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***BUILDING THE PEACE: PRELIMINARY LESSONS FROM  
EL SALVADOR***

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When the peace agreement ending 12 years of civil war in El Salvador was signed at Chapultepec Castle in Mexico City in January 1992, it was declared by United Nations Secretary-General Boutros Boutros-Ghali to be "a revolution achieved by negotiations."<sup>[2]</sup> Both the El Salvadoran government and the leftist opposition Farabundo Marti National Liberation Front (FMLN) proclaimed their satisfaction with the peace accords, though for different reasons. The FMLN has emphasized the revolutionary extent of the agreed-upon reforms, while the government has stressed the achievement of peace and the preservation of constitutional order. Relatively few Salvadorans, mainly from the far Right, have spoken out against the accords. In the months after the cease-fire, however, the euphoria was replaced by caution, distrust and anger, as the implementation of the military demobilization and institutional and economic reforms fell further and further behind schedule. The peace accords do provide a blueprint for a more democratic El Salvador. They include plans to reduce and modify the role of the Salvadoran armed forces, to place them under civilian authority and to create a new civilian police force. The accords are not self-executing, however, and the implicit new rules of the game have continued to be defined through political maneuvering and arduous negotiations over implementation. These challenges to the peace process raise the question of whether the accords truly represent a new social pact among Salvadorans, or a superficial consensus imposed upon them by external actors.

It is clear that the United Nations has defined a new role for itself as a result of the organization's efforts in El Salvador. This was the first time that the United Nations attempted to broker the end of an internal conflict; in the process, the international body developed a number of new approaches to peacemaking. The United Nations gradually expanded its role in the negotiations from that of observer, to active

mediator and, ultimately, to verifier of the accords. In 1991, the Security Council established the United Nations Observer Mission in El Salvador (ONUSAL), whose initial -- and unprecedented -- role was to verify agreements with respect to human rights. With the beginning of the cease-fire on 1 February 1992, ONUSAL became a predominantly peacekeeping operation, designed to verify the separation of military forces and supervise the activities of the existing police force. As delays and disputes developed over politically sensitive aspects of the accords, ONUSAL's verification responsibilities expanded further, to mediate the interpretation and implementation of the accords.[3]

The most novel aspect of ONUSAL's role, however, has been to facilitate the consolidation of peace by strengthening domestic structures that will prevent the recurrence of conflict. ONUSAL is the first peacekeeping mission to incorporate this new concept, known as post-conflict peace-building.[4] As defined by the Secretary-General in *An Agenda for Peace*, peace-building efforts may include weapons seizure and destruction, restoration of order, refugee repatriation, training of security personnel, election monitoring, protection of human rights, reform of governmental institutions and promotion of political participation.[5] ONUSAL has -- or will be -- engaged in most of these aspects of peace-building.[6]

In many ways, El Salvador is a best-case scenario for U.N. involvement in post-conflict peace-building. Rarely have previously warring parties agreed to such comprehensive reforms designed to address the root causes of the conflict. Yet both the civil war and its negotiated conclusion were greatly conditioned by external influences. While most observers consider the U.N. role in El Salvador a vital one, there remains a nagging suspicion that its presence actually may in some ways contribute to a longstanding dependence upon international help. The fundamental dilemma remains: How do international actors intervene in societies in a way that will strengthen -- rather than weaken or displace -- national institutions, thus contributing to a lasting peace? As the following discussion of the El Salvador case will demonstrate, the key operational challenge for the United Nations is to reinforce internal mechanisms for conflict resolution and consensus building, while also providing sufficiently active verification to protect the essential structural and institutional reforms called for under the accords.

## **THE U.N. ROLE IN THE PEACE ACCORDS**

U.N. involvement in El Salvador's peace process began modestly, with a representative of then Secretary-General Javier Perez de Cuellar serving as an observer to two rounds of dialogue between the right-wing government of El Salvador and the leftist FMLN guerrillas during 1989. These talks foundered in October 1989, after which the FMLN launched its largest offensive campaign of the war. During the course of the offensive, the government's armed forces murdered six Jesuit priests and two witnesses at the Central American University in San Salvador.

Violent as they were, these events nevertheless created a situation conducive to peace. By early 1990, all parties to the conflict had strong -- albeit disparate -- incentives to reaching a negotiated solution. For one, the FMLN discovered that it lacked the military power to overthrow the government and that a massive popular insurrection was unlikely. Faced with the end of the Cold War, the FMLN revised its ideological focus from that of revolution to the democratic transformation of El Salvador, an end it viewed as achievable through negotiation. Second, the Salvadoran military proved unable to defeat the FMLN decisively, increasing pressure among private sector and civilian political elites for a negotiated solution to the conflict.[7] The military also risked a cut-off of U.S. assistance, as a result of Washington's disdain for the military's involvement in the Jesuit murders and subsequent cover-up. The United States forced the military to the negotiating table, with the understanding that its institutional integrity would not be touched. Finally, the civilian government led by the National Republican Alliance (ARENA), which also represented the most important elements of the private sector, was motivated to negotiate as a result of both U.S. pressure and domestic economic considerations.[8] Many in the private sector, worried about the short-and long-term consequences of a corrupt and overgrown military that considered itself above the law, were eager to strip the military of its power.

In short, one set of actors that was centered around the government-including the ARENA political party, the armed forces and many private sector elites -- came to accept the need for a negotiated settlement mostly out of pragmatic necessity. The

FMLN, however, primarily viewed such a settlement as its last, best hope for achieving fundamental societal and political reforms. A recognition of the diversity of interests and paths taken by the two sides in the negotiations is key to understanding the major difficulties that have arisen in the postaccord period. Shortly after the November 1989 offensive, Perez de Cuellar and his personal representative, Alvaro de Soto, stepped up their consultations with both sides. This process led to the Geneva Accords of April 1990, in which the parties agreed to bring about a definitive end to the armed conflict, reunify the country, promote democratization and guarantee full respect for human rights. They committed themselves to a process of secret negotiations in which the Secretary-General or his representative would play an intermediary role.[9]

A month later, the parties met in Caracas, Venezuela to establish an agenda for the subsequent negotiations. Three stages were envisioned, beginning with political accords sufficient to achieve a cease-fire; followed by negotiations over the reincorporation of FMLN members into civilian life; and concluding with accords for the consolidation of peace. Most importantly, the agenda included language that foresaw a role for the United Nations in the verification of the accords. In the first substantive agreement, reached in San Jose, Costa Rica in July 1990, the parties agreed to a series of minimum standards for the protection of human rights, including an immediate end to night arrests, incommunicado detention and torture. This agreement also envisioned the establishment of a U.N. human rights verification mission -- ONUSAL --that would have broad powers and would demand the cooperation of all parties.[10] This agreement thus paved the way for an important initiative: Rather than waiting for a cease-fire to put the human rights mission in place, the United Nations opened an initial ONUSAL office in San Salvador in January 1991 and began verification operations six months later.[11] In another major step forward, the parties signed an agreement on constitutional reform in April 1991.[12]

The next major breakthrough came in September 1991 in New York, where the parties signed an agreement that essentially altered the logic of the negotiations. The New York Accord rejected the original idea of a static cease-fire of unknown duration and outcome. Instead, it set out a definitive, single-phase cease-fire that

would involve a progressive separation of forces, followed by the gradual but total demobilization of the FMLN. In a secret annex to the agreement, the FMLN agreed to forego all demands to participate in the existing armed forces, accepting instead a guarantee that its personnel would be allowed non-prejudicial access to participation in a new national civilian police force (the PNC). The New York Accord also established the National Commission for the Consolidation of Peace (COPAZ), which would possess strong legal powers to verify all aspects of the implementation of the accords. [13]

A key point of debate was the issue of inclusion of former FMLN combatants in the PNC. The United Nations was able to secure an agreement between the two sides by presenting the issue as a matter of guarantees for the FMLN rather than as a device for power sharing, and by proposing that COPAZ be responsible for overseeing the process of admitting FMLN combatants into the PNC. These agreements gave the government and the FMLN a clear picture of the important features of the final accords, and thus facilitated the rapid completion of the negotiations in December 1991 and the signing of the accords in January 1992.

Together the six sets of agreements address a wide range of issues, including: transfers of land to former combatants and inhabitants of the conflict zones; significant reductions in the size and powers of the armed forces; the creation of a new civilian police force; reduced impunity for the armed forces; and reform of the electoral and judicial systems. The government bears responsibility for implementing a significant number of measures under the accords, while the FMLN was responsible primarily for concentrating and demobilizing its forces, and destroying its weapons. The United Nations helped negotiate a schedule for synchronized implementation of the reforms on both sides.[14]

## **PEACEMAKING AND PEACEKEEPING**

The United Nations' establishment of ONUSAL demonstrates the international community's recognition of the need to focus as much on the implementation of the peace accords as on the negotiations themselves. In a number of ways, ONUSAL has helped to provide a climate of relative security and confidence for both the

Salvadoran government and the FMLN. As a U.N. presence, ONUSAL serves as a channel of communication, provides a disinterested and authoritative interpretation of the accords, proposes solutions when crises develop, requests concessions and commitments from both parties and steps in to verify aspects of the accords that lack sufficient oversight from other mechanisms.

These activities go beyond the specific provisions in the accords, but both sides have readily accepted this incremental extension of ONUSAL'S mandate as a way to prevent a collapse of the process. ONUSAL's verification role expanded in response to necessity: By April 1992, serious delays had arisen in the implementation of key provisions of the accords, and both sides' actions threatened the cease-fire.[15] To prevent a total breakdown, both sides turned to the United Nations to act as mediator.

Initially, U.N. envoy Marrack Goulding secured agreement from both the government and the FMLN to avoid those activities that most threatened the accords. ONUSAL then met with both sides and offered a complete assessment of government and FMLN compliance with the accords, first privately, and later in a public report released on 26 May 1992. This landmark report made it clear that, while both sides were responsible for delays and violations of the accords, the Salvadoran government bore responsibility for the most serious problems. Many observers believe this report publicly embarrassed the government into taking its commitment more seriously, leading to a new set of agreements in mid-June 1992 and increased governmental compliance.[16] The U.N. report on compliance also resulted in an increase of external pressure on the Salvadoran government,[17] and revealed that the United Nations could exert considerable moral authority over the parties with respect to the implementation of the accords.

ONUSAL'S presence in El Salvador prior to the cease-fire also greatly affected the subsequent peace process. First, it had a positive impact on respect for human rights in the country. ONUSAL has the power to deploy its personnel anywhere in the country and to enter any military facility without prior notice. This potential for surprise -- a power possessed neither by the International Committee of the Red Cross nor by the United Nations High Commissioner for Refugees (UNHCR) -- has

been a key element in what ONUSAL officials describe as the "dissuasive" or "preventive" impact of the mission. ONUSAL's large scope and presence, according to one official, "made it difficult for the two sides to intensify the fighting or to walk away from the negotiating table. It was hard to fight in the presence of ONUSAL." [18]

Following the final demobilization of the FMLN on 15 December 1992, the political dynamics of the peace process changed dramatically. Until a new government is installed after elections in March 1994, the responsibility for continued implementation of the accords will rest with the existing national executive and legislative bodies, both of which were elected prior to the peace accords. The disappearance of the FMLN's military apparatus -- a condition of the accords -- significantly weakens its position to insist upon government compliance. Only international pressure can ensure further progress; however, the long-term effects of such pressure remain to be seen.

## **OBSTACLES TO PEACE-BUILDING**

The experience of ONUSAL thus far demonstrates that while the U.N. mission has been quite successful at mediating disputes among the parties and keeping the peace, some aspects of U.N. peace-building remain fraught with pitfalls. Important factors contributing to these problems include: the specificity- or lack thereof -- of agreed-upon reforms; the degree of political will or internal consensus among the parties to implement the reforms; the adequacy or efficiency of verification mechanisms of the United Nations or domestic bodies; the degree of reliance on international actors to resolve national disputes; and finally, the institutional capacity of U.N. agencies to deliver technical and material assistance related to peace-building. It is imperative that the United Nations understand the nature of these challenges facing the ONUSAL mission if it hopes to leave behind a more democratic society and a sustainable peace in E1 Salvador.

### **The Specificity of Reforms**

While several of the immediate crises confronting ONUSAL have revolved around the ill-defined nature of the accords with respect to land tenure, perhaps the most

damaging long-term deficiency of the accords relates to inadequate reform of the judicial system. The U.N. mediators did not provide the same kind of leadership in this area during the negotiations as they did on issues of police and military reform. It was only after several months had passed that ONUSAL concluded that the criminal justice system should be completely overhauled. . . . The flaws in the judicial system, demonstrated by its inability to investigate violent deaths, the selectivity of the criminal justice system and delays in sentencing, cannot be remedied without basic reforms.[19]

The constitutional reforms of the judiciary that were approved in the negotiations did little to remedy these basic problems. While the reforms do call for a more professional and independent selection process for justices, judges and prosecutors, the exact procedures were left unspecified, and considerable political debate has ensued over how to structure the institution that will nominate new judges, the National Council on the Judiciary. It remains uncertain how independent the judicial selection process will be.[20] The reforms leave untouched the extremely hierarchical structure of the courts that enables the Supreme Court to control the jurisdiction, legal decisions and administration of all lower courts. In the past, this concentrated power has been used to block investigations that might harm the interests of leading political parties or the military. The attorney general's office suffers from a similarly vertical structure, which leads to political control over prosecutors' investigations. During the prolonged legislative battle over how to structure the National Council, ARENA pushed through legislation extending the terms of incumbent judges, thus perpetuating ARENA control of the judiciary in a period when critical human rights and land questions might come before the courts.[21]

The ONUSAL Human Rights Division is currently increasing its efforts to guide reforms to the justice system; however, their success will depend largely on the cooperation of the existing judiciary. ONUSAL's oversight of judicial and police authorities has been handicapped from the beginning by a lack of specificity in the accords regarding ONUSAL's powers in this area. Judges have been reluctant to cooperate with ONUSAL observers, at times refusing to show ONUSAL important files on a case. The Supreme Court president has repeatedly expressed his opinion that

the peace accords do not apply to the judiciary, since they were signed only by the executive branch of government and the FMLN.[22] More explicit responsibilities in the accords with respect to verification of the judiciary might have avoided this situation.

### **Political Will**

A second area of concern relates to the challenges of enforcing political will and encouraging consensus building. One important area in which the government has lacked the political determination and unity to uphold its obligations under the accords is in the purging of the military's officer corps. The accords provided for the creation of the Ad Hoc Commission, composed of three prominent Salvadorans, to review the human rights and professional records of military officers and recommend administrative measures to remove officers who might threaten the new democratic political order.[23] Few observers expected the Ad Hoc Commission report to affect the military seriously, as the commission was allotted only a few months to review over 2,000 files. In fact, the commission called for the removal of virtually all the military high command -- an unprecedented phenomenon in Latin America and one that has triggered a strong challenge to the accords by the armed forces.

As the magnitude of the Ad Hoc Commission's recommendations became known, top military commanders began publicly criticizing the report as a leftist plot to decapitate the military.[24] In response to possible divisions within the military and the resulting risk of instability, Salvadoran president Alfredo Cristiani has delayed implementation of some of the Ad Hoc Commission's recommendations, informing Boutros-Ghali that he would keep eight top officers on duty through the end of his presidential term and transfer seven others who were to have been dismissed to military attaché posts abroad.[25] Because of initial equivocation by the FMLN on this issue, Boutros-Ghali has been left alone to pressure Cristiani for full compliance. Less notorious, but potentially more damaging, to the peace process have been the delays and problems in the creation of the PNC. Despite the vital importance of the PNC and the National Academy for Public Security (ANSP) among the range of new institutions created under the accords, ONUSAL has been particularly hampered in its peace-building efforts by a lack of government commitment in this area.[26] The

PNC was scheduled to begin its deployment simultaneously with the final demobilization of the FMLN, providing an additional guarantee for the safety of the FMLN and opening a new era of professional policing and impartial investigation of crimes. Yet the ANSP opened four months late, and in temporary quarters, because the government failed to provide the necessary funding or facilities. This apparent lack of commitment dissuaded international donors from contributing to the Academy until the government proved willing to increase its role.[27] Another problem relates to the control of the Academic Council of the ANSP, which is responsible for admissions to the Academy and oversees curriculum and training. This council was designed to be broadly representative, but in practice has been completely dominated by the director of the Academy.[28] Without oversight, the director has been able to commit clear and serious violations of the accords, including admitting former Army, Treasury Police and National Guard officers. He has also admitted former military officers who do not fulfill the educational requirements for senior command positions.[29]

A third important reform stymied by a lack of political will is the establishment of the Human Rights Ombudsman's office. This office is designed to investigate cases of possible human rights abuse, assist alleged victims, encourage prosecution of violators and provide educational programs to promote awareness of, and respect for, human rights in El Salvador. The Ombudsman's office is intended to take over many of the functions currently carried out by the Human Rights Division of ONUSAL. As with the ANSP, however, a lack of government funding impeded the start of operations and the Ombudsman's office continues to depend upon international assistance. Furthermore, U.N. Human Rights Independent Expert Pedro Nikken commented in a November 1992 report that the investigative activities of the Ombudsman's office to date had been "timid." [30] This failure to play a strong monitoring role risks alienating the population, undermining citizens' confidence in domestic institutions and perpetuating an unsustainable dependence upon ONUSAL's human rights division. As with the judiciary, ONUSAL has attempted to take a more active role in working with and advising the Ombudsman's office, although it is too early to assess the impact of these efforts.

### **The Need for Effective Verification**

Also failing to fulfill its intended purpose is COPAZ, the primary national mechanism created to verify the implementation of the peace accords.[31] The agreement to create COPAZ- an institution in which the FMLN could participate -- served as an important guarantee to the guerrillas that the implementation of the accords would receive the necessary national and governmental attention. Under this arrangement, subcommissions were established to monitor and report to COPAZ on the redistribution of lands to ex-combatants and residents of former conflict zones, the creation of the PNC, preparation of electoral reforms, human rights conditions, freedom of expression and rehabilitative programs for ex-combatants and civilians wounded in the war.

A major weakness of COPAZ is linked to its inclusion of political parties from a wide range of ideological perspectives. COPAZ includes two representatives each from the government and the FMLN, and one each from the political parties or coalitions represented in the Legislative Assembly.[32] The representation within COPAZ was intended to encourage consensus decision making; in practice, however, this arrangement has created a stalemate, as three parties generally vote with the government and three against. This deadlock has tended to generate emotionally charged debates, relatively little consensus building and serious delays. The subcommissions have reached a similar stalemate in their decision making, and have often passed unresolved issues up to the main COPAZ body, and from there on to bilateral negotiations between the government and the FMLN.[33]

Another factor contributing to the poor functioning of COPAZ is that the various minority political parties played only a subsidiary role in the negotiations of the accords, with the important exception being the parties' approval of the constitutional reforms agreed to in April 1991. Political parties, therefore, have a somewhat smaller stake in the particulars of the accords than do the Cristiani administration and the FMLN. Furthermore, the members of COPAZ generally lack the technical expertise to deal effectively with some of the issues they must address. The end result is that COPAZ's role has been only to provide inputs into the process of implementing the accords, rather than to verify final outputs through actual field investigations.[34] COPAZ prepares draft legislation, proposes

candidates for key posts in new institutions and establishes procedures for necessary steps, such as evaluating land tenure. In almost all cases, however, final decisions are either made by the government or worked out in bilateral negotiations between the government and the FMLN, with ONUSAL mediation.

Ultimately, COPAZ has proven incapable of enforcing compliance with the accords when major delays or violations have occurred. One U.N. official pointed out that COPAZ might have functioned better if ONUSAL had been allowed to mediate during COPAZ meetings in the same way it has in direct bilateral discussions between the government and the FMLN, rather than serving only as an observer to COPAZ.[35] For ONUSAL mediation to be effective, however, the government and the FMLN, as well as the political parties, would have had to give their representatives in COPAZ sufficient authority to make compromises. In addition, COPAZ would require greater and more definitive powers relative to the government.

Unfortunately, the shortcomings of COPAZ have meant that most of the responsibility for verifying the implementation of the accords has fallen on ONUSAL. ONUSAL, however, has not always made effective or prompt use of its moral authority and status as an objective interpreter of the accords. For instance, ONUSAL has avoided making public criticisms of the government on human rights matters in a timely fashion, despite its mandate granted by the San Jose Accord.[36] Public censure represents the ultimate form of leverage that ONUSAL can exert in human rights issues, since the mission has no real mechanisms for enforcing its recommendations. Failure to publicize human rights concerns squanders this leverage. Forceful public representations could serve to generate pressure within El Salvador for official accountability and, eventually, for structural changes.

Because of its extensive presence throughout the country, as well as its unprecedented powers of investigation and access to government facilities, the human rights division of ONUSAL has a unique capacity to monitor allegations of human rights abuses within El Salvador. Yet ONUSAL has not actively sought to distinguish between cases in which its own investigations have pointed to state involvement, and cases that it has concluded are examples of common crime.

ONUSAL's silence not only risks contributing to the impunity of state actors, but also fails to clarify Salvadorans' polarized perceptions of the current human rights situation.

These gaps in ONUSAL'S supervision, together with the aforementioned lack of specificity in the accords with respect to the extent of ONUSAL'S powers, have undermined efforts at human rights verification. There are some recent indications that the police and human rights divisions of ONUSAL have begun to take a more proactive approach to verification, including pursuing more vigorous investigations of their own. It is too soon, however, to assess the impact of these developments.

### **Reliance on International Actors**

Through the United Nations, the international community has been called upon throughout the peace process to resolve issues that could not be settled by consensus, or to verify implementation of measures on which a tenuous consensus had been reached. The most visible manifestation of this tendency is the ONUSAL mission itself, which was set up to verify the accords. Such reliance on international actors may have far-reaching implications regarding the success of the United Nations' peace-building efforts in El Salvador and elsewhere.

As noted, the immediate effect of ONUSAL's presence was to prevent or dissuade further human rights violations. Yet the ultimate goal of ONUSAL's presence -- to strengthen national institutions and non-governmental organizations (NGOs), especially their ability to monitor and protect human rights -- should not be confused with its short-term impact. In a society whose citizens harbor a fundamental distrust of governmental authorities, it was important that ONUSAL moved in quickly to establish the confidence of the civilian population. As a result, the victims of violent crime have been much more willing to report their cases to ONUSAL than to the Salvadoran judicial or police authorities. Although ONUSAL does encourage people to raise their cases before the proper domestic authorities, citizens seldom do so, believing such action to be a waste of time or fearing retribution. Even if individuals do turn to the appropriate authorities, the unfortunate likelihood that they will encounter an unresponsive and unreformed judiciary may only increase their distrust of the system.

ONUSAL could make a greater contribution in this area by more actively supervising, advising and, when necessary, publicly criticizing existing national legal institutions. A recent nationwide surprise investigation by ONUSAL into the lack of due process protections for individuals accused of misdemeanors pressured the police into establishing a joint task force with ONUSAL to improve police administrative procedures. This experience may provide a model for more active use by ONUSAL of the threat-but not the use -- of public censure to gain greater influence over the practices of judicial institutions.

The human rights component of ONUSAL also has effectively displaced --albeit unintentionally -- the human rights work previously carried out by NGOs and the Catholic Church. ONUSAL has failed to work with these organizations to redefine their new roles in the post-war period. In addition, ONUSAL has not been sufficiently effective in its role as accuser, a fact realized in mid-1992 when a former ONUSAL employee brought to light several human rights cases that ONUSAL had failed to publicize.

Another striking example of reliance on international actors is the unprecedented Truth Commission, which is staffed by the United Nations. The Truth Commission was established to investigate serious acts and patterns of violence during the war and to present a public report of its findings and recommendations, including possible prosecutions. The government and the FMLN decided that the three members of the commission would be foreigners, named by the U.N. Secretary-General to ensure their objectivity.[37] The commission has had a daunting task, with just six months -- later extended to eight -- to prepare a definitive report on 12 years of political violence in El Salvador. The Truth Commission has accepted information from NGOs, the Salvadoran Armed Forces Human Rights Office and foreign governments, including the United States. It has also accepted direct testimony from thousands of individuals, and is conducting its own investigations into a number of particularly notorious acts of violence.

The fact that the Truth Commission is an international rather than a Salvadoran organization again raises the question of dependence of the process on external

factors. A similar effort at truth-telling -- the Rettig Commission in Chile -- did have an impact on moving some cases forward in the Chilean legal system. That report's credibility, however, was due in part to the fact that its authors and staff were entirely Chilean and represented a broad range of political viewpoints.[38] The task of the Salvadoran commission is even more difficult, however, and its impact will necessarily be different. The purpose of the Truth Commission is to break with El Salvador's tradition of impunity and a non-functioning judicial system, while the Chilean commission sought to recover a well-established judicial tradition.

Under its mandate granted by the accords, the Truth Commission was urged to consider "the need to create trust in the positive changes that drive the peace process and to stimulate the move toward national reconciliation." [39] The Truth Commission's credibility will depend upon the degree to which it can provide a rigorous, truthful account of the more controversial cases; its impact will depend on the conflicting parties' acceptance of the its findings. It remains to be seen whether an international commission can encourage both sides to take responsibility for their past actions, promoting the process of reconciliation by raising the level of mutual trust.

Some evidence brought to light by the Truth Commission will be difficult to dismiss from almost any quarter. For example, forensic anthropologists were allowed to participate on behalf of the Truth Commission- after international pressure- in the exhumation of nearly 1000 civilians killed in the 1981 massacre at El Mozote. The foreign experts' initial findings -- the vast majority of skeletons were young children -- will be difficult to refute, and should help confirm an episode that Salvadoran and U.S. policy makers have long tried to deny.[40]

The Truth Commission is expected to release its report in March 1993. The public response to the findings should be even greater than was the case with the Ad Hoc Commission, given that the Truth Commission's report will be publicly available and extensively documented. The findings should stimulate a vociferous debate about the nature and extent of abuses by both the government and the FMLN. Any recommendations for prosecution in particular cases, however, are likely to be undercut by a future amnesty law.[41]

### **Technical Assistance**

Although ONUSAL quickly became the lead U.N. mission to El Salvador, it has depended upon the main technical assistance agency of the United Nations, the United Nations Development Programme (UNDP), to coordinate the material and technical aspects of institution building. UNDP has had to respond to demands for assistance that it was not designed to handle; UNDP generally works with governments and carries out development programs rather than emergency relief. The formation of new institutions in El Salvador, particularly the new civilian police force, has required that technical assistance programs be carried out in close consultation not only with the government, but also with the FMLN. When contingencies have arisen, such as the urgent need for logistical support for FMLN combatants who had been concentrated in camps during the cease-fire, UNDP was not able to respond as quickly as needed. These experiences suggest that the United Nations should either empower special missions such as ONUSAL to provide the necessary material and technical assistance, or focus attention on how UNDP can respond more quickly and deal more effectively with non-state actors.[42]

### **PROSPECTS FOR THE FUTURE**

In the near future, ONUSAL's presence in the country alone—not to mention the political costs involved—renders any resumption of hostilities in El Salvador virtually impossible. Much remains to be done, however, to ensure full implementation of the peace accords before the March 1994 elections, after which ONUSAL will leave El Salvador. It is likely that international pressures -- including those from the Clinton administration -- will diminish. At the same time, more problems in the implementation of the accords are sure to develop, and lingering questions about the success of peace-building could remain unresolved. In addition, the Truth Commission's report will likely provoke a substantial polemic between the Salvadoran military and its foes. Further agrarian conflicts may also arise, especially if land distribution and legalization of land tenure in the former conflict zones continue at their present slow pace.

More fundamentally, ONUSAL will have to use its remaining time in El Salvador to develop ways to strengthen national institutions, especially the judiciary and the police. At least two scenarios can be imagined. In the first case, current efforts by ONUSAL to work quietly with judges, offering training and technical skills, could help promote real change. Over time, if military prerogatives gradually erode, the independence of the police gradually increases and more criminals are prosecuted, then the average Salvadoran citizen may place his trust in the country's administration of justice. If the judicial system remains corrupt, however, then the positive gains created by a new, more competent police force will be nullified. Clearly, these potential problems are due more to the insufficiency of reforms outlined in the accords than to the actual performance of ONUSAL.

Public confidence in the administration of justice may also weaken should the slightly improved current situation return to the status quo ante after ONUSAL leaves. If this happens, then ONUSAL's presence will have provided only a band-aid effect, prohibiting egregious abuses by the state only as long as ONUSAL remains in the country. If local criminals cannot be caught and punished while ONUSAL is actively investigating cases -- a situation that has frequently occurred since its installation -- what guarantees are there for justice once ONUSAL has left? Alternatively, Salvadorans could grow more accustomed to certain standards of justice over time, fostered by the strong presence and actions of ONUSAL. When ONUSAL is gone, significant acts of political violence and governmental abuses would generate citizen outrage and pressures for the system to respond. A lack of governmental response could, in turn, highlight the need for further systemic reforms. This scenario would imply that a new political culture had indeed taken root as a result of the U.N. intervention in the peace process.

The delays and dilemmas of peace-building in postwar El Salvador point to the need for a better developed consensus on reforms. Verification by ONUSAL stimulated a process whereby electoral, military and judicial legislative proposals were eventually brought into closer conformity with the peace accords, although the reforms still fell short of the accords' original intent. It is quite possible that this dynamic, in which a legislative majority understands that compromise is better in the long run than imposing one's political agenda on the minority, will continue after ONUSAL has left.

Nonetheless, the outcome of the March 1994 presidential, assembly and municipal elections will be crucial to the ultimate success of the peace accords. These elections will be the first in which the FMLN will participate as a formal political party, and as such will be the first test of the real strength of the various political forces in El Salvador. Should a more cohesive, better organized Salvadoran Left emerge in the electoral arena, the pre-electoral period would also test the depth of commitment of the Salvadoran Right -- now dominated by ARENA -- to the new rules of the game. Experience suggests little optimism that a clear victory by the Right in 1994 will augur a continuation of democratizing reforms. If a broad center-left coalition were to win control of the Legislative Assembly, however, a rollback of the reforms by an ARENA president would be impossible.

## **LESSONS FOR THE UNITED NATIONS**

This case has focused debate on how active a role the United Nations can or should play in constructing durable solutions to internal conflicts. Other than a few critics from the Salvadoran extreme Right, few would deny the merits of the United Nations' decision to become heavily involved in building the peace in El Salvador. U.N. mediation during the peacemaking phase, along with the promise of U.N. verification of the accords, helped to end 12 years of fratricidal war. Early U.N. deployment of human rights monitors helped to create a climate more conducive to a negotiated end to the conflict, and contributed to a reduced incidence of violence against civilians. Ongoing U.N. mediation and verification efforts also helped to avoid crises during implementation. As of this writing, El Salvador stands out for its successful completion of a more than year-long cease-fire, which concluded with the full demobilization of the FMLN guerrilla army in December 1992. Although considerable uncertainty remains regarding the outcome of the structural reforms, successful implementation of these measures would convert El Salvador into one of the most democratic and advanced countries in Latin America.

Some observers have extended Boutros-Ghali's concept of peace-building to proposals for various forms of U.N. conservatorship over states that have failed to maintain legitimate governance over their territories.[43] The first lesson for the United Nations to take from its experience in El Salvador is that it must approach

any such effort with great caution about the hazards and limitations involved. Although in many ways El Salvador presents an unusually promising setting for U.N.-assisted peace-building, attempts at major institutional changes in the country have been repeatedly frustrated. Ultimately, the ability of the United Nations to promote lasting institutional changes is limited by the fact that it cannot replace national institutions.

The United Nations faces a critical dilemma. The more involved it becomes in crafting new institutions and solving internal problems, the greater the risk that it will encourage dependency on external governance rather than promote indigenous solutions to conflicts. Extensive U.N. involvement may even be counterproductive. In a peace-building context, the experience of El Salvador shows that the United Nations must depend upon the political will of the incumbent government to carry out reforms. U.N. leverage over a recalcitrant government may ironically depend on the United Nations' ability to issue a credible threat to withdraw its peace-building support in the event of non-compliance. Just as the United States found it problematic to admit failure and abandon its multi-billion dollar investment in El Salvador, the United Nations may be less inclined to exercise this leverage as it commits more time and resources to a given situation.

Second, the Salvadoran case reinforces the need for the United Nations to develop a body of experts experienced in peace-building efforts. Continuity of personnel is especially critical, given the complexities and differences of each conflict situation. As the United Nations becomes involved in similar peace-building missions elsewhere, the expertise and experience gained in El Salvador should be evaluated to consider their utility in other contexts.[44]

Personnel continuity would also facilitate the verification responsibilities of a U.N. mission such as ONUSAL. With one exception, those ONUSAL personnel principally responsible for monitoring compliance of the political accords had not been involved in the negotiations. Lacking this insight, they were not always able to provide an immediate interpretation of disputed points in the accords, forced to wait instead for clarification from U.N. headquarters. In future U.N. efforts, it would be helpful to plan for some continuity of senior personnel from the initial peacemaking phase

through subsequent peacekeeping and peace-building efforts. Similarly, it is clear in hindsight that the early creation and staffing of a political division within ONUSAL to monitor and mediate the various issues that fell outside the realm of the human rights, police and military divisions would have greatly facilitated ONUSAL's verification efforts.

Third, the experience in El Salvador demonstrates that post-conflict situations may require the United Nations to break out of traditional paradigms and consider more creative and flexible responses. While it may not be standard practice for a U.N. agency to engage in regular public criticism of a host government's activities -- its human rights performance, for example -- this action is needed if verification is to have real impact. There is an understandable fear that outspoken criticism by the United Nations of one party to a conflict might damage the United Nations' ability to appear as an objective, neutral mediator. In situations in which the United Nations is called upon to act simultaneously as mediator and verifier in a post-conflict situation, however, it should explore the possibility of making different sections of a mission accountable to distinct U.N. bodies, thereby deflecting criticism of the U.N. effort as a whole. While the actions of one section will admittedly affect the public perception of another, efforts could be made to publicize the separation between these roles.

Finally, the Salvadoran case clearly illustrates the importance of a powerful U.N. verification role in any peace settlement that involves significant redistribution of resources or institutional reforms. U.N. peacemakers should attempt to anticipate the various elements of a peace agreement that will require verification and insist on a specifically defined mandate for U.N. oversight. This mandate should clearly spell out the responsibilities of the parties to the verifying agencies and the roles of the verification personnel. The ONUSAL experience demonstrates, however, that it is difficult to anticipate all the areas in which disagreements may arise. Therefore, a U.N. verification role should be defined with sufficient breadth and flexibility to authorize evaluation of conduct in areas of dispute not originally foreseen.

A basic dilemma for the United Nations in promoting peace in El Salvador was that to achieve a peace agreement in the first place, it was necessary to sidestep many

difficult issued and leave important details unresolved. Yet it has been these details--especially those related to land redistribution, institutional reforms and procedures for verifying the accords -- that have most undercut the ability of the United Nations to promote national consensus and lasting changes. This trade-off was unavoidable in the Salvadoran case and inevitably will recur in other settings. Perhaps the most important lesson from El Salvador is that peace-making and peace-building phases are ultimately linked: U.N. peacemakers must always bear in mind that, despite the many pressures of the initial peacemaking phases, issues left unresolved at the outset may later require aggressive, high-profile actions by U.N. peace-builders. Such measures may put the United Nations increasingly in conflict with one or more parties to an agreement.

1. Research by William Stanley for this article was made possible by a grant from the United States Institute of Peace. The authors alone share responsibility for the content of the article.
2. Speech by U.N. Secretary-General Boutros Boutros-Ghali, "La Larga Noche Ha Llegado a Su Fin," (Mexico City: 16 January 1992) included in the collection *Acuerdos Hacia Una Nueva Nacion* (San Salvador: FMLN, April 1992) p. 151. Translation by the authors. The agreements signed at Chapultepec were the last of six sets of agreements, made over the course of almost two years. The Geneva and Caracas Accords of April and May 1990, respectively, set out procedural matters. The first substantive accord was the San Jose Accord on Human Rights, signed in July of 1990. This was followed by the Mexico Accords of April 1991, which laid out a series of constitutional reforms that were subsequently passed by the Legislative Assembly. The New York Accord of September 1991 provided for the National Commission for the Consolidation of Peace (COPAZ) and set out a series of basic understandings subsequently elaborated in the final Chapultepec Accord. The term "accords" henceforth refers to the cumulative content of all six sets of agreements.
3. It should be noted that the U.N. Security Council demonstrated considerable foresight in providing ONUSAL with a sweeping mandate "to monitor all agreements concluded between the two parties." See Security Council Resolution 693 (1991) operative paragraph 2. This allowed ONUSAL to adjust

its role as necessary, without having to repeatedly renegotiate its mandate with U.N. headquarters.

4. Boutros-Ghali defines post-conflict peace-building as "action to identify and support structures that will tend to strengthen and solidify peace in order to avoid a relapse into conflict." He also asserts that both peacemaking and peacekeeping operations must include such activities in order to be truly successful. Boutros Boutros-Ghali, *An Agenda for Peace* (New York: United Nations, 1992) pp. 11 and 32.
5. *ibid.*, p. 32.
6. The U.N. High Commissioner for Refugees (UNHCR) was engaged in peace-building long before the accords were reached, through assistance to refugees and the internally displaced.
7. For a good analysis of the post-offensive political situation, see Tom Gibb and Frank Smyth, *El Salvador: Is Peace Possible*. (Washington, DC: Washington Office on Latin America, April 1990).
8. The ARENA party controls the executive and, effectively, the legislature and judiciary. Both the 1989 presidential and 1991 Legislative Assembly elections were held under conditions of violence and intimidation, in which significant elements of the political left, particularly in rural areas, did not participate. Nonetheless, the March 1991 elections did provide small leftist parties with some representation in the Assembly, leaving ARENA with less than a majority, although it generally controls the legislature by means of a coalition with two smaller right-wing parties.
9. "Acuerdos de Ginebra," *Acuerdos de El Salvador: En El Camino de la Paz* (New York: United Nations, 1992) pp. 1-3.
10. The accord stated: "The purpose of the Mission shall be to investigate the human rights situation in E1 Salvador as regards acts committed or situations existing from the date of its establishment and to take any steps it deems appropriate to promote and defend such rights" (emphasis added). Official translation of paragraph 13 of the San Jose Accord from the United Nations, Report of the Director of the Human Rights Division, U.N. Doc. A/46/955; S/24375 (New York: United Nations, 12 August 1992). The parties were obligated under the accords to provide any information

requested by ONUSAL, and to give early consideration to its recommendations.

11. United Nations, First Report of the United Nations Observer Mission in El Salvador, U.N. Doc. A/45/1055; S/213037 (New York: United Nations, 16 September 1991) pp. 2-4.
12. Constitutional amendments in El Salvador require the approval of two consecutive assemblies. Quick passage of these measures made it possible for constitutional reforms to be in place prior to a cease-fire.
13. COPAZ was to be made up of two representatives each from the Salvadoran government and the FMLN, plus representatives from each of the political parties in the Legislative Assembly.
14. Boutros-Ghali has described the calendar of implementation as "an intricately designed and carefully negotiated mechanism whose purpose is to synchronize (a) the reintegration of the FMLN's ex-combatants into civilian life and (b) the measures that the Government has committed itself to take in order to facilitate that process." See United Nations, Report of the Secretary-General to the Security Council, U.N. Doc. S/23999 (New York: United Nations, 26 May 1992) paragraph 55.
15. The most serious issues had to do with land: FMLN supporters had occupied some lands after the cease-fire and government forces had forcibly evicted some of them, threatening the cease-fire. Neither side concentrated their forces on time. See United Nations, Report of the Secretary-General on the United Nations Observer Mission in El Salvador, U.N. Doc. S/23999 (New York: United Nations, 26 May 1992) pp. 2-3, 8-9.
16. Among the points agreed to were the demobilization of the first 20 percent of the FMLN's forces on 31 June 1992, which was delayed by two months; a commitment by President Cristiani to derogate legislation previously passed by the ARENA-dominated Assembly, which had violated the accords in keeping the Treasury Police and National Guard legally intact; and an agreement by the government that no ex-National Guard or Treasury Police would try to enter the PNC. Interview with ONUSAL official, San Salvador, 17 June 1992. This and all subsequent interviews cited in this article were conducted by one or both of the authors.

17. ONUSAL's report gave legitimacy to U.S. congressional concerns: For example, it permitted the chairman of the House Foreign Operations Subcommittee to place a hold on aid to El Salvador in June 1991 until the government showed greater compliance. "Lawmaker Holding Up U.S. Aid to El Salvador," *Miami Herald*, 5 June 1992, p. 12A.
18. Interview with ONUSAL official, San Salvador, 29 May 1992.
19. United Nations, ONUSAL, Fourth Report of the Director of the Human Rights Division, U.N. Docs. A/46/935; S/24006 (New York: United Nations, 5 June 1992) pp. 14-15.
20. Supreme Court justices and members of the National Council on the Judiciary will be elected by a two-thirds vote of the Legislative Assembly. The debate regarding the National Council centered on the extent to which the Supreme Court or its entities would be represented on the Council. A critique of the reforms and their implementation can be found in the November 1992 report of U.N. Human Rights Independent Expert Pedro Nikken, a prominent Venezuelan jurist. See Pedro Nikken, *Situación de los Derechos Humanos en El Salvador*, U.N. Doc. A/47/596 (New York: United Nations, 13 November 1992) paragraphs 148-78.
21. Margaret Popkin, "The Judicial System After the Peace Accords," draft report (San Salvador: October 1992) pp. 1-17.
22. See Americas Watch, *El Salvador: Peace and Human Rights: Successes and Shortcomings of the United Nations Observer Mission in El Salvador* (ONUSAL), 4, no. 8 (2 September 1992) p. 10. Cynthia Amson and were co-authors of that report.
23. The members of the Ad Hoc Commission are Abraham Rodriguez, a respected businessman and close adviser to former President Jose Napoleon Duarte; Eduardo Molina, one of the founders of the Christian Democratic Party; and Reynaldo Galindo Pohl, an elder statesman who has served in numerous international posts in recent decades. The ultra-conservative *El Salvador News Gazette* reported in June 1992: "It was feared that the Ad Hoc Commission would be made up of persons antagonistic to the armed forces and that an impartial and objective evaluation would be impossible. The acceptance of this clause of the sanitization of the armed forces was considered a serious concession by the government to the FMLN. When the

- names of the members of the Commission were announced. . .all said fears vanished." Mario Rosenthal, "Sanitizing the Armed Forces," *El Salvador News-Gazette*, 18-24 May 1992, p. 1.
24. Interviews with Salvadoran and U.S. military officers, San Salvador, 24-25 September and 6 and 19 October 1992.
  25. See letter of the Secretary-General to the President of the U.N. Security Council, 7 January 1993, U.N. Doc. S/25078 (New York: United Nations, January 1993).
  26. The estimation of the PNC as the most significant, "transcendental" institution created by the accords is shared by Escobar Galindo, a key member of the government's team during the negotiations. Television interview transcribed in *Insistem*, San Salvador, 15 June 1992.
  27. The Salvadoran government was also slow in preparing a budget and operational plans for the first two years of operation of the PNC itself. This has delayed international support for establishing the new force. So far, only the United States has committed funds, amounting to \$6 million of an anticipated \$137 million budget for the first two years. Interview with United Nations official, San Salvador, 18 November 1992.
  28. Unlike COPAZ, in which there is a deadlock, the ANSP Director is permitted to vote in the Academic Council, making a 5-4 majority for the government. Furthermore, due to a political miscalculation on its part, the FMLN is not directly represented on the Council. Its proxy, who heads a small political party, does not attend regularly and his replacement cannot vote. In addition, the Academy Director has consistently ignored communications from the COPAZ subcommission on the PNC and, according to members of the Academic Council, has repeatedly made misrepresentations in apparent efforts to prevent them from challenging his decisions. Interviews with members of COPAZ subcommission on the PNC and ANSP Academic Council, San Salvador, 10 and 18 September, 23 October and 16 November 1992.
  29. Additionally, the Academy Director had not allowed a representative of ONUSAL to attend meetings of the Academic Council, a problem that, in the view of ONUSAL officials, has contributed to the ease with which the Academy has violated the accords. Recently, an agreement has been reached for ONUSAL officials to attend all Council meetings.

30. Nikken, pp. 33-4.
31. Nikken said of COPAZ that its "functioning has been slow; its organization, deficient; and its management, of less utility than that foreseen, since it has not even complied with the elaboration of various draft bills for which it is responsible." See *ibid.*, paragraph 29. Translation by the authors.
32. The parties supportive of the government in COPAZ include ARENA, the National Conciliation Party (PCN) and the Authentic Christian Movement (MAC). Those forming the opposition include the Democratic Convergence (DC), the Christian Democratic Party (PDC) and the National Democratic Union (UDN). The makeup of COPAZ subcommissions generally parallels that of COPAZ, although the government and FMLN have only one representative each on some subcommissions and neither is represented on the subcommission on electoral matters.
33. Interview with member of COPAZ subcommission on electoral reforms, San Salvador, 9 September 1992. A fundamental problem with COPAZ is that its members are subject to the political discipline of their organizations or parties, yet do not have sufficient authority to negotiate, adjust their positions and work constructively towards consensus. It appears that more consensus building and compromise has taken place within the bilateral government-FMLN negotiations than in COPAZ.
34. Interview with opposition legislator, San Salvador, 9 September 1992.
35. Interview with ONUSAL official, San Salvador, 10 October 1992.
36. Observations of the human rights verification role of ONUSAL are taken in part from *Americas Watch* (2 September 1992); see note 22.
37. The Truth Commission members are Belisario Betancur, former president of Colombia; Reinaldo Figueredo, former foreign minister of Venezuela; and Thomas Buergenthal, professor of law and honorary president of the Inter-American Institute for Human Rights in Costa Rica. Betancur is the president of the Truth Commission.
38. This observation was made to one of the authors by Margaret Crahan of Occidental College in June 1992. Also see *Americas Watch*, Human Rights and the "Politics of Agreements:" Chile During President Aylwin's First Year (New York: Americas Watch, July 1991) pp. 17-35.

39. "Acuerdos de Mexico," in *Acuerdos de El Salvador: En El Camino de la Paz* (New York: United Nations, June 1992) p. 31.
40. For background on the El Mozote case, see Americas Watch, "El Salvador: The Massacre at El Mozote: The Need to Remember," (New York: Americas Watch, 4 March 1992).
41. One amnesty law, the Law of National Reconciliation, was approved on 23 January 1992 by the Legislative Assembly, but exempted those cases that might be taken up by the Truth Commission as well as cases tried by a jury (such as the case of the murder of the Jesuit priests). That law also provided for another possible amnesty after the Truth Commission presents its report.
42. The authors are indebted to Peter Soilis, a development expert and consultant to the Washington Office on Latin America, for the observations in this section.
43. See, for example, Gerald B. Helman and Steven R. Ratner, "Saving Failed States," *Foreign Policy*, 89 (Winter 1992-93) pp. 3-20.
44. Many of the human rights, legal and political observers had no real experience to prepare them for the demands of ONUSAL.

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