

Analysis: Peacebuilding Terrain in Guatemala

Key issues: Impunity, Socio-Economic Accord, & Consultative Mechanisms

Impunity in Guatemala

Definition of impunity: *Failure by the state authorities to discharge their legal duty/responsibility to prevent where possible, to investigate, to initiate and carry through appropriate legal proceedings against, and to punish those who commit serious human rights violations and other crimes.*

The elimination of impunity is necessary for peacebuilding. Impunity is a problem which would likely exist in Guatemala regardless of the Peace Accords.

Key issues:

- 1) **Impunity is broader than human rights, it covers all criminality.**
- 2) **Deeply rooted impunity undermines public confidence in government.** The government's lack of performance re: impunity seriously impedes their implementation of the Peace Agreements.
- 3) **The reform of the judicial system is the greatest need to confront impunity.**

Key Factors:

- 1) **Lack of institutional capacity within the police and judicial systems:** complete absence of judicial authorities in rural areas; insufficient numbers of police and slowness of police system reform and training; presence of a new code of penal procedure in 1994 was a major change from a written procedure directed by an investigating judge to an oral procedure undertaken by state prosecutors - resulting in confusion, lack of coordination, and conflict between the police, prosecutors and first-level judges.
- 2) **Lack of resources:** The Guatemalan government has committed under the accords to raise 12% of GDP by the year 2000. The government is chronically underfunded. The national police now total 7000 officers and should be 20 000 by the year 2000.
- 3) **Lack of political will:** The Peace Accords call for the abolition of the presidential military staff and its replacement by a civilian body. The Accords include the commitment to disband civilian self-defence patrols, "PACs". MINUGUA is critical that the government is not trying hard enough to ensure that former PAC members do not take justice into their own hands. The MINCHO case is the worst example of the government refusing to cooperate in a Minugua investigation. There are also examples of prosecutors not investigating, and refusing to lay charges, in human rights cases. Outside the government, there are cases of intimidation and murder of both judges and witnesses.