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Country/ entity	Guatemala
Region	Americas
Agreement name	Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society
Date	19 Sep 1996
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/ conflict level	Intrastate/intrastate conflict (Guatemala Civil War (1960 - 1996))
Stage	Framework/substantive - partial
Conflict nature	Government
Peace process	Guatemala peace process
Parties	FOR THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA: Gustavo PORRAS CASTEJOÑ Otto PEÑEZ MOLINA, Brigadier-General Raquel ZELAYA ROSALES Morris Eugenio de LEOÑ GIL, Colonel (Infantry) Richard AITKENHEAD CASTILLO FOR THE UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA: Commander Rolando MORAÑ Commander Pablo MONSANTO Commander Gaspar ILOÑ Carlos GONZALES
Third parties	FOR THE UNITED NATIONS: Jean ARNAULT, Moderator
Description	Provided for strengthening of democratic government. Under a reformed Constitution: Civil Patrols would be abolished; various police units restructured and unified to form the National Civil Police; reform of the Penal Code promoted; operations of private security firms regulated; forced conscription ended and role of army limited to external defence.

Agreement document [GT_960919_AgreementStrengtheningCivilianPower.pdf](#)  | [Download PDF](#)

Groups

Children/ youth	No specific mention.
Disabled persons	No specific mention.
Elderly/age	No specific mention.
Migrant workers	No specific mention.
Racial/ ethnic/ national group	<p>Groups→Racial/ethnic/national group→Rhetorical Page 9, IV. EXECUTIVE BRANCH, A. Security agenda 18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.</p> <p>Groups→Racial/ethnic/national group→Substantive Page 9, IV. EXECUTIVE BRANCH, A. Security agenda 20. The Parties believe that an Advisory Council on Security would help the executive branch to implement this concept of integral security. The Council shall be composed of eminent personalities representing the economic, social, professional, academic, ethnic, political and cultural diversity of Guatemala. These personalities shall be selected by the President of the Republic so that the Council can fully carry out its function of studying and presenting broadly consensual strategies in response to the major risks confronting the country and making the necessary recommendations to the President of the Republic.</p>
Religious groups	No specific mention.

Indigenous people	<p>Groups→Indigenous people→Substantive</p> <p>Page 8. Annex, III. SYSTEM OF JUSTICE, Article 16</p> <p>... Access to the justice system</p> <p>...(d) With the participation of indigenous peoples' organizations, follow up on the commitments undertaken under the Agreement on Identity and Rights of Indigenous Peoples concerning how justice is administered among those peoples, with a view to facilitating a simple and direct access to the justice system by major sectors of the country that are currently outside the system or that are at a disadvantage when they appear in court;...</p> <p>Page 18, V. SOCIAL PARTICIPATION, Article 58</p> <p>... (b) In particular, establish local development councils. To accomplish that goal, the various social mechanisms created to improve people's lives shall be treated on a par with the councils; these include institutions serving indigenous communities, improvement committees and other groups which encourage all neighbours to participate in the development of their communities and municipalities and which are recognized and registered by their respective municipal authorities;...</p>
Other groups	No specific mention.
Refugees/ displaced persons	No specific mention.
Social class	No specific mention.

Gender

Women, girls and gender	<p>Page 19, VI. THE ROLE OF WOMEN IN STRENGTHENING CIVILIAN POWER 59. In order to increase opportunities for women to participate in the exercise of civilian power, the Government undertakes to:</p> <p>(a) Set up nationwide public awareness campaigns and educational programmes with a view to increasing public awareness of women’s right to participate actively and decisively, both in rural areas and in the cities, in the process of strengthening civilian power, fully and equally and without any discrimination;</p> <p>(b) Ensure that social and political organizations adopt specific policies to enhance and promote the role of women in the process of strengthening civilian power;</p> <p>(c) Respect, promote, support and institutionalize women’s organizations in rural areas and in the cities;</p> <p>(d) Ensure that at all times in the exercise of power, women, whether organized or not, are provided with and guaranteed opportunities to participate.</p> <p>Page 19, VI. THE ROLE OF WOMEN IN STRENGTHENING CIVILIAN POWER 60. The Parties appreciate the work undertaken at the national level by the various women’s organizations and encourage them to work together to make their contribution to the process of implementing the agreements on a firm and lasting peace, especially those undertakings most directly related to women.</p>
Men and boys	No specific mention.
LGBTI	No specific mention.
Family	No specific mention.

State definition

Nature of state (general)	<p>Page 3, Annex, Untitled Preamble, para 6</p> <p>Together with the agreements already signed, this Agreement seeks to create the conditions for genuine reconciliation among the people of Guatemala, based upon respect for human rights and the diversity of its peoples and on their shared determination to overcome the lack of social, economic and political opportunities, which undermines democratic coexistence and restricts the development of the nation,</p> <p>Page 4, I. THE STATE AND ITS SYSTEM OF GOVERNMENT</p> <p>2. Pursuant to article 141 of the Political Constitution of the Republic, sovereignty is rooted in the people, who delegate its exercise to the legislative, executive and judicial branches. The Parties agree that the enhancement, modernization and reinforcement of the branches of the State require full and complete respect for the principle of their independence, separation and non-subordination to each other.</p> <p>Page 9, IV. EXECUTIVE BRANCH, A. Security agenda</p> <p>18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.</p>
State configuration	No specific mention.
Self determination	No specific mention.
Referendum	No specific mention.
State symbols	No specific mention.
Independence/secession	No specific mention.
Accession/unification	No specific mention.

Border delimitation No specific mention.

Cross-border provision No specific mention.

Governance

Political institutions (new or reformed)

Governance→Political institutions (new or reformed)→General references

Page 4, Annex, I. THE STATE AND ITS SYSTEM OF GOVERNMENT

1. In order to deepen the democratic and participatory process in such a way as to strengthen civilian power, it is of crucial importance to enhance, modernize and reinforce the State and its republican, democratic and representative system of government.

2. Pursuant to article 141 of the Political Constitution of the Republic, sovereignty is rooted in the people, who delegate its exercise to the legislative, executive and judicial branches. The Parties agree that the enhancement, modernization and reinforcement of the branches of the State require full and complete respect for the principle of their independence, separation and non-subordination to each other.

3. At the same time, the three branches must coordinate their efforts to fulfil their responsibilities arising out of the duty of the State to ensure, for all the inhabitants of Guatemala, life, freedom, justice, security, peace and the full development of the individual. Public authority, in the service of the common good, must be exercised by all the institutions of the State in such a way that no person, social sector, military force or political movement can usurp its exercise.

Page 4, Annex, II. THE LEGISLATIVE BRANCH

4. Legislative authority belongs to the Guatemalan Congress, which is composed of deputies elected directly by universal and secret vote. It has a fundamental role to play in the representation of Guatemalan society, since democracy requires a body in which the overall situation of the country is embodied in an institutional form, harmoniously integrating a variety of interests.

Page 4, Annex, II. THE LEGISLATIVE BRANCH

5. For the legitimacy of the legislative body to be strengthened, it must fully discharge the following duties:

- (a) The legislative function, in the interest of the people of Guatemala;
- (b) Public discussion of essential national issues;
- (c) Representation of the people;
- (d) Its responsibilities towards the other branches of the State.

Page 4-5, Annex, II. THE LEGISLATIVE BRANCH

6. The Parties agree that the legislative branch must be enhanced, modernized and reinforced, and that the Presidency of the Congress will be requested to set up a multi-party agency for that purpose. This agency will work in conjunction with those legislative commissions which have been entrusted with responsibilities in connection with the follow-up to the agreements on a firm and lasting peace and the process of modernization and strengthening of the Congress of the Republic. Its agenda, minimal and open-ended, will give priority to the following aspects:

- (a) Revision of the Act on the Rules of Procedure of the Congress, in order to streamline parliamentary work and enable the Guatemalan Congress as a branch of the State to carry out what is required of it by the Political Constitution and by public opinion, and to enhance efficiency in the initiation, discussion and adoption stages of the legislative process;
- (b) Proper utilization of constitutional mechanisms for the supervision of the executive branch, to ensure clarity in government policy, consistency in its

Elections No specific mention.

Electoral
commission No specific mention.

Political
parties
reform No specific mention.

Civil society Page 3, Annex, Untitled Preamble, para 4

... With the active and permanent participation of the people through Guatemalan organizations, political forces and social sectors, this renewal of institutions must embrace all levels, from local authorities to the functioning of State bodies, so that all those who are entrusted with public authority fulfil their commitment to serve social justice, political participation, and the security and full development of the individual,

Page 8. Annex, III. SYSTEM OF JUSTICE, Article 16

... Access to the justice system

(d) With the participation of indigenous peoples' organizations, follow up on the commitments undertaken under the Agreement on Identity and Rights of Indigenous Peoples concerning how justice is administered among those peoples, with a view to facilitating a simple and direct access to the justice system by major sectors of the country that are currently outside the system or that are at a disadvantage when they appear in court;

Page 9. Annex, III. SYSTEM OF JUSTICE, Article 16

... Non-State partners

(i) Promote the active involvement in the legal reform process of those bodies outside the State system of justice which play a decisive role in such reform.

Page 9, IV. EXECUTIVE BRANCH, A. Security agenda

20. The Parties believe that an Advisory Council on Security would help the executive branch to implement this concept of integral security. The Council shall be composed of eminent personalities representing the economic, social, professional, academic, ethnic, political and cultural diversity of Guatemala. These personalities shall be selected by the President of the Republic so that the Council can fully carry out its function of studying and presenting broadly consensual strategies in response to the major risks confronting the country and making the necessary recommendations to the President of the Republic.

Page 18, V. SOCIAL PARTICIPATION

56. The strengthening of civilian power requires that the ability of citizens to participate in society also must be enhanced, by providing increased opportunities for citizen participation and building their capacity to participate.

Page 18, V. SOCIAL PARTICIPATION

57. In particular, social participation at the community level promotes respect for ideological pluralism and non-discrimination on social grounds, facilitates the broad, organized and harmonious participation of citizens in decision-making and enables them to shoulder their responsibilities and commitments in the quest for social justice and democracy.

Page 18, V. SOCIAL PARTICIPATION

58. With a view to facilitating community participation, and pursuant to the agreements already signed, the Government reiterates its commitment to decentralize the civil service in order to mobilize the full power of the State for the benefit of the population and thereby enhance the relationship between

the State and the citizenry. To that end, it is necessary, inter alia, to:

(a) Strengthen municipal governments and ensure that the development

Traditional/religious leaders No specific mention.

Public administration Page 17-18, IV. EXECUTIVE BRANCH, F. Professionalization of civil servants

55. Article 136 of the Constitution stipulates that the right of Guatemalan citizens to seek public office must be guaranteed. However, only individuals with ability, honesty and integrity are eligible to do so. Accordingly, pursuant to the Agreement on Social and Economic Aspects and Agrarian Situation, the Government shall accord priority to the following activities:

- (a) Modernization of government services, including publication of personnel selection and classification procedures for all departments of the executive branch, and review of the staffing table to ensure that employees and officials meet the criteria of honesty and ability;
- (b) Establishment of a career civil service;
- (c) Promotion of the effective implementation of legislation on integrity and accountability;
- (d) Strengthening and modernization of the Comptroller's Office;
- (e) Promotion of criminal sanctions for acts of corruption and misappropriation of public funds.

Constitution Governance→Constitution→Constitutional reform/making

Page 5, Annex, II. THE LEGISLATIVE BRANCH, Article 6

... (d) Legal or constitutional reforms to maintain the number of deputies in the Congress at a constant level;

(e) Reform of article 157 of the Constitution so that deputies cannot serve more than two consecutive terms, so as to avoid disrupting political careers while at the same time ensuring the renewal of political leadership in the Congress;

... (g) Redefinition of the functions of the Congressional Human Rights Commission to allow for a more effective follow-up of the resolutions and recommendations contained in reports produced by the Counsel for Human Rights and other recognized public entities on the situation of human rights in Guatemala.

Page 6-7, Annex, III. SYSTEM OF JUSTICE

Constitutional reforms

12. Promote the reform of the following articles of the Constitution in the Guatemalan Congress:

CHAPTER IV - The judiciary

Section I: General provisions

(a) Article 203: the article should contain an initial reference to guarantees of the administration of justice and, as such, include: free access to the system of justice in the person's own language; respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms;

(b) The summarized contents of article 203 should be included in a separate paragraph;

(c) Articles 207, 208 and 209 should refer to the Act on Careers in the Judiciary and include the following provisions:

- Rights and duties of judges, the dignity of the profession and adequate remuneration;
- System of appointment and promotion of judges based on competitive examinations to promote professional excellence;
- Right and duty to pursue professional legal training and career development;
- Disciplinary system, with pre-established guarantees, procedures, levels of jurisdiction and penalties, and the principle that a judge or magistrate can be investigated and punished only by his peers;

(d) Article 210: the guarantee in the second paragraph should be deleted, since its contents would be covered by the three previous articles. This article should refer only to personnel of the judiciary who are not judges or magistrates.

Page 5, III. System of Justice: reform and modernization of administration of justice, particularly the judicial process,

12. details constitutional reforms regarding the judiciary, and

15. establishes Commission on the strengthening of the justice system

Page 9, IV. EXECUTIVE BRANCH, B. Public security

Constitutional reforms

23. The reform of the Constitution shall establish the functions and main characteristics of the police force as follows:

Power sharing

Political power sharing No specific mention.

Territorial power sharing No specific mention.

Economic power sharing No specific mention.

Military power sharing No specific mention.

Human rights and equality

Human rights/RoL general	<p>Page 9, Annex, IV. EXECUTIVE BRANCH, A. Security agenda</p> <p>18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.</p> <p>Page 9, Annex, IV. EXECUTIVE BRANCH, B. Public security</p> <p>Constitutional reforms</p> <p>23. The reform of the Constitution shall establish the functions and main characteristics of the police force as follows:</p> <p>"The National Civil Police shall be a professional and hierarchical institution. It shall be the only armed police force competent at the national level whose function is to protect and guarantee the exercise of the rights and freedoms of the individual; prevent, investigate and combat crime; and maintain public order and internal security. It shall be under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.</p> <p>Page 14, Annex, IV. EXECUTIVE BRANCH, C. Armed forces</p> <p>Military doctrine</p> <p>38. A new military doctrine shall be formulated in accordance with the reforms envisaged in this Agreement. The doctrine shall encompass respect for the Guatemalan Constitution, human rights, the international instruments ratified by Guatemala in the military field, protection of national sovereignty and independence, the territorial integrity of Guatemala and the spirit of the agreements on a firm and lasting peace.</p>
Bill of rights/similar	No specific mention.
Treaty incorporation	No specific mention.

Civil and political rights

Human rights and equality→Civil and political rights→Equality

Page 3, Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society

With the active and permanent participation of the people through Guatemalan organizations, political forces and social sectors, this renewal of institutions must embrace all levels, from local authorities to the functioning of State bodies, so that all those who are entrusted with public authority fulfil their commitment to serve social justice, political participation, and the security and full development of the individual.

Page 9, A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution building.

Page 18, V. SOCIAL PARTICIPATION

56. The strengthening of civilian power requires that the ability of citizens to participate in society also must be enhanced, by providing increased opportunities for citizen participation and building their capacity to participate.

57. In particular, social participation at the community level promotes respect for ideological pluralism and non-discrimination on social grounds, facilitates the broad, organized and harmonious participation of citizens in decision-making and enables them to shoulder their responsibilities and commitments in the quest for social justice and democracy.

Human rights and equality→Civil and political rights→Fair trial

Page 6, Annex, III. SYSTEM OF JUSTICE

10. A priority in this respect is to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernization of the system as a whole.

Human rights and equality→Civil and political rights→Vote and take part

Page 4, Annex, I. THE STATE AND ITS SYSTEM OF GOVERNMENT

1. In order to deepen the democratic and participatory process in such a way as to strengthen civilian power, it is of crucial importance to enhance, modernize and reinforce the State and its republican, democratic and representative system of government.

Page 18, Annex, V. SOCIAL PARTICIPATION

56. The strengthening of civilian power requires that the ability of citizens to participate in society also must be enhanced, by providing increased opportunities for citizen participation and building their capacity to participate.

57. In particular, social participation at the community level promotes respect for ideological pluralism and non-discrimination on social grounds, facilitates the broad, organized and harmonious participation of citizens in decision

Socio-
economic
rights

No specific mention.

Rights related issues

Citizenship Rights related issues→Citizenship→Citizens, specific rights

Page 3, Untitled Preamble

Whereas:

... It is essential to overcome deficiencies and weaknesses in civil institutions, which are frequently inaccessible to most of the population, and the prevalence of patterns of thought and behaviour that have been detrimental to the rights and freedoms of citizens,

Page 9, IV. EXECUTIVE BRANCH, A. Security agenda

19. Within this context, the security of the citizens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.

Page 10, IV. EXECUTIVE BRANCH, B. Public security

National Civil Police

21. The protection of life and the security of the citizens, the maintenance of public order, the prevention and investigation of crime and the swift and transparent administration of justice cannot be guaranteed without the appropriate structuring of the public security forces. The design of a new model and its implementation are fundamental aspects of the strengthening of civilian power.

Page 15, IV. EXECUTIVE BRANCH, C. Armed forces

Military and community service

43. The practice of voluntary military recruitment shall be continued, until the Government of Guatemala, on the basis of the Comprehensive Agreement on Human Rights, adopts the necessary administrative decisions, and the Guatemalan Congress approves a civil service law, which shall include military service and community service; this law shall entail fulfilment of a duty and a constitutional right, which is neither compulsory nor a violation of human rights, is universal and non-discriminatory, and would reduce the length of service and offer options to citizens.

Page 15, IV. EXECUTIVE BRANCH, D. Presidency of the Republic

Constitutional amendments

45. The Government shall sponsor in the Guatemalan Congress the following amendments to the Guatemalan Political Constitution:

(a) With regard to the functions of the President of the Republic, include the following:

"When the ordinary means for the maintenance of public order and domestic peace are exhausted, the President of the Republic may exceptionally use the armed forces for this purpose. The deployment of the armed forces shall always be temporary, shall be conducted under civilian authority and shall not involve any limitation on the exercise of the constitutional rights of citizens.

Page 16, IV. EXECUTIVE BRANCH, E. Information and intelligence

State intelligence-gathering bodies

48. A Civilian Intelligence and Information Analysis Department to be established under the Ministry of the Interior shall be responsible for obtaining information to combat organized crime and ordinary crime,

Democracy Entire agreement promotes the strengthening of Civilian Power and the Role of the Armed Forces in respect of democratic principles.

Detention No specific mention.
procedures

Media and No specific mention.
communication

Mobility/ No specific mention.
access

Protection
measures

Rights related issues→Protection measures→Protection of civilians

Page 9, IV. EXECUTIVE BRANCH, B. Public security

Constitutional reforms

23. The reform of the Constitution shall establish the functions and main characteristics of the police force as follows:

"The National Civil Police shall be a professional and hierarchical institution. It shall be the only armed police force competent at the national level whose function is to protect and guarantee the exercise of the rights and freedoms of the individual; prevent, investigate and combat crime; and maintain public order and internal security. It shall be under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.

Page 10, IV. EXECUTIVE BRANCH, B. Public security

National Civil Police

21. The protection of life and the security of the citizens, the maintenance of public order, the prevention and investigation of crime and the swift and transparent administration of justice cannot be guaranteed without the appropriate structuring of the public security forces. The design of a new model and its implementation are fundamental aspects of the strengthening of civilian power.

Rights related issues→Protection measures→Protection of groups

Page 18, V. SOCIAL PARTICIPATION

58. With a view to facilitating community participation, and pursuant to the agreements already signed, the Government reiterates its commitment to decentralize the civil service in order to mobilize the full power of the State for the benefit of the population and thereby enhance the relationship between

the State and the citizenry. To that end, it is necessary, inter alia, to:

(c) Pursuant to the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Social and Economic Aspects and Agrarian Situation, create a set of circumstances conducive to the growth of local organizations that are representative of the population. In particular, the Government reiterates the commitment it made in the Agreement on Social and Economic Aspects and Agrarian Situation to enhance social participation with a variety of information and education tools focusing on the protection of human rights, the renewal of the political culture and the peaceful settlement of disputes. It also reaffirms its intention to empower social organizations to participate in social and economic development

Rights related issues→Protection measures→Other

Page 9, IV. EXECUTIVE BRANCH, A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.

Other Page 9, Annex, IV. EXECUTIVE BRANCH, A. Security agenda
19. Within this context, the security of the citizens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.

Rights institutions

NHRI Rights institutions→NHRI→New or fundamentally revised NHRI
Page 5, Annex, II. THE LEGISLATIVE BRANCH, Article 6
... (g) Redefinition of the functions of the Congressional Human Rights Commission to allow for a more effective follow-up of the resolutions and recommendations contained in reports produced by the Counsel for Human Rights and other recognized public entities on the situation of human rights in Guatemala.

Regional or international human rights institutions No specific mention.

Justice sector reform

Criminal justice and emergency law	<p>Justice sector reform→Criminal justice and emergency law→Reform to specific laws</p> <p>Page 7, Annex, III. SYSTEM OF JUSTICE, Article 13 Penal Code</p> <p>(c) Institute a reform of the Penal Code that gives priority to the criminal prosecution of those offences that are most detrimental to society, takes into account the country's cultural differences and customs, fully protects human rights and characterizes threats and coercion of judicial personnel, bribery, graft and corruption as particularly serious offences which are severely punished.</p> <p>Justice sector reform→Criminal justice and emergency law→Criminal Justice System reform</p> <p>Page 7, Annex, III. SYSTEM OF JUSTICE, Article 13 ... Public Defender's Office in criminal matters</p> <p>(b) Establish a Public Defender's Office in criminal matters to provide legal assistance to those who cannot afford to retain their own counsel. It would be functionally autonomous and independent from the three branches of Government, have the same standing as the Public Prosecutor's Office and have effective country-wide coverage;</p>
State of emergency provisions	<p>No specific mention.</p>

Judiciary
and courts

Page 5, Annex, III. SYSTEM OF JUSTICE

8. One of the major structural weaknesses of the Guatemalan State stems from the system of administration of justice, which is one of the key public services. This system and the functioning of judicial proceedings within it suffer from faults and deficiencies. The antiquated legal practices, slow proceedings, absence of modern office management systems and lack of supervision of officials and employees of the judicial branch breed corruption and inefficiency.

Page 6, Annex, III. SYSTEM OF JUSTICE

9. The reform and modernization of the administration of justice should be geared to preventing the judiciary from producing or covering up a system of impunity and corruption. The judicial process is not a simple procedure regulated by codes and ordinary laws but rather an instrument for ensuring the basic right to justice, which is manifested in a guarantee of impartiality, objectivity, universality and equality before the law.

Page 6, Annex, III. SYSTEM OF JUSTICE

10. A priority in this respect is to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernization of the system as a whole.

Page 6, Annex, III. SYSTEM OF JUSTICE

11. In order to address all the foregoing, the Government undertakes to adopt, where it is within its power, and to promote in the Guatemalan Congress, where it is within the latter's competence, the following measures:

Page 6-7, Annex, III. SYSTEM OF JUSTICE

Constitutional reforms

12. Promote the reform of the following articles of the Constitution in the Guatemalan Congress:

CHAPTER IV - The judiciary

Section I: General provisions

(a) Article 203: the article should contain an initial reference to guarantees of the administration of justice and, as such, include: free access to the system of justice in the person's own language; respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms;

(b) The summarized contents of article 203 should be included in a separate paragraph;

(c) Articles 207, 208 and 209 should refer to the Act on Careers in the Judiciary and include the following provisions:

- Rights and duties of judges, the dignity of the profession and adequate remuneration;

- System of appointment and promotion of judges based on competitive examinations to promote professional excellence;

- Right and duty to pursue professional legal training and career development;

- Disciplinary system, with pre-established guarantees, procedures, levels of jurisdiction and penalties, and the principle that a judge or magistrate can be

Prisons and detention No specific mention.

Traditional Laws No specific mention.

Socio-economic reconstruction

Development or socio-economic reconstruction No specific mention.

National economic plan No specific mention.

Natural resources No specific mention.

International funds No specific mention.

Business No specific mention.

Taxation No specific mention.

Banks No specific mention.

Land, property and environment

Land reform/ rights No specific mention.

Pastoralist/
nomadism
rights No specific mention.

Cultural
heritage No specific mention.

Environment No specific mention.

Water or
riparian
rights or
access No specific mention.

Security sector

Security Guarantees Page 1, Identical letters dated 30 September 1996 from the Secretary-General addressed to the President of the General Assembly and to the President of the Security Council

This Agreement contains a comprehensive package of provisions relating to the strengthening of democratic institutions in Guatemala, including Congress, the administration of justice and the executive branch. In the context of ending 35 years of armed conflict, the Agreement emphasizes the need to overhaul the security functions of the State. Specifically, under a reformed Constitution, the police will be restructured, strengthened and consolidated in a new National Civil Police, which will assume responsibility for internal security, and the army will limit its role to external defence and will adjust its doctrine, training, deployment, size and budget accordingly. In accordance with the Framework Agreement, the text of the Agreement will be formally submitted on 2 October 1996 to the Assembly of Civil Society for its endorsement.

Page 3, Untitled Preamble,

Whereas:

... It is vitally important to strengthen civilian power as the expression of the will of the people through the exercise of political rights, reinforce the legislative branch, reform the administration of justice and guarantee public security, all of which are crucial for the enjoyment of civil liberties and rights; and, within a democratic institutional framework, it is incumbent upon the Guatemalan armed forces to discharge the essential task of protecting national sovereignty and territorial integrity,

Page 4, I. THE STATE AND ITS SYSTEM OF GOVERNMENT

3. At the same time, the three branches must coordinate their efforts to fulfil their responsibilities arising out of the duty of the State to ensure, for all the inhabitants of Guatemala, life, freedom, justice, security, peace and the full development of the individual. Public authority, in the service of the common good, must be exercised by all the institutions of the State in such a way that no person, social sector, military force or political movement can usurp its exercise.

Page 9, IV. EXECUTIVE BRANCH, A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution building.

19. Within this context, the security of the citizens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.

20. The Parties believe that an Advisory Council on Security would help the executive branch to implement this concept of integral security. The Council shall be composed of eminent personalities representing the economic,

Ceasefire No specific mention.

Police

Page 9, IV. EXECUTIVE BRANCH, A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.

Page 9, IV. EXECUTIVE BRANCH, B. Public security

National Civil Police

22. Accordingly, the restructuring of the country's existing police forces into a single National Civil Police, which would be responsible for public order and internal security, is necessary and cannot be delayed. This new police force should be professional and under the authority of the Ministry of the Interior. To that end, the Government undertakes to adopt, when it falls within its purview to do so, and to promote to the Congress of the Republic, when it falls within the purview of that body to do so, the following measures:

Page 10, IV. EXECUTIVE BRANCH, B. Public security

Legal reforms

24. This includes submission of a bill on security and the police, which would govern the functioning of the police system in Guatemala in accordance with constitutional reforms and the provisions contained in this Agreement.

Page 11, IV. EXECUTIVE BRANCH, B. Public security

Organization

26. The police shall be organized as follows:

- (a) A single police force shall be established under the authority of the Ministry of the Interior;
- (b) It shall be hierarchically structured with a chain of command and duly established responsibilities;
- (c) The multi-ethnic and multicultural character of Guatemala shall be taken into account in the recruitment, selection, training and deployment of police personnel;
- (d) The necessary specialized departments shall be established to carry out its work, including the control of drug trafficking and smuggling, tax and customs control, arms registry and control, information and criminal investigation, conservation of the cultural heritage and the environment, border security, transit and road safety.

Page 11, IV. EXECUTIVE BRANCH, B. Public security

Police profession

27. The police profession shall be established in accordance with the following criteria:

- (a) All members of the new police force shall receive training at the Police Academy, where they will be given extensive professional preparation and imbued with a culture of peace, respect for human rights and democracy, and compliance with the law;
- (b) Appropriate regulations shall be established to govern recruitment and personnel administration policies. Professional police officers shall be required to provide their services within the institution for a minimum of two

Armed
forces

Page 13, IV. EXECUTIVE BRANCH, C. Armed forces

35. The signing of an agreement on a firm and lasting peace constitutes a fundamental change in relation to the conditions which have prevailed in Guatemala for more than three decades. This change has positive implications for State institutions, and in particular the Guatemalan armed forces. The role of the Guatemalan armed forces is defined as that of defending Guatemala's sovereignty and territorial integrity; they shall have no other functions assigned to them, and their participation in other fields shall be limited to cooperative activities. The measures laid down in this Agreement ensure that the doctrine, means, resources and deployment of the armed forces are in line with their functions and Guatemala's development priorities.

Page 14, IV. EXECUTIVE BRANCH, C. Armed forces

Military doctrine

38. A new military doctrine shall be formulated in accordance with the reforms envisaged in this Agreement. The doctrine shall encompass respect for the Guatemalan Constitution, human rights, the international instruments ratified by Guatemala in the military field, protection of national sovereignty and independence, the territorial integrity of Guatemala and the spirit of the agreements on a firm and lasting peace.

Page 14, IV. EXECUTIVE BRANCH, C. Armed forces

Size and resources

39. The size and resources of the Guatemalan armed forces shall be sufficient to enable them to discharge their function of defending Guatemala's sovereignty and territorial integrity, and shall be commensurate with the country's economic capabilities.

Page 14, IV. EXECUTIVE BRANCH, C. Armed forces

Educational system

40. The necessary amendments shall continue to be made to the corresponding regulations so that the military education system is consistent, in its philosophical framework, with respect for the Guatemalan Constitution and other laws, with a culture of peace and democratic coexistence, with the doctrine defined in this Agreement, and with national values, the integral development of the individual, knowledge of our national history, respect for human rights and the identity and rights of the indigenous peoples, and the primacy of the individual.

Page 14, IV. EXECUTIVE BRANCH, C. Armed forces

Arms and munitions

41. The Government shall adopt the most appropriate policies for the acquisition of combat weapons and equipment in accordance with the new functions of the armed forces. The operation of the munitions factory shall be taken into account so that it can meet the needs of the civilian public security forces.

Page 15, IV. EXECUTIVE BRANCH, C. Armed forces

Restructuring

42. The public educational, financial, health, commercial, assistance and insurance institutions, installations and offices corresponding to the needs and

functions of the Guatemalan armed forces shall operate under the same

DDR

Security sector→DDR→DDR programmes

Page 13, IV. EXECUTIVE BRANCH, B. Public security, Ownership and bearing of arms

33. In accordance with the Comprehensive Agreement on Human Rights, and in order to combat the proliferation of firearms in the hands of individuals and the lack of control of their acquisition and use, the Government of Guatemala undertakes to sponsor amendments to the Arms and Munitions Act so as to:

- (a) Restrict the owning and bearing of weapons by individuals, in accordance with the provisions of article 38 of the Constitution;
- (b) Confer responsibility in the matter to the Ministry of the Interior. The question of the owning and bearing of offensive weapons will be taken up in very exceptional, justified cases, and for that the opinion of the Ministry of Defence will be required.

Page 13, IV. EXECUTIVE BRANCH, B. Public security, Ownership and bearing of arms

34. In accordance with this Act, the Government undertakes to:

- (a) Enforce the system of registration of weapons in circulation and identification of their owners;
- (b) Transfer the registers which are currently deposited in the Arms and Munitions Control Department of the Ministry of Defence to the Ministry of the Interior, with verification by MINUGUA, in a process which will be completed by the end of 1997.

Page 19, VII. OPERATIONAL CONSIDERATIONS RESULTING FROM THE END OF THE ARMED CONFLICT

Voluntary Civil Defence Committees (CVDC)

61. The Government shall ask the Congress of the Republic to repeal the decree creating CVDCs, effective on the day of the signing of the agreement on a firm and lasting peace. Demobilization and disarming of CVDCs shall take place within 30 days from the repeal of the decree. The CVDCs including those already demobilized, shall no longer have any institutional relationship with the armed forces of Guatemala and shall not be restructured in such a way as to restore that relationship.

Page 20, VII. OPERATIONAL CONSIDERATIONS RESULTING FROM THE END OF THE ARMED CONFLICT

Reintegration programmes

65. The Government undertakes to design and implement, after the signing of the agreement on a firm and lasting peace, programmes to promote the productive reintegration of those members of the armed forces who may be demobilized as a result of this Agreement, with the exception of those found guilty of committing a criminal act. These programmes shall end within one year. The Government shall ensure that these plans receive the necessary funding.

Intelligence services Page 16, IV. EXECUTIVE BRANCH, E. Information and intelligence State intelligence-gathering bodies

47. The scope of the activities of the Intelligence Department of the Office of the Chief of Staff for National Defence shall be restricted to the role of the armed forces as defined in the Constitution and in the reforms envisaged in this Agreement. Its structure and resources shall be limited to this scope.

Page 16, IV. EXECUTIVE BRANCH, E. Information and intelligence

48. A Civilian Intelligence and Information Analysis Department to be established under the Ministry of the Interior shall be responsible for obtaining information to combat organized crime and ordinary crime, utilizing the means available and acting within the limits allowable under the legal system, and shall ensure full respect for human rights. Citizens who are subject to restrictions on their civil or political rights may not be employed by the Civilian Intelligence and Information Analysis Department.

Page 16, IV. EXECUTIVE BRANCH, E. Information and intelligence

49. A Strategic Analysis Secretariat reporting directly to the Office of the President of the Republic shall be established to inform and advise the Guatemalan President, with a view to anticipating, preventing and resolving situations posing any type of danger or threat to the democratic State. This body shall be purely civilian in character and may secure access to information available from public sources as well as information collected by the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior and the Intelligence Department of the Office of the Chief of Staff for National Defence. It shall not be empowered to undertake its own covert investigations.

Page 16-17, IV. EXECUTIVE BRANCH, E. Information and intelligence

50. The Strategic Analysis Secretariat, the Intelligence Department of the Office of the Chief of Staff for National Defence and the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior shall scrupulously respect the separation between intelligence and information-gathering functions and the operations to which they give rise. The responsibility for dealing with any threats shall fall to the appropriate executing organs of the Government.

Page 17, IV. EXECUTIVE BRANCH, E. Information and intelligence

51. The Government undertakes to prevent the formation of networks or groups which are incompatible with the duties assigned to the intelligence and analysis offices referred to in paragraphs 47, 48 and 49.

Page 17, IV. EXECUTIVE BRANCH, E. Information and intelligence

52. With a view to preventing any abuse of power and guaranteeing respect for the freedoms and rights of citizens, the Government undertakes to encourage the Guatemalan Congress to adopt the following:

- (a) A law establishing modalities for the supervision of State intelligence bodies by a designated commission of the legislative branch;
- (b) A law regulating access to military or diplomatic information relating to national security, as provided for in article 30 of the Constitution, and containing provisions on classification and declassification procedures and levels.

Parastatal/ rebel and opposition group forces	No specific mention.
Withdrawal of foreign forces	No specific mention.
Corruption	<p>Page 5-6. Annex, III. SYSTEM OF JUSTICE</p> <p>8. One of the major structural weaknesses of the Guatemalan State stems from the system of administration of justice, which is one of the key public services. This system and the functioning of judicial proceedings within it suffer from faults and deficiencies. The antiquated legal practices, slow proceedings, absence of modern office management systems and lack of supervision of officials and employees of the judicial branch breed corruption and inefficiency.</p> <p>Page 9, IV. EXECUTIVE BRANCH, A. Security agenda</p> <p>19. Within this context, the security of the citizens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.</p>
Crime/ organised crime	No specific mention.
Drugs	No specific mention.
Terrorism	No specific mention.

Transitional justice

Transitional justice general	No specific mention.
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Amnesty/
pardon No specific mention.

Courts No specific mention.

Mechanism No specific mention.

Prisoner
release No specific mention.

Vetting No specific mention.

Victims No specific mention.

Missing
persons No specific mention.

Reparations No specific mention.

Reconciliation Page 3, Annex, Untitled Preamble, para 6

Whereas:

... Together with the agreements already signed, this Agreement seeks to create the conditions for genuine reconciliation among the people of Guatemala, based upon respect for human rights and the diversity of its peoples and on their shared determination to overcome the lack of social, economic and political opportunities, which undermines democratic coexistence and restricts the development of the nation,

Implementation

UN
signatory FOR THE UNITED NATIONS:
Jean ARNAULT, Moderator

Other
international
signatory No specific mention.

Referendum for agreement No specific mention.

International mission/force/similar No specific mention.

Enforcement mechanism III.15 Commission to be established to make recommendations on judicial reform, subject to MINUGUA verification; IV.20. establish Advisory Council on Security to assist the exec branch implement a broad concept of integral security; VIII. UNSG requested to ensure that the Agreement is carried out

Page 20, VIII. FINAL PROVISIONS

First. - In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to ensure that this Agreement is carried out.

Related cases No specific mention.

Source UN Peacemaker <http://peacemaker.un.org/guatemala-civilpowerarmy96>
