernization Plan for the Judicial Branch' (World Bank, 2005). In 2003, Congress passed a Minors' Protection Law, which reformed the Penal System and outlines the rights and expected treatments of minors in detention. There are now also 15 justice centers in Guatemala, which provide dispute resolution and problem solving (US DOS, 2004). There are multiple donors in Guatemala's justice reform, including the World Bank, the IDB, USAID, the UNDP, MINIGUA, the OAS, the EU and numerous bilateral donors.

Parliamentary oversight of Security Forces

Under the leadership of Arzú, the army lost some of its political independence; however, it was allowed to continue conducting its internal affairs with little outside interference and legislative oversight is limited (Ruhl, 2005, p. 65). As Arévalo de León, a notable Guatemalan scholar points out, "... the military no longer exercises political control over the state, but civilian authorities do not exercise full, democratic, institutional control over the armed forces either" (2002, p. 151). The Guatemalan Parliament has done little to pass laws for military reform, not undertaken its supervisory functions. There has been some progress to curtail the military's institutional autonomy by increasing civilian capabilities to oversee its activities (Ruhl, 2004, p. 65). However, only a small number of civilian officials have worked in the Ministry of National Defense, and only a few members of Congress have stayed long enough on the Defense Commission to develop an expertise of military affairs (ibid). There has not been a professional cadre of civil servants or political appointees assisting the minister of national defense in the design or implementation of security policies. In the aftermath of the conflict, the military finances still remain secret and not subject to congressional supervision,

although the Guatemalan Congress now shares with the president some authority to determine the size of the armed forces' budget. The national security provision of Article 30 of the Guatemalan Constitution permits the armed forces to guard their budget as a state secret and the military has not offered any detailed accounting of its expenditure to Congress (Republica de Guatemala, 1985). Moreover, although a civilian commission was supposed to be established to control the intelligence organisms of Guatemala, no such institution was created (Ruhl, 2004, p. 64). In 2003 Guatemala published its first defense white paper with collaboration between the military and civil society groups (Ruhl, 2005, p. 145).

Conclusion: An overview of Guatemala's SSR process

Guatemala has undoubtedly made some significant reforms to its security sector. However, there continue to be significant challenges and obstacles. While the Peace Accords paved the way for instrumental reforms to be undertaken, the defeat of the 1999 nation-wide referendum was a considerable setback to SSR in Guatemala. Many security-related institutions remain unprepared and dependent on international funding to properly address the growing criminal violence, which has become a mainstay characteristic of the post-conflict period. Increasingly the government (and Guatemalan citizens) have accepted relying on the military for internal security, often undermining some of the significant restraints that have been previously achieved with the Guatemalan armed forces. Strengthening the judiciary appears not only to be a greatly needed priority, but a necessity in order to rebuild confidence in Guatemala's judicial system, and prevent citizens from further taking justice into their own hands.

Guatemala continues to be the recipient of multiple donor activities. International aid to Guatemala, especially 'democracy' assistance, increased significantly in the post-conflict period (from US \$200 million from 1990-1995 to US \$600 million per year in 1996-2002) (Azpuru, 2004). The GTZ along with other international donors such as USAID or CIDA for example, have prioritized their program areas to focus on projects that contribute to the overall process of peace promotion and conflict prevention, which either directly or indirectly target issues related to SSR. However, the Guatemalan case demonstrates that assigning military personnel to democratic institutions, such as in the newly established intelligence agencies in Guatemala, is like having the "hardware of democracy" but operating it with the "software of authoritarianism" (Arévalo de León, 2002). Good governance of the security sector—effective, efficient, participatory, accountable, and with a transparent monopoly on the use of force—appears to be based not only on appropriate democratic structures, but also on norms that reflect democratic policy and practices. Moreover, because Guatemala's civil society groups remain weak and often divided, combined with a political and economic system that continues to be dominated by national elites, ultimately, SSR in Guatemala seems to be highly dependent on the will, co-operation, and vision of the incumbent political leadership. There are high expectations placed on the government of President

Oscar Berger, whose objectives are to implement the peace agreements, establish the rule-of-law structures, and to reduce corruption, poverty, and immunity which will also help alleviate the growing crime problem, and hence improve security. As to whether vested-interest groups will allow his government to make the necessary reforms to achieve these ambitious goals, remains to be seen.

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