



## United Nations Verification Mission in Guatemala – MINUGUA

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# Report of the United Nations Verification Mission in Guatemala (MINUGUA) for the Consultative Group meeting for Guatemala

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Guatemala, 18 January 2002

### Introduction

1. This report of the Head of the United Nations Verification Mission in Guatemala (MINUGUA) offers an assessment of the achievements of the peace process and the challenges it has faced and still faces since the holding of the last Consultative Group for Guatemala in October 1998. Since then, the Mission has continued to verify the implementation of the commitments contained in the Peace Agreements signed by the Government of Guatemala and the *Unidad Revolucionaria Nacional Guatemalteca* (URNG), which has been a legally-registered political party since November 1998.
2. The Agreements referred to in this report are the Comprehensive Agreement on Human Rights; the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict; the Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that Have Caused the Guatemalan Population to Suffer; the Agreement on the Identity and Rights of Indigenous Peoples; the Agreement on Social and Economic Aspects and the Agrarian Situation; the Agreement on the Strengthening of Civilian Power and the on the role of the Armed Forces in a Democratic Society; the Agreement on Constitutional Reforms and the Electoral Regime; the Agreement on the Basis for the Legal Integration of the URNG; the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements; and the Agreement on a Firm and Lasting Peace.
3. Since the Mission was established in 1994, the Secretary-General has published six reports on the verification of the Peace Agreements and 12 on compliance with the commitments of the Comprehensive Agreement on Human Rights. Since 2000, the Mission has published 13 thematic verification reports on the prison system, the commitments related to land issues, labour issues, exhumation, the commitments related to rural development and natural resources, the situation of children and adolescents, lynching, conflicts, the participation of women, the National Civil Police, compliance with the Fiscal Pact, housing policy, and the indigenous peoples and the overcoming of discrimination in the framework of the Peace Agreements.
4. During the past three years, Guatemala has faced certain challenges and special situations. In one form or another, all have had an impact on the implementation of the peace commitments. Some are described below.

5. In November 1998, Central America was struck by Hurricane Mitch, which reached Guatemala in as a tropical storm and seriously affected the most vulnerable sectors of the population. At the start of 1999, the Commission to Follow up the Implementation of the Peace Agreements established as a priority the commitments to give sustainability to the reconstruction effort undertaken in the wake of this tropical storm. The Government reaffirmed the peace agenda as a national priority and added that the reconstruction programme should be regarded as complementary to and not a substitute for the peace agenda. The Government's work during the first 100 days helped to repair the damage to the economic infrastructure and to solve some of the most pressing social problems.

6. On 25 February 1999, the Clarification Commission (CEH) published its report entitled "Guatemala: Memory of Silence". In its conclusions, the Commission stated that more than 200,000 persons died or disappeared as a result of the armed conflict, of whom more than 80 per cent were Mayan, and it attributed institutional responsibility for 93 per cent of the violations to agents of the State, principally members of the army. It also concluded that agents of the State, in the context of counterinsurgency operations carried out between 1981 and 1983, committed acts of genocide against groups of the Maya people. The report contains 84 specific recommendations, the majority of them addressed to the Government, on preserving the memory and promoting a policy of reparations for victims, fostering a culture of mutual respect and observance of human rights and strengthening the democratic process. Subsequently, the Congress of the Republic issued Legislative Agreement No.15-2000, which declares 25 February as Victims of Violence Day, in commemoration of the suffering of the Guatemalan people.

7. In 1999, the peace process faced one of its biggest challenges in the form of the referendum held in May of that year. In compliance with the Agreement on Constitutional Reforms and the Electoral Regime and after extensive negotiations, the Congress of the Republic had adopted a package of 50 amendments to the Constitution by a two-thirds majority in October 1998. The proposed reform went far beyond the content of the Agreements. In accordance with constitutional procedures, this reform package was submitted to the people for ratification in a referendum held on 16 May 1999. The referendum form had four questions which grouped the articles around four basis themes: 1) Nation and Social Rights, 2) Legislature, 3) Executive and 4) Judiciary and Judicial Administration. Although the vast majority of political forces came out in favour of the reform, the outcome of the referendum was negative and a high percentage of voters abstained. Of a total of 4,085,832 registered voters, 757,978 (18.55 per cent) went to the polls and 3,327,854 (81.45 per cent) abstained. The average vote was 44 per cent in favour of the reform in the four questions presented and 56 per cent against.

8. The referendum results revealed a serious division in the country: in municipalities where indigenous people were in the majority, people voted yes to the reform, whereas in other municipalities the majority voted no. It also showed that a good part of the urban and non-indigenous population do not feel that the proposals regarding multiculturalism have any relevance to them, which highlighted the need to continue and strengthen the process of consensus-building between state entities, political parties and civil society organizations around the multicultural and multiethnic State.

9. 1999 was the last year of the Government of President Alvaro Arzú, a signatory of most of the Peace Agreements, and in January 2000, Mr. Alfonso Portillo, the candidate of the *Frente*

*Republicano Guatemalteco* (FRG), took office as President of the Republic. The 1999 general elections were the first held since the signing of the Agreement on a Firm and Lasting Peace and the URNG participated as a political party. The perception of the enjoyment and free exercise of civil and political rights, a particularly important element in the area of human rights, was positive and enabled the newly-elected authorities to take office amid a general acceptance of the process as democratic. Nonetheless, the transfer of power at the municipal level was not without protests which, in some cases, culminated in acts of violence.

**10.** Unfortunately, the reform of the Elections and Political Parties Act envisaged in the Peace Agreements had not materialized and these elections were therefore not held in a legal framework that would have been more favourable for voter participation. There is a continuing need for major legal reforms and institutional reinforcement programmes that would make the system of political representation more inclusive and facilitate registering and voting.

**11.** Nonetheless, there was a substantial increase in participation, both in electoral roll registration and turnout at the polls, especially noticeable among women and indigenous peoples. The turnout for both the first and second round was higher than in 1995. In the first round of the election, 53.95 per cent of registered electors voted, an increase of more than 7 percentage points compared with the 1995 elections. The increased mobilization for these elections can be viewed as a reenergizing of the population in the context of the culmination of the peace process, especially as the change was most marked in those sectors that were traditionally least active, such as women and the indigenous peoples.

**12.** Voter registration data suggest that exclusion is historical and structural in character, rather than the result of circumstantial or administrative factors. In a country where neither voter registration nor voting is obligatory, failure to register reflects both an historical political apathy and a lack of personal identity documents (which affects more than 10 per cent of the adult population, according to experts). Although the biggest voter registration gains occurred in those departments with the highest indigenous population and among women, the level of registration remains low within these sectors. While the gap between registered men and women continues to narrow gradually compared with the registers used in the 1995 elections and the May 1999 referendum, gender differences in registration continue to be very marked, especially in those departments with the highest proportion of indigenous inhabitants and illiteracy, where fewer women register than elsewhere. The level of under-registration and, even more so, analysis of the turnout underscore the need for the law reforms and programmes mentioned earlier.

**13.** Since 1999, and following the conclusion of the most operative phase of demobilization and installation of the peace institutions, the process began to show signs of stagnation. At the same time, the economy began to slow down affecting the macroeconomic context. At the end of that year, the Follow-up Commission announced that, in order to consolidate the process, it was essential to advance in seven priority areas of the pending peace agenda: human rights and national reconciliation; civilian-military relations and military reform; reform of the system for the administration of justice; indigenous peoples and intercultural relations; rural policy and development; social policies; and fiscal policy.

**14.** The timetable for compliance for the period 1997-2000 established in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements expired in December 2000. As a number of commitments on the peace agenda were still in the process

of implementation or had not been implemented, the Follow-up Commission completely rescheduled pending commitments in an implementation timetable for 2000-2004. The President of the Republic, the President of Congress and the President of the Supreme Court all professed their renewed commitment to the peace process at the ceremony at which the rescheduled timetable was signed and presented.

**15.** In early 2001, differing viewpoints and disagreements among different social groups led to growing social and political polarization and conflict focussed on the role of the State and the Administration's way of governing. With the aim of giving a boost to the peace process and promoting ad hoc alliances among different sectors on the most pressing themes, the Follow-up Commission proposed priority agendas to the Executive, Legislature and Judiciary. Subsequently, at mid-year, after Congress had approved some of the measures envisaged in the Fiscal Pact, the Commission proposed to the Minister of Finance 12 priority measures for advancing with the Fiscal Pact in its entirety which also took account of the expectations of various civil society sectors. At the same time, the Commission presented a priority spending proposal for consideration in the preparation of the 2002 Budget.

**16.** At the end of 2001, most of the commitments that had been rescheduled for 2001 had not complied with, efforts in the area of taxation suggested that the tax ratio target would not be attained, and there were worrying symptoms of militarization of civilian authority, especially in the Ministry of Interior. Furthermore, the initial military budget in 2001 was followed by many supplementary transfers which in all represented a 85 per cent increase in the allocation originally approved by Congress and resulted in total military spending that was well above the limit established by the Peace Agreements. Conversely, attention to other commitments of the peace agenda encountered many financial difficulties which especially affected priority social spending and resulted in serious restrictions on the access to funds of the Ministries of Health and Education, especially for investment. The national budget for 2002 also poses serious difficulties for the consolidation of the peace process, as it assigns very reduced budgets to priority peace institutions and programmes such as the Peace Secretariat, education, compensation, reintegration of the uprooted, the Guatemalan Housing Fund (FOGUAVI), the Strategic Analysis Secretariat (SAE), the Secretariat of Administrative Affairs and Security (SAAS), the Judicial Branch and the Civilian National Police, especially the Police Academy.

## Implementation of the Peace Agreements

### **Respect for human rights**

**17.** An evaluation of the overall human rights situation in Guatemala must take account of the end of the internal armed conflict and the end of institutional policies that violate human rights, which have brought a qualitative and quantitative improvement. However, it should also be borne in mind that there has been a significant polarization in the internal political debate under the present Government and at the same time there have been isolated, specific cases of limited duration of constitutional rights being suspended, although they did not result in any irreversible deterioration in the enjoyment of civil rights.

**18.** In the Mission's view, this human rights situation is part of a political context that exceeds the framework of the Comprehensive Agreement on Human Rights and is closely linked to the

lack of compliance with many other important pending commitments of the Peace Agreements. The all-embracing nature of the Agreements, the benefits of which are meant to include a more extensive enjoyment of economic, social and cultural rights, offers the key to understanding the continuing hopes and expectations they have aroused in the Guatemalan population. As regards the most excluded sectors - such as the indigenous peoples, women and poor peasants - their demands at the time of the signing of the Peace Agreements are still far from satisfied and the peace benefits have been for the most part limited to the ending of the internal armed conflict. Broad sectors of the population continue to leave in conditions of poverty and extreme poverty.

**19.** The Mission welcomes the fact that the measures adopted by the Government have included ratification of international human rights instruments and acknowledgement of State responsibility in cases submitted to the Inter-American Human Rights System. However, these significant initiatives have not had any substantive impact on the overall enjoyment of human rights in the population's daily life.

**20.** An uneven evolution has been registered in the situation of those human rights to which the parties requested special attention. In successive reports, the Mission has pointed out an increase in confirmed violations related to the State's serious inadequacies in the prevention, investigation and punishment of human rights violations and crimes, especially in such cases as massacres and disappearances that occurred before the Peace Agreements were signed. The Mission has also stressed the worrying signs of deterioration in the human rights situation compounded by a widespread perception that the lack of public security was becoming the biggest threat to the enjoyment of fundamental rights.

**21.** The Mission has received reports of the presence of armed groups in the interior. Verification has not established that these groups are politically motivated and, on the contrary, it indicates that they have criminal objectives and include demobilized members of both the URNG and the former Voluntary Committees for Civil Defence (CVDC). Their presence has contributed to the growing perception of insecurity. At the same time, various former CVDC groups have revived their demands for compensation for their services during the armed conflict. In certain cases, these demands have found expression in the occupation of offices and the blocking of highways, indicating that they could be a future source of conflict. Currently, the Peace Secretariat is conducting negotiations on the implementation of community projects which would both promote community development and create conditions favouring reconciliation.

**22.** Finally, quantitative and qualitative analysis shows that the steady progression of significant improvements in the human rights situation from the time of the Mission's arrival and until mid-1998 has given way to stagnation and signs of deterioration that are particularly evident in the following four areas: a) the disturbing evolution in the lynching phenomenon; b) the signs of the continuing existence of clandestine and illegal security units and structures; c) the climate of threats targeted above all against judicial officials and trial witnesses, human rights activists and the news media; and d) the fact that impunity continues to represent a major obstacle to the full respect and development of human rights in Guatemala.

**23.** The pending legislative peace agenda includes various initiatives whose adoption would permit advances in respect for human rights. In the same way, the process of national reconciliation requires moving ahead with the implementation of the recommendations of the Clarification Commission. In particular, the Government should rectify its actions in connection

with creation of the Commission for Peace and Harmony and promote its creation in an appropriate fashion along with implementation of the National Programme of Reparations. Progress in these two areas has been uneven and still faces obstacles despite the repeated reaffirmations of commitment and political will by the authorities.

### **The commitments concerning the indigenous peoples**

**24.** The development of most of the commitments in the Agreement on the Identity and Rights of Indigenous Peoples was entrusted to commissions that include representatives of the indigenous peoples, in accordance with the principle expressed in the preamble that “all matters of direct interest to the indigenous peoples need to be dealt with by and with them and that the present agreement seeks to create, expand and strengthen the structures, conditions, opportunities and guarantees regarding participation of the indigenous peoples”. As a result, the process of implementing this Agreement created opportunities for direct consensus-building with state institutions and is helping to increase awareness of multiculturalism. Nonetheless, this is one of the Agreements which has been least complied with and the referendum campaign (see paras. 7-8) highlighted the need to strengthen the concept of Guatemala’s multiculturalism.

**25.** The indigenous peoples continue to be the object of considerable discrimination. Data from the 1998-1999 National Survey of Family Income and Spending (ENIGFAM) indicate that Guatemala’s indigenous peoples represent 48.6 per cent of the total population and that they live in the departments which have the highest levels of poverty. The social exclusion of the indigenous population carries over to coverage of public services. For example, more non-indigenous families have access to electricity, drinking water and sewerage than indigenous families. As regards education, the majority (62.3 per cent) of the 556,000 children aged 7-14 not attending school is indigenous and the highest rates of illiteracy (38.8 per cent in 1994 falling to 31.7 per cent in 1998) are in the rural areas of the departments with an indigenous majority.

**26.** In 1996, Guatemala ratified ILO Convention 169 on Indigenous and Tribal Peoples, as required by the Agreement. This ratification represented a significant advance in the recognition of the specific rights of the indigenous peoples. However, the necessary political will to adequately implement and comply with this and other international conventions on racial discrimination has clearly been lacking.

**27.** Measures for immediate adoption should include the incorporation of more members of the indigenous population into the public service and Government. This would not only benefit the government but would give other institutions and sectors of society an example of the State’s political will to adapt to the nation’s multi-ethnic, multicultural and multilingual characteristics. A greater indigenous presence within the National Civil Police, judiciary and other branches of the public administration would stimulate the transformation of relations between the State and the indigenous peoples, and between indigenous and non-indigenous as well.

**28.** The Mission attaches particular importance to verifying not only compliance with the Agreement’s specific commitments but also the incorporation of the multicultural perspective into the design and application of government policy in the social, economic and cultural area, and in relevant programmes supported by the international community. It has been noted that various ministries are implementing pilot decentralization projects based on new structures of social

participation, especially in health and education. In some cases, this process does not include the existing forms of participation, in particular that of the indigenous communities and their traditional authorities. The issue of the identity and rights of the indigenous peoples is one that traverses the entire Peace Agreements. For these reasons, those aspects relating to human and productive development and access to justice are dealt with in those sections.

**29.** Recognition must be given to the Office for the Defence of Indigenous Women's Rights for its efforts to defend and promote the rights of indigenous women and for its consolidation, supported by the international community. Nonetheless, it is essential that the authorities give this important institution the resources it needs in order to extend its range.

### **The Commitments of the Peace Agreements in their entirety**

**30.** In the Agreement on the Implementation, Compliance and Verification Timetable, the Parties divided the commitments set out in the Agreements into four thematic areas. These are a) resettlement, integration and national reconciliation; b) comprehensive human development; c) sustainable development of production; and d) modernization of the democratic State, including strengthening of the capacity for participation and consensus-building of the various components of civil society. This report uses these headings to group most of the peace commitments thematically.

#### **Resettlement, integration and national reconciliation**

**31.** The conversion of URNG into a political party in November 1998 was an important advance for the peace process. The Special Integration Commission concluded its mandate the same month, submitting a plan of operations establishing the main goals and activities to be pursued in the definitive integration phase, in which the Government is required to make the biggest contribution. This final phase has major problems, as does the sustainable resettlement of the uprooted population in conditions of dignity. The sustainable and equitable development of the resettlement areas and the productive integration of these population groups continue to suffer from the lack of a comprehensive rural development policy.

**32.** An evaluation of the Agreements overall indicates that the process of resettlement and integration of the demobilized population is still inadequate and continues to suffer from the lack of a comprehensive development strategy that would help make it sustainable. The situation has become critical and deserves urgent special measures. The Mission is worried by the delays in implementing the commitments on integration into production in the framework of regional policies for sustainable development and on the strengthening of the system of development councils. In this as in other matters, the main challenge is to move from emergency to sustainable development and from piecemeal projects to a long-term, regional and national vision. This is crucial if the peace process is to become sustainable and irreversible.

**33.** Although some progress has been made in land and housing projects, including the purchase of three farms through the Land Trust Fund (FONTIERRAS), projects related to integration into production, health care for the disabled and exhumation of the bodies of URNG members killed in combat all started very late. Integration into the workforce continues to encounter serious difficulties, as does the capacity of beneficiaries for the repayment of loans

received from the Land Trust Fund. As regards institutional support, the Government created the Commission to Follow up URNG Integration in June 2001 for the completion of the definitive integration phase. The Guillermo Toriello Foundation has played a fundamental role in both phases of the integration process and is essential to its continuity.

**34.** The organized return of the Guatemalan refugees in Mexico came to an end on 30 June 1999, by when some 43,000 persons had taken advantage of this process. However, the resettlement process has suffered as a result of the failure to create the Trust Fund for Productive Projects. The situation of the internally displaced population, specially women, is even worse because of the slowness of the process of land access. Despite the extension of the Special Temporary Act on Documentation until April 2002, there are no funds for the implementation of a specific documentation plan in areas with the highest concentration of uprooted population, with the result that there are still groups that lack personal documents.

**35.** Progress has been slow and limited in the area of education, health and housing. An accord was signed in 2000 between the Ministry of Education and the Technical Commission for the Implementation of the Resettlement Agreement, and a health project was designed to improve care in 17 prioritized municipalities. However, no funding is available for this project. A total of 200 million quetzales (approximately US\$ 25 million) had been envisaged for the provision of housing for uprooted and demobilized populations during 2001 but in the event only 86 million quetzales were made available.

### **Comprehensive human development**

**36.** Firm and lasting peace must be based on participatory social and economic development that is geared to the common good and the needs of the entire population. To meet these challenges, the State must adapt its mode of operation to take account of gender differences and cultural diversity. Respect for and the exercise of the civil, political, social, cultural and economic rights of all persons are the foundation for a new coexistence reflecting the diversity of the nation. Recognition of the identity and rights of indigenous peoples is essential for building a multi-ethnic, multicultural and multilingual nation.

**37.** The population still does not perceive the peace process' tangible positive effects in all their potential. For the population to fully identify with the peace process, it is essential that it should feel that its living conditions have improved as a result of the Agreements. The Follow-up Commission has said it will pay special attention to compliance with the commitments concerning with health, education, housing, employment and social security - as regards government policy and decision-making as well the apportionment of next year's budget.

**38.** Major commitments in this area were affected by the passage of Tropical Storm Mitch. The principles and provisions of the Peace Agreements were not observed in core aspects of the reconstruction: the implementation of reconstruction activities became over-centralized, lacked coordination between the central and local government and did not address the land management planning envisaged in the Agreements. The reconstruction phase concerning natural disaster prevention and mitigation was not used to revise and modify policies in the light of the requirements of the Agreements.

**39.** Various human development aspects are administered by means of social funds. These

funds need to coordinate their work among themselves and with other levels of government within the framework of public policies. They also need to manage resources more transparently and should be part of the Integrated System of Financial Administration and the General Auditing System (SIAF-SAG). They must not act as palliatives or substitutes for the necessary reform of the public sector. In 2001, social funds have managed approximately 25 per cent of the State's social investment; this underscores the need to completely overhaul them in order to improve investment efficiency and returns. Government Agreement No. 310-2000 represented an effort by the Government to restructure the funds through sectoral specialization. Unfortunately, that effort has yet to yield the desired results and has proved insufficient.

**40.** The formulation of public policies on such issues as education, housing and health, which in some cases has involved consultations with civil society, represents significant progress. The implementation of such policies will require not only that ministries assume their sectoral responsibilities but also that the latter be articulated into an overall approach which includes a land management plan involving the actors concerned

### **Education**

**41.** The Education Plan 2000-2004 and the Social Policy Matrix show the Government's concern for education. A welcome development has been the process of consultation with civil society undertaken by the Ministry of Education and the Advisory Commission on Educational Reform. Those efforts need to be translated into the rapid implementation of the reform, curriculum changes and the development of teaching materials that also include appropriate contents for democratic civic education and education for participation. Teaching materials should also reflect multiculturalism and gender equity, based on the results, officially presented on 22 March 2001 at the Parliament building, of the dialogue and consultation on educational reform. Another step forward was the signing of the framework agreement and the start of implementation, albeit with serious problems, of the plan for integrating communities of uprooted populations in the formal education system.

**42.** However, such key commitments as making at least three years of education universally available for children aged 7 to 12 years has not been complied with (more than 500,000 children do not attend school). The reduction in illiteracy to 30 per cent may not be sustainable because of the lack of a clear implementation strategy by means of the National Literacy Movement (for which no official results yet exist). Furthermore, the cutback in the 2001 budget resulted in the execution of various programmes being postponed, including scholarships, civic education, training for teachers and education administrators, and bilingual education.

**43.** Civic education - another dimension of the quality of education, especially in post-conflict societies - has seen no progress and there is no coverage. The civic education programme, which was assigned a low budget in 1997 (US\$ 740,000 over three years), had very few staff or materials such as textbooks covering the multicultural and intercultural aspects that are indispensable for civic education in Guatemala.

**44.** Despite the work done through the National Programme for Educational Self-Management (PRONADE), primary education coverage did not meet the target set for it and there are concerns about its quality because it lacks intercultural bilingual elements and there is little supervision by the Ministry. With regard to the bilingual education programme instituted

by the Department of Intercultural Bilingual Education, its dependence on international cooperation, limited coverage and lack of an appropriate teaching methodology raises doubts about its impact and sustainability.

## **Health**

**45.** As regards the new health policy, the Ministry of Public Health and Social Welfare published the National Health Plan 2000-2004, the basic objectives of which are: to bring health care to population groups not traditionally reached by such services, especially indigenous women and migrant workers; to provide for women's overall health needs; to give renewed importance to traditional medicine; to decentralize health care; and to improve coordination within and among sectors. In connection with decentralization, it proposes the design and implementation of a pilot plan in those communities which lag farthest behind in terms of health and sanitation services. It also includes plans for promoting women's health, such as adequate access to prenatal care and childbirth services. The Mission commends the Ministry's approach of moving beyond the monitoring of maternal health to monitoring the health of families, including children and adolescents, meeting women's overall and reproductive health needs and promoting responsible parenthood.

**46.** Budget cuts in various areas of public health in 2001 hampered the provision of quality services, especially in the remoter regions. The coverage of the Integrated Health Care System (SIAS) in 2001 was 2.9 million persons, only 50 per cent of the target population. The challenge is to reach the other 50 per cent not covered. The quality of health services continues to suffer from a shortage of medicines, inadequate installations and the lack of human resources. The 2001 budget for the Integrated Health Care System was 23 per cent lower than the budget for 2000, which will affect the necessary expansion of coverage and raises further doubts about the system's sustainability. A comprehensive evaluation of the system is a pending commitment that should be complied with urgently.

**47.** At the start of 2001, the Ministry began its national reproductive health programme aimed at reducing maternal and infant mortality, ensuring maternal health, guaranteeing the population's right to information about reproductive health, providing reproductive health education to adolescents and promoting gender equality. The programme of Comprehensive Care for Widespread Infant Diseases was also launched with the aim of preventing the five most common and serious childhood diseases: diarrhea, pneumonia, measles, malaria and serious malnutrition. Polio and measles vaccination coverage for children less than one year of age increased to 85 and 88 per cent respectively, enabling Guatemala to maintain its polio eradication certification. The start of monitoring in rural areas is expected to extend the coverage of the Access to Medicines Programme (PROAM) to these areas. The Ministry also presented a proposal for the integration of traditional popular medicine into the official health system but implementation has not begun.

## **Housing**

**48.** There was no housing policy during the period 1998-2000 that could address the housing shortage, which increases by approximately 43,000 units a year. The problem consists not only in the inadequacy of resources assigned to housing but also the absence of institutional mechanisms to implement housing programmes and for their supervision and control by the

Ministry of Communications, Infrastructure and Housing. The danger of polarization in the relations between the authorities and those sectors waiting to receive housing was averted as a result of the impetus given by the ministerial department responsible for housing to a process of consensus-building and discussion among the various sectors in order to arrive at a national long-term policy that would give priority to the lowest-income sectors. This initiative, which promoted citizen participation in the definition of housing policy as envisioned in the Peace Agreements, has recently been ratified as state policy but adequate programmes are now needed to start its implementation.

### **Social Security**

**49.** There was virtually no progress in this area during this reporting period as the necessary steps were not taken to ensure the autonomy of the Guatemalan Social Security Institute, nor was there any implementation of the commitments regarding the universality and quality of services, or regarding new forms of management with the participation of the sectors that make up the institute.

### **Women**

**50.** The Peace Agreements recognize that there is specific discrimination against women and undertake to overcome it. As the 2000 Human Development Report of the United Nations System in Guatemala states, 59 per cent of the female population lives in rural areas and 48 per cent is indigenous. At the same time, women head 20 per cent of households. As regards education, the average illiteracy rate for indigenous women is 51.5 per cent. According to the Ministry of Education, the school dropout rate for girls is 81.5 per cent in rural areas and 50 per cent in urban areas. Only 17 of every 100 girls complete primary school, and 66 per cent drop out before completing third grade in rural areas.

**51.** As regards access to land, 27 per cent of women work their own land while for men the proportion rises to 41 per cent. The 1995 National Survey of Maternal and Infant Health indicates that the maternal mortality rate is 190 per 100,000 births. The Gender Empowerment Measure in the above-mentioned Human Development Report is 0.46, which would put Guatemala at 49<sup>th</sup> place in the international ranking of 70 countries.

**52.** The National Women's Forum is recognized as a ground-breaking participatory and organizational process which has strengthened participation by indigenous and non-indigenous women. The Forum has helped women identify their needs but there are still strong constraints on their participation in forums for dialogue and development planning. The Missions wishes to highlight the Women's Forum action plan, submitted to the Follow-up Commission, for coordinating sectoral monitoring of compliance with the commitments relating to women with the Presidential Secretariat for Women. The Forum is also working with the Presidential Secretariat for Women and the Office for the Defence of Indigenous Women's Rights on such strategic matters as educational reform, evaluation of the participation of women and dissemination of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

**53.** As regards the workplace, government bodies and civil society organizations concerned with women's issues have prepared a package of proposed reforms to the labour code concerning maternal leave, prevention of sexual harassment, pay equality, agricultural work and

the conditions of women working in private homes. The proposed 39-article draft law, which respects the spirit of the Peace Agreements, has been submitted to the Minister of Labour to be passed on to the Congress of the Republic.

**54.** The Presidential Secretariat for Women was created by Government Accord No. 200-2000 of 22 May 2000 as an advisory and government policy coordinating body for promoting the all-round advancement of Guatemalan women and the development of a culture of democracy. Together with civil society groups, the Secretariat drew up the National Policy for the Promotion and Advancement of Guatemalan Women and Equal Opportunity Plan 2001-2006. This National Policy is to be implemented by means of a Consultative Council consisting of 22 high-level women-representatives from various ministries and secretariats. Government Accord No. 832-2000 created the National Coordinating Office for the Prevention of Violence within the Family and against Women (CONAPREV), with both government and civil society representatives, to act as an advisory body and to promote government policies addressing these issues. Guatemala joined the Commission on the Status of Women of the UN Economic and Social Council (ECOSOC) in May 2001, becoming its sole Central American member.

### **Sustainable productive development**

**55.** To achieve sustainable productive development, the Peace Agreements stressed the need for legal, institutional and financial reforms in order to consolidate a democratic, inclusive, decentralized and participatory State. An analysis of the current situation shows that both the formulation of a policy aimed at sustainable productive development and the creation of institutions capable of promoting it are still incipient, and so far there has been only limited, isolated progress.

**56.** In the search for growth, economic policy must be directed toward preventing processes of social and economic exclusion, such as unemployment and impoverishment, and toward optimizing the benefits of economic growth for all Guatemalans. The Peace Agreements recognize the serious poverty and social exclusion in which most Guatemalans live as one of the structural causes of the internal armed conflict. These in turn result from, among other things, the concentration of land ownership and the low wages paid to workers. Moreover, the adverse conditions resulting from the decline in the international price for some of the country's main exports, particularly coffee, have become an additional challenge to the sustainability of the peace-building process. In October 2001, the Secretariat for Planning and Programming in the Office of the President (SEGEPLAN) began preliminary consultations on a poverty reduction strategy, a positive step that should be incorporated in a national policy for rural development and food security.

### **Labour**

**57.** Despite the commitments made in the Peace Agreements, and the impact that improvements in labour relations would have on peace-building, there is a glaring disproportion between the magnitude and complexity of the country's labour problems and the human and material resources allocated by the State to overcoming them and the low priority assigned to labour issues in political decision-making.

**58.** Nonetheless, mention should be made of the minimum wage and bonus increases and the Labour Code reforms approved by Congress which constitute a step forward in complying with the Peace Agreements and in bringing domestic legislation into line with the recommendations of the International Labour Organization. The Mission is closely following the processing of the legal challenges filed against certain articles in these reforms before the Constitutional Court. Another step forward was the recent ratification of ILO Convention 182 on the elimination of the worst forms of child labour. Progress is still needed on amendments with regard to restrictions on the right to strike and other aspects omitted from these reforms but envisioned in the Peace Agreements including those to do with working women, child labour, social security and the court processing of labour issues. As the reforms take effect, the Mission will also verify how effectively the Ministry of Labour uses its newly-granted faculties to monitor compliance with the new labour legislation.

**59.** These reforms, together with the Follow-up Commission's rescheduling which includes several unimplemented labour commitments (such as the proposed Labour Procedural Code supported by the Ministry of Labour, and the proposals coming from various civil society sectors) have drawn attention back to labour issues and the need for the State, workers, employers and other civil society actors to increase the levels of dialogue leading to accords.

### **Rural development**

**60.** The commitment to design and carry out a rural development policy has not been complied with. In October 2000, the Government and the National Coordinating Office of Peasant Organizations (CNOC) agreed to begin a process for cooperating in the formulation of such a policy, for which a high-level commission was created. In September 2001, CNOC presented a rural development proposal and the Government, through SEGEPLAN, presented a Poverty Reduction Strategy which is the core of its proposal. Non-governmental organizations and the private sector have also presented proposals and it is hoped that a consensus will soon be reached on the broad outlines. The international community in general and the United Nations in particular have provided extensive cooperation for developing the outlines and political content of a rural development policy and technical assistance is currently being provided to help reach a consensus.

**61.** A Peace Agreements/Land Fund Trust set up in 1997 began the purchase of farms for demobilized members of the URNG. In 1998, the Joint Commission on Rights relating to Indigenous Peoples' Land (COPART) discussed a draft law that was finally approved by the Congress of the Republic in 1999, creating the Land Trust Fund (FONTIERRAS). Although the Land Trust Fund is in a process of consolidation and has several regional offices, it has not been assigned enough funds to meet the volume of demand, currently estimated to be more than 2 billion quetzales (approximately US\$250 million). By December 2001, the Land Trust Fund had handed over 130 farms to 10, 416 families and had regularized many land titles although had been no progress in the recovery of land assigned in an irregular manner. In 2001, the Land Trust Fund did not receive all of the amount assigned under the budget, and the amount approved for 2002 is much lower than what was requested by the Fund or what was proposed in the draft budget which the Executive submitted to Congress. This will prevent the Fund from responding to the high demand for credits and will increase social and political tension in the countryside.

**62.** The enactment of an agrarian and environmental jurisdiction law is the key commitment of the legal reforms in rural domain. The Permanent Land Commission of the Coordinating Office of Organizations of the Maya People of Guatemala (COPMAGUA) - a member of Joint Commission on Rights relating to Indigenous Peoples' Land - has drawn up a preliminary draft Agrarian and Environmental Procedural Code and is working on a draft law for land regularization. At the same time, the Presidential Unit for Legal Assistance and Dispute Settlement in Land Matters (CONTIERRA) is working on a proposed law for the compensation of agrarian rights in disputes. Congress has received a draft Land Register Information Law which is the result of a broad process of consultation between the Government, the peasant and indigenous movement and other civil society sectors and which has been endorsed by the Follow-up Commission.

**63.** The creation of the Ministry of the Environment and Natural Resources has been a positive development for institutionality in this sector. The National Forestry Institute (INAB) has increased its forestry incentives and has initiated a programme for the management of municipal forests. The National Council for Protected Areas (CONAP) has won itself first position in the world ranking for its community forest management concessions in Petén. The commitment to draw up land management plans has still not been complied with and the forestry incentives exclude the indigenous communities and small farmers because of their lack of secure land title. At the same time, environmental policy needs the participation of the population in order to ensure sustainability.

**64.** During the reporting period, the Rural Development Bank (BANRURAL) significantly increased its loan portfolio, from 170 million quetzales in 1995 to more than 1 billion quetzales by the end of 2000. The Bank focussed its activities on the departments most affected by the internal armed conflict. Of all loans granted by financial institutions, BANRURAL provided more than 80 per cent in the departments of Huehuetenango, Quiché, Petén and Sololá and more than 60 per cent in Alta Verapaz, Chimaltenango and Baja Verapaz. The Mission welcomes this contribution to rural development, the move toward overcoming regional disparities and the fulfilment of the Peace Agreements and commends the efforts of the Bank's board of directors, which is composed of representatives of both the State and civil society. Despite this constructive achievement, the global financial system which is the source of most credit in Guatemala continues to play no role in the financing of small and medium producers.

## **Modernization of the democratic State**

### **Tax Policy**

**65.** Much progress has been made with tax policy since 1998. The Tax Administration Superintendency was established as a body that is independent of the Ministry of Finance in order to strengthen and modernize the tax system. The signing of the Fiscal Pact for a Future with Peace and Development in May 2000 was significant step toward a comprehensive, long-term tax policy and marked the successful conclusion of one of the most ambitious consensus-building efforts undertaken under the Peace Agreements. Progress in compliance with the Fiscal Pact and the subsequent Political Agreement for Funding Peace, Development and Democracy of June 2000 has been buttressed by the adoption of a major package of legal measures designed to strengthen the State's ability to sanction tax evasion and combat corruption. Despite

this, and despite the increase of Value Added Tax (VAT) from 10 to 12 per cent, the rescheduled target of a tax-to-GDP ratio of 12 per cent in 2002 will not be met. It is expected to less than 10 per cent in 2001, while in 2002 the Government hopes to reach 10.6 per cent and that this will continue to increase as a result of the reforms to the tax code, penal code and penal procedure code.

**66.** A climate of uncertainty in the population has been noted since the first few months of the year, encouraged by press campaigns denouncing embezzlement and corruption by high-level government officials and a financial crisis caused by misuse of resources which affected major banks and required a bail-out by the Government at great cost to public finances. Other factors such as the collapse in international coffee prices and the hard-fought debate on fiscal issues have contributed to the climate. In response, the Government dismissed some of the officials who had been singled out, reinstated the Integrated System of Financial Administration and the General Auditing System (SIAF-SAG), and adopted the Inter-American Convention against Corruption. Furthermore, a Presidential Commission for Transparency in Public Management and to Combat Corruption was created and an undertaking was given to implement the next stage of the Integrated System of Financial Administration and Control B SIAF III. The Congress of the Republic, for its part, created a Commission for Transparency and Rationalization of Public Spending. Despite this progress, important measures still await implementation.

**67.** At mid-year, the Follow-up Commission submitted to the Minister of Finance a list of 12 proposed priority measures for advancing implementation of the Fiscal Pact in all its aspects and a priority public spending proposal for consideration in the preparation of the 2002 Budget that would assure the necessary financing for complying with priority peace commitments and the poverty reduction strategy. The Follow-up Commission's proposed measures refer *inter alia* to the incorporation of the Priority Public Spending Proposal into the 2002 Budget; the publicly-declared willingness to make spending transparent by implementing the SIAF-SAG and the National System of Public Investment (SNIP); legal measures such as revision of the Responsibility and Probity of State Officials Act, adoption of the Civil Service Act and adoption of the Act organizing the Government Accounting Office; the preparation by the Government of the annual report envisaged in the Fiscal Pact on cases of corruption; the preparation by the Tax Administration Superintendency of the annual report envisaged in the Fiscal Pact on tax evasion and tax fraud, and the steps taken to combat these; and the inclusion in the Government Budget and the State's accounting of the amounts forgone by the State in tax privileges, exemptions and exonerations. However, none of these measures has so far been implemented, which weakens credibility as regards the will to make the management of public finances more transparent.

### **Decentralization, social participation and development councils**

**68.** Important opportunities for participation have arisen in connection with the definition of some public policies, such as fiscal policy and policies for the advancement and development of women, educational reform, culture and housing. However, the commitments to create institutional mechanisms for social participation that will help develop public oversight and promote transparency in government decision-making have not been fulfilled.

**69.** The decentralization process has been partially implemented in the institutional and financial strengthening of municipal governments and sectoral decentralization, mainly in the

areas of education, health and agriculture, although each has had a different focus and produced uneven results. In some municipalities, there has been implementation of reinforcement processes which have increased local management capacity. Nonetheless, one of the factors affecting these results is the serious indebtedness and financial difficulties from which most of the municipalities suffer. Another impediment has been the problem of poor coordination and institutional duplication between the various organs of the State as regards both the conception and the implementation of initiatives designed to decentralize and strengthen local institutions.

**70.** The Peace Agreements emphasize the role of the system of urban and rural development councils as an instrument for the formulation of local and departmental development plans and programmes, for social consultation and as a basic participatory mechanism. An entity for coordination between national and international actors was created in 2001 which designed and began to implement a strategy for strengthening the system of councils. The sustainability of these initiatives will depend on the proactive participation of civil society groups in the councils so that their role evolves from merely approving projects to one of defining development policies by consensus from the municipal to the national level. At the same time, such effective civil society participation would encourage greater transparency in management by authorities. To this end, it is essential that Congress should approve the Joint Commission for Reform and Participation's consensus proposals for the reform the Development Councils and Municipal Code Act.

**71.** After a long process of political negotiations, Congress approved in second reading the amendments to the Elections and Political Parties Act. In accordance with the established procedure, the Act is now being studied by the Constitutional Court. The Act is broader than the commitments established in the Peace Agreements and tackles in a comprehensive fashion many aspects of the Guatemalan political system. The amendments concerning voters' documentation, promotion of voter registration, creation of more polling stations and civic education campaigns, inter alia, will require a special technical effort from the Supreme Electoral Tribunal (TSE). The Mission awaits the final approval of the amendments in order to mobilize the necessary support for their implementation.

## **Justice**

**72.** The Peace Agreements promoted a comprehensive process of reform, modernization and strengthening of the justice system, placing particular emphasis on access to justice, inter-institutional coordination, independence of the judiciary, speedier trials and professional excellence of judicial officials such as judges, prosecutors, lawyers, police officials and penitentiary staff. At the same time, the Peace Agreements established the Government's commitment to support and strengthen the judiciary, the Counsel for Human Rights and the Office of the Public Prosecutor, taking into account that any action limiting or restricting their functions related to human rights issues undermines fundamental principles of the Rule of Law.

**73.** The Mission, which from its very earliest reports identified impunity as the main obstacle to the effective enjoyment of human rights, notes with profound concern that it is an entrenched phenomenon. The Mission has also drawn attention repeatedly to some of the factors that contribute to the impunity prevailing in the country, such as the persistent shortcomings in the system of investigation and, in general, in the administration of justice, the continuing failure to

fulfil the obligation to investigate and punish and the unwillingness of many officials to tackle human rights violations and crimes. Emblematic cases, which have had a special impact on both national and international public opinion, such as the Xamán massacre, the murder of Monsignor Gerardi and the murder of Myrna Mack, show a pattern of obstruction to justice and abuse of legal resources with dilatory purposes. From the second half of 2000 and until now, the extent of the prevailing impunity can be seen from the fact that 55 per cent of confirmed violations are attributable to the State's failure to fulfil its legal obligation to investigate and punish.

**74.** The need to achieve effective coordination among the justice system's institutions still persists, but it has registered incipient advances through the functioning of boards and justice centres in the Departments, and the Coordinating Forum for the Modernization of the Justice Sector at a national level. The process of judicial reform has seen an increase of the geographic areas covered by the justice system's institutions. Nonetheless, this is still limited due to a lack of interpreters, the poverty in which most of the rural population lives and the long distances they have to cover to reach the tribunals. In this regard, the creation of courts of the peace to cover all municipalities throughout the country is of particular importance, as well as the new local prosecutor and public defence offices. The increase in the areas covered by the system is not only quantitative, regarding infrastructure and human resources, but it also represents qualitative advances in facilitating access to justice, such as the justice administration centres, located in municipalities where indigenous people are in majority, and other measures such as the appointment of translators and bilingual judges and the establishment of the Commission on Indigenous Affairs within the Supreme Court of Justice.

**75.** The Public Prosecutor's Office continued with the implementation of the programme for the reorganization of district and municipal prosecutor's offices, in an effort to adapt them to the new model of criminal procedures, and created specialized prosecutor's offices, such as the prosecutor's office against corruption. For its part, the Office for Public Defence has created specific offices for the defence of women, children and ethnic groups.

**76.** The adoption of the Career Judicial Service Act, and the functioning of the bodies foreseen by it, the establishment of the Career Judicial Service Council and the Judicial Disciplinary Board, as well as the entry into force of the Civil Service Act and the Code of Judicial Ethics, all represent important advances in the strengthening of judicial independence. At the same time, the creation of a commission for the security of judges at the Supreme Court, the efforts for a better coordination with the National Civil Police (PNC) and the creation of the prosecutor's office against threats to judicial officials, all augur well for an improvement in the security situation of the judicial officials (see para. 22).

**77.** Along with the advances mentioned in the previous paragraphs, there are several aspects regarding the judiciary that still need to see progress. The Mission has reiterated the need for the State to provide itself with a policy against crime, which would strengthen the inter-institutional coordination, specially between the National Civil Police and the Public Prosecutor's Office. Another key aspect is to improve and give continuity to the processes aimed at facilitating access to justice, such as the justice centres, community courts of the peace, popular lawyer's offices and penal and non-penal public defence. Besides, it is necessary to continue providing the justice system with bilingual judges, judicial interpreters and legal glossaries. The implementation of mechanisms of harmonization between State law and customary law is of utmost importance. The consolidation of the institutions established in the Judicial Career Act

and the strengthening of the mechanisms for preventing and punishing attacks against judicial officials are essential to achieve full judicial independence.

**78.** The adoption of a modern Code of Criminal Procedure, which should include principles of swiftness, immediacy and oral dimension in non-penal trials, the comprehensive reform of the Penal Code based on the principles of democratic penal law, which would inter alia criminalize ethnic discrimination and sexual harassment, the adoption of a new legislation on minors in keeping with the Convention on the Rights of the Child and a new Judiciary Act are also outstanding aspects. At the same time, it is necessary to initiate the reform of the prison system, as well as the implementation of modern systems in order to prevent the imprisonment of persons for minor offenses or minor crimes, and to prevent the unnecessary prolongation of preventive detention.

**79.** The role of the Commission for Monitoring and Supporting the Strengthening of the Justice System, a national forum that brings together leading qualified figures from civil society and representatives of justice sector institutions, is crucial in the modernization of the justice sector. It is very important that the Commission be allocated the necessary financial, technical and human resources for the fulfilment of its important and sensitive functions.

Public security

**80.** Commitments in the areas of public security and police reform face the challenges of a society in transition from war to peace. The deployment of the National Civil Police (PNC) was initiated in 1997 and by August 1999 it had reached all Departments in the country. The target envisaged in the Peace Agreements of 20,000 police officers was reached in December 2001. Nonetheless, the situation of insecurity and the limitations of the National Civil Police continue to be invoked to justify maintaining an active role for the Armed Forces in public security tasks. At the same time, the former Defence Minister was appointed Interior Minister, following which he in turn appointed other former military officers to key posts in the Interior Ministry. This represents a setback in the demilitarization of public security and is not conducive to the strengthening of either civilian power or the police, whose performance must be improved so that it can do its job properly.

**81.** The Police Academy has made noticeable advances in the professional training of its members, giving them the opportunity to complete their high school diploma, and providing access to higher education. However, weaknesses can still be observed in the system for publicizing the police entrance examination and in specialized and on-the-job training. The Mission reiterates the need to formulate police doctrine, increase the length of courses, train instructors and new commanders and develop police practices in order to enhance the operational capacities of police officers. All this requires a substantive increase and improvement in its infrastructure and an increase in its teaching staff.

**82.** A significant legislative agenda, which includes the reforms to the Arms and Ammunitions Act, a new Public Order Act and a Private Security Companies Act, is still outstanding. Likewise, the creation and installation of the Advisory Council on Security, which represents a fundamental commitment for the strengthening of civilian power, is still pending. The Council would give priority to social participation in the definition of the State's security agenda and therefore in the formulation of defence, military and public security policies from a wide consensus among different social sectors of the country. The Follow-up Commission has included several of these

themes in the priority peace agenda. They represent pending commitments whose importance has been reiterated constantly by MINUGUA and whose implementation depends basically on the Government's political will.

### **Information and intelligence**

**83.** No progress has been made with a law for the creation of a national intelligence system to regulate State intelligence agencies, nor with a law for the supervision of these agencies. The first was rescheduled for 2001 but, aside from some studies carried out by civil society institutions, no draft law has been proposed. As regards the regulation of access to information, the Strategic Analysis Secretariat proposed a draft law in December 2001 which contains a chapter on the habeas data process. At the same time, the Interior Ministry's Department of Civilian Intelligence and Information Analysis (DICA) has not been created.

**84.** Since the creation of the Strategic Analysis Secretariat (SAE) at the end of 1997, its structure and functioning have gradually evolved. MINUGUA's verification found that, until the end of 1999, the SAE's functioning, structure and composition violated the provisions of the Peace Agreements and that its composition did not respect the civilian nature of the institution as provided for in the Agreements, in that over half its members were military personnel, some of them holding strategic management positions. With the change of government, progress has been made in ensuring that the Secretariat is strictly civilian and in 2001 progress was made regarding its territorial deployment to those Departments with the highest potential for conflict. In late 2001, the *Frente Republicano Guatemalteco* (FRG) introduced a draft law in Congress proposing the SAE's dissolution. The initiative was opposed by the President and, as a result, did not prosper. However, Congress approved a drastically reduced budget for the SAE in 2002 which will oblige it to cut its staff, affecting its structures.

### **Army**

**85.** Compliance with the commitments concerning the Army has been uneven. The Peace Agreements established the bases for improving civilian-military relations and redefining the role of the Armed Forces in society. Progress has been made with such important commitments as its reduction in size and aspects of its restructuring, but the commitments linked to redeployment, the reform of military instruction and the formulation of a new military doctrine are still pending. Although the Voluntary Civil Defence Committees were demobilized, there is concern about their possible reorganization in new forms.

**86.** Reduction of the military budget achieved the proposed partial targets in 1997 and 1998. However, in 1999 military spending represented 0.68 per cent of GDP, more than the ceiling of 0.66 per cent of GDP set by the Peace Agreements. In 2000, military spending as a proportion of GDP increased to 0.83 per cent as a result of extraordinary budgetary transfers from the Executive to the Defence Ministry. The situation was even more worrying in 2001, as the Government continued to effect extraordinary supplementary transfers to the Defence Ministry with the result that the military budget again exceeded the limit set by the Peace Agreements, reaching 0.94 per cent of GDP on 31 December and increasing the allocation originally approved by Congress by 85 per cent. The Army has stated that the transfers received were used for the purchase of military equipment, calling this a State secret. Nonetheless, in this regard the Government has not yet presented to the Mission a policy for the acquisition of military equipment as established in the Peace Agreements.

**87.** As regards the Army' territorial deployment, a significant number of military units have been dismantled, especially in 2000. However, this process of withdrawal of military units is now paralysed. Although the Army is supposedly awaiting the formulation of a new defence and military policy in order to resume the relocation of military units, it could in the meantime dismantle those that were emblematic of the armed conflict in order to give a clear signal of its intention to continue implementation. There has been no progress within the commitments to adopt a new defence policy and a military doctrine, which in turn prevents compliance with other commitments such as a redrafting of the Act Establishing the Army. These delays have also held up the definition of the role of the Army in a democratic society, with the resulting continuation of inappropriate functions such as the activities of the civil affairs units and support for public security forces. Nonetheless, in November 2001, the Government issued Decree 456-2001 convening a discussion of defence policy with civil society.

**88.** The commitment to replace the Presidential General Staff (EMP) has been rescheduled for 2003. At the same time, the civilian body that will take over responsibility for presidential security from the EMP, the Secretariat of Administrative Affairs and Security (SAAS), has been created. The SAAS has already completed the training of two groups of personnel, totalling 134, and is currently training a third batch which will graduate in February 2002. In 2001, the SAAS took charge of the security of the Vice-President and his family, but not the operational command. It is hoped that the gradual transfer of functions and budget will culminate with fulfilment of the commitment to disband the EMP.

### **Legislative agenda**

**89.** Another major challenge for the modernization of the Guatemalan State is the adoption or amendment of a number of laws. The Follow-up Commission is promoting 18 priority laws, whose importance it emphasized in a letter to the President of the Congress of the Republic. These include amendments to the Municipal Code, a Decentralization Act, the Act organizing the Government Accounting Office, amendments to the Elections and Political Parties Act, the Development Councils Act, the law setting up the Commission for Peace and Harmony and amendments to the Penal Code which would make ethnic discrimination illegal, and reform of the Firearms and Munitions Act.

## **Conclusions**

**90.** The overall status of compliance with the peace commitments is uneven. Much has been accomplished, particularly regarding the creation of new institutions issued from the Peace Agreements. But many substantial commitments still need to be fulfilled and the population still does not perceive the benefits of peace, aside from the ending of the armed conflict. In his recent Report on the Work of the Organization (A/56/01), the Secretary-General noted that despite frequent public declarations by senior Government officials reiterating their commitment to the peace process, the implementation of the Agreements continues to face numerous obstacles and pending commitments have been rescheduled until the end of 2004. The Mission expresses, once again, its concern at the fact that the population barely perceives the effects of peace, which compromises the sustainability and the strength of the peace process. The Mission also considers that the sustainability of the process is compromised by the fact that broad sectors of the population still live in conditions of poverty and extreme poverty, particularly

the indigenous peoples, who continue to be victims of high levels of discrimination and exclusion.

**91.** The diagnosis presented in this report reveals a two-fold challenge: the need to consolidate the progress made in the peace process and the need to comply with the many commitments that are still pending. The path to a firm, lasting and irreversible peace in Guatemala is still under construction and it is imperative that it should receive strong support.

**92.** The Mission is seriously concerned about the budget cuts imposed on the priority peace institutions and programmes, especially when it has been established that the Army continues to receive extraordinary budgetary transfers that increase its spending far above the limit set by the Peace Agreements. It is also worrying to see that, five years after the signing of the Peace Agreements, the Government still turns to the Army and former military officers for the management and execution of tasks of a strictly civilian nature, a practice which is all the more serious in the case of the Interior Ministry.

**93.** Other areas deserving special attention by the Guatemalan State include compliance with the pending commitments of the Agreement on the Identity and Rights of the Indigenous Peoples, approval by consensus and implementation of a rural development policy, reform of the laws concerning decentralization of the State, compliance with the recommendations of the Clarification Commission, compliance with the Fiscal Pact in its entirety and with the commitments concerning security matters, beginning with the creation of the National Security Council and the formulation of a defence policy by consensus.

**94.** For the peace process to be sustainable, it is fundamental that there should be many State and civil society institutions that are capable of promoting and supporting implementation of the peace agenda. These institutions need to be strengthened so that they can make a more significant contribution to the process. Special mention should be made of the peace institutions: the Follow-up Commission, the Joint and Specific Commissions and the Departmental Roundtables to Follow up and Support the Peace Process. All these institutions have a key role to play in the follow-up and support to the implementation of the outstanding agenda.

**95.** At the same time, Guatemalan civil society has shown a renewed enthusiasm for the peace process and many expressions of constructive concern have been noted. Several groups of academics, NGOs, indigenous organizations, and cooperative organizations have initiated a process of reflexion and formulation of proposals with a view to advancing in the construction of peace, development and democracy. This is the moment to strengthen these institutions and support coordination and cooperation between all these initiatives.

**96.** In this regard, the international community has a fundamental role to play by confirming its support and coordinating efforts in support of the Guatemalan peace process, which it has accompanied since its gestation. The Consultative Group meeting offers an opportunity for the international community, in dialogue with the State institutions and civil society, to reorganize the plans of action and overall direction of its cooperation in order to consolidate the peace process and give concerted support for national efforts to combat poverty and exclusion, modernize the democratic system and achieve full enjoyment of human rights and the Rule of Law.