

Advocacy Report (June 2008)

‘Thinking in Guatemala is Dangerous’¹: Evaluating Indigenous People’s Rights to Education in Post-Conflict Guatemala

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INTRODUCTION

In 1996, Guatemala emerged from a devastating 36-year internal armed conflict that left over 200,000 dead and an estimated 40,000 disappeared.³ According to the Commission for Historical Clarification (CEH), the UN-sponsored truth commission, Guatemala’s indigenous Mayan population bore the brunt of the violence. Though indigenous people represent roughly 41% of the population according to official statistics⁴, the CEH report determined that 83% of the war’s victims were Mayans.⁵ This alarming disparity led the commission to determine that the military’s persecution of indigenous people during the conflict constituted “acts of genocide”⁶ that shocked “the moral conscience of the civilized world”.⁷ In its report, the Commission viewed this violence as the product of an historic legacy of racism stretching back to the Spanish conquest of the country. According to the commission:

Racism, whether conscious or not, is a very important factor in explaining many of the disproportionate acts of violence that were committed throughout the history of Guatemala and the armed conflict. Within this racist mentality, any mobilization of indigenous people brings to mind the atavistic image of an

¹ The title comes from a quote by Carlos Alarcón Novoa, Coordinator of the Area of Peace Culture for the Office of Human Rights of the Guatemalan Archbishopric (ODHA). Interviewed August 6, 2007.

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³ Comisión para el Esclarecimiento Histórico (CEH). *Guatemala, Memoria Del Silencio*. Guatemala City: Oficina de Servicios para Proyectos de las Naciones Unidas, 1999, vol. 1, p. 73

⁴ Interview with Celso Chaclán, Vice Minister for Bilingual/Intercultural Education, Ministry of Education. August 3, 2007.

⁵ CEH 1999, vol. 3, p. 184

⁶ *Ibid*, vol. 5, p. 51

⁷ *Ibid*, vol. 5, p. 43

uprising. In this sense, it can be understood that racism also was present in the bloodiest moments of the armed conflict, when indigenous people were punished as if they were an enemy to vanquish.⁸

The Peace Accords that put an end to the conflict attempted to redress the historically discriminatory posture of the State toward Mayan people by officially recognizing the multiethnic, multilingual, and multicultural nature of the country and obligating the signatories of the accords to respect the rights of Guatemala's indigenous citizens. The Accord on the Identity and Rights of Indigenous People (AIDPI), which the Guatemalan government and the opposition forces (the Guatemalan National Revolutionary Unity) signed on March 31, 1995, provided the basis for this new social and political paradigm.⁹ Along with Convention No. 169 of the International Labor Organization, which the Guatemalan government signed and ratified the following year, the AIDPI attempted to establish a platform for the economic, political, social and cultural development of indigenous people in order to improve their position vis-à-vis the Guatemalan State and ameliorate the oppressive treatment they had long endured within Guatemalan society.

Among the many commitments the Guatemalan government assumed in the AIDPI, a comprehensive reform of the educational system emerged as one of the central pillars in the preservation, promotion, and development of indigenous cultural identity. As Heimberger notes, the AIDPI represented "the first time that the Guatemalan government . . . committed in broad terms, including financial, to expand language policies and

⁸ CEH 1999, Vol. 1, p. 93

⁹ Minugua (U.N. Verification Mission in Guatemala). *9th and Final Report on Fulfillment of the Peace Accords in Guatemala*. United Nations, August 30, 2004, available at <http://tula.ca/health%20and%20equity/UN/MINUGUA.htm>

planning in bilingual education across the country”.¹⁰ According to Heimberger, this commitment merits recognition as a significant advancement in the enactment of law and policymaking, creating at least the official possibility that the Guatemalan government will actualize indigenous educational rights; however, she warns that “it still remains to be seen in published research how deeply and broadly the[se] policies and commitments have been put into effect”.¹¹

The following report attempts to answer this question by evaluating the implementation of the educational reform process more than twelve years after the Guatemalan government and the guerrilla forces agreed to the terms of the AIDPI. What follows, therefore, is a critical analysis comparing the obligations of the Guatemalan government—principally expressed in, but not limited to, the AIDPI and Convention No. 169—with the actual situation on the ground. The first section of the report outlines the specific components of the educational reform contained in the AIDPI, addresses questions surrounding the legal validity of the Peace Accords, and demonstrates how Convention No. 169 and the Guatemalan Constitution complement and reinforce the government’s commitment to reform the educational system. Using this information as a reference point, the second section contrasts these commitments with the conditions that actually prevail within schools in indigenous communities across the country. Finally, the report concludes with recommendations for how the rule of law—either domestic, international, or both—can be used to mitigate the glaring disparity between the government’s legal commitments and their lack of implementation.

¹⁰ Heimberger, Janet L. "Language and Ethnicity: Multiple Literacies in Context, Language Education in Guatemala." *Bilingual Research Journal* 30, no. 1 (2006), p. 81, available at http://brj.asu.edu/vol30_no1/art4.pdf

¹¹ Heimberger 2006, p. 81

In order to compile data for the present investigation, the author conducted more than 60 semi-structured interviews with Mayan educational activists, human rights advocates, members of the international donor community, officials from the Ministry of Education, members of Congress, and local teachers and administrators during a month-long field study (July 25 to August 25, 2007) in Guatemala.¹² The conclusions that follow emanate from the appreciable consensus that emerged from those interviews about the lack of progress on the educational reform initiative. Whether in the capital city or out in the countryside, the reports were essentially the same: of a duplicitous government willing to enact laws and create agencies to implement the AIDPI's educational initiatives but unwilling to provide those same agencies with the necessary funding and authority to carry out their mission. Consequently, the systemic problems that the educational reform was meant to address have remained uncorrected, perpetuating a discriminatory educational system that prioritizes the values, culture, and language of the politically dominant, non-indigenous *ladino* population to the exclusion of the country's 22 ethno-linguistic indigenous communities.

I. LEGAL COMMITMENTS OF THE GUATEMALAN GOVERNMENT

The Accord on the Identity and Rights of Indigenous People

Under the rubric of educational reform, the Accord on the Identity and Rights of Indigenous People stipulates a complete reorganization of the Guatemalan educational system in order to better reflect the multicultural/multilingual nature of the country and attend to the long neglected educational needs of Guatemala's indigenous population.

¹² See Appendix for summary of interviews.

The AIDPI specifically recognizes the Guatemalan educational system as “one of the most important vehicles for the transmission and development of cultural values and knowledge”¹³; as such, the AIDPI mandates that the educational system should strengthen indigenous cultural identity and values while incorporating Mayan educational concepts into the national curriculum. In order to achieve these objectives, the AIDPI identifies ten different characteristics that the reformed educational system must possess. Each one of the enumerated characteristics is expressed as a commitment of the government to¹⁴:

- 1) decentralize the Ministry of Education so that it more readily adapts to the specific educational and linguistic needs of indigenous communities;
- 2) grant indigenous communities a “protagonist’s role” in the development of curricula, as well as the capacity to nominate and replace teachers in their schools;
- 3) integrate indigenous educational concepts into the curriculum as an integral part of the educational reform;
- 4) implement and expand bilingual/intercultural education programs and value the study of indigenous languages at all educational levels;
- 5) promote the improvement of the socioeconomic conditions of indigenous communities through technological innovations, the development of indigenous culture, and the conservation of the natural environment;
- 6) strengthen national unity through the promotion of cultural diversity;

¹³ Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas (AIDPI). March 31, 1995, *available at* <http://www.congreso.gob.gt/Docs/PAZ/Acuerdo%20sobre%20identidad%20y%20derechos%20de%20los%20pueblos%20indígenas.pdf>

¹⁴ This entire section corresponds to the characteristics expressed in Article G, Paragraph 2 of the AIDPI, except where indicated in parenthesis.

- 7) contract and train bilingual teachers and administrators to develop education in indigenous communities and institutionalize the participation of indigenous community members in the educational process;
- 8) improve access to education for all Guatemalans, especially in indigenous communities, which register the lowest levels of educational attention;
- 9) increase the Ministry of Education's budget in order to implement the initiatives contemplated within the educational reform;
- 10) improve access to education by providing scholarships for indigenous children and eliminate educational materials that express racial and gender stereotypes
(*Article G, Paragraph 4*).

Article A of the AIDPI, which mandates respect for indigenous languages, also endorses the educational reform initiative in Section b of its second paragraph, obligating the government to:

Promote the use of all indigenous languages in the educational system so that children can read and write in their own language or in the language that is most predominantly spoken in the community to which they belong, in particular promoting bilingual and intercultural education . . .¹⁵

Broadly, therefore, the AIDPI envisions structural changes within the Ministry of Education that facilitate the incorporation of indigenous languages, concepts, and values into the educational system through a participatory process in which indigenous communities contribute directly to the development of educational curricula. In order to achieve these objectives, the AIDPI obligates the Guatemalan government to adequately fund the reform initiative, contract and train both teachers and administrators to manage the new programs, and decentralize the Ministry of Education in order to make it more

¹⁵ AIDPI 1995, art. A, para. 2, sect. b

responsive to the educational needs of Guatemala's 22 indigenous ethno-linguistic communities. As a part of this reorganization, the AIDPI explicitly acknowledges the multicultural composition of the Guatemalan State and draws on it as a source of strength and national unity, a radically new concept for a State that omitted Guatemala's ethnic and cultural diversity "from the country's legal framework . . . political debate, State institutions and educational system"¹⁶ prior to the signing of the Peace Accords.

Challenges to the Legal Validity of the Peace Accords

In May of 1999, Constitutional reforms that would facilitate the implementation of the Peace Accords were submitted to the Guatemalan people in the form of a popular referendum. The referendum posed four questions related to indigenous rights and the respective powers of the legislative, executive, and judicial branches of the government. Only 18.5% of the electorate cast ballots in the referendum, and those who voted rejected the proposed Constitutional reforms by a margin of 55 to 45 percent of valid votes.¹⁷ As a result, some of the Peace Accords' greatest detractors argue that this rejection constituted a repudiation of the initiatives embodied by the Accords, nullifying the legal force of the negotiated documents and invalidating the government's commitment to implement them. However, in an effort to reinvigorate the Peace Accords after nearly ten years of official neglect, the Guatemalan Congress unanimously approved the National Law of the Peace Accords in August of 2005, establishing "norms and mechanisms" for the implementation of the Accords and, perhaps most importantly, recognizing them as

¹⁶ MINUGUA 2004, para. 38

¹⁷ Jonas, Susanne. *Of Centaurs and Doves: Guatemala's Peace Process*. Boulder: Westview Press, 2000. p. 77

“commitments of the State.”¹⁸ Additionally, the law created the National Council on the Peace Accords (CNAP), a group composed of government officials, representatives of the country’s political parties, and civil society actors charged with supervising and evaluating the implementation of the Accords.

On August 9, 2007, in an interview in the capital city, Raxché Demetrio Rodríguez, one of only two indigenous members of CNAP, agreed that the National Law of the Peace Accords legitimated the educational components of the AIDPI as legal commitments of the State but asserted that the AIDPI was not the only legal underpinning of the proposed educational reforms. According to Rodríguez, ILO Convention No. 169 and the Guatemalan Constitution itself provide a complementary, if not sufficient, legal basis for the educational reform initiative.

The Guatemalan Constitution of 1985 and Educational Reform

The Guatemalan Constitution of 1985, crafted in the shadows of the genocidal “scorched earth” military campaigns of the early 1980s, marked the country’s return to democratic governance after a long stretch of military dictatorships. In addition to enumerating the civil and political rights and duties of Guatemalan citizens, the Constitution outlined the social, cultural, and economic rights recognized by the Guatemalan State. Under the title of “Social Rights”, the Constitution lays out the fundamental principles of the Guatemalan educational system in words precursory to the inclusive, nondiscriminatory language of the AIDPI. For example, Article 71 of the Constitution, entitled “Right to Education”, establishes that “it is the obligation of the

¹⁸ Ley Marco de los Acuerdos de Paz, 2005. ch. 3, art. 2, *available at* http://www.municipiosdemocraticos.org/descargas/marco_juridico/7lmapfinal.pdf

State to provide and facilitate education to its inhabitants without any discrimination.”¹⁹

Article 76, entitled “Educational System and Bilingual Instruction”, goes farther still with regard to increasing indigenous people’s participation in policymaking and access to bilingual education by stipulating that “the educational system should be decentralized and regionalized” and that “education should preferably be imparted in a bilingual format”²⁰ in areas with a predominantly indigenous population.

Convention No. 169 of the International Labor Organization and Educational Reform

At the time in which the Guatemalan government and the united guerrilla forces agreed on the terms of the AIDPI, Convention No. 169 had already been submitted to the Guatemalan Congress for its consideration and possible ratification. Through the agreement of its two signatory parties, the AIDPI encouraged the Convention’s approval as a complementary international legal tool; accordingly, the Convention was ratified on June 5, 1996 more than a year after the agreement that created the AIDPI.²¹ Much like the educational reform elements included in the AIDPI, Convention No. 169 delineates the educational rights of indigenous people in strikingly similar language. According to the Convention, these rights include:

- 1) the development and implementation of educational programs tailored to the “special needs” of indigenous communities;²²

¹⁹ Constitución Política de la República de Guatemala (1985), reformada por Acuerdo Legislativo No. 18-93 del 17 de noviembre de 1993, art. 71, available at <http://pdba.georgetown.edu/Constitutions/Guate/guate93.html>

²⁰ *Ibid*, art. 76

²¹ Montejo, Victor D. "Convention 169 and the Implementation of the Peace Accords in Guatemala." In *The Journal of the South and Meso American Indian Rights Center*. Fall 1997, Vol. 10, No. 4, available at <http://saic.nativeweb.org/ayn/guatilo.html>

²² Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, adopted by

- 2) the incorporation of indigenous people’s histories, knowledge, technology, value systems and aspirations into educational programs;²³
- 3) the participation of indigenous people in the development of educational programs;²⁴
- 4) the training of indigenous community members so that they may participate in the development of educational programs and eventually assume responsibility for the management of those programs;²⁵
- 5) the right of indigenous children to learn to read and write in their own language where practicable;²⁶
- 6) the preservation and promotion of indigenous languages;²⁷
- 7) the elimination of discrimination towards indigenous people through the propagation of textbooks and educational materials that provide a “fair, accurate, and informative portrayal” of indigenous communities.²⁸

Importantly, Article 46 of the Guatemalan Constitution gives domestic legal force to Convention No. 169 by establishing that “international human rights treaties and conventions accepted and ratified by Guatemala have preeminence over domestic law.”²⁹ As the Inter-American Commission on Human Rights has noted in its own examination

the General Conference of the International Labour Organisation (1989), art. 27, sect. 1

²³ Convention No. 169 1989, art. 27, sect. 1

²⁴ *Ibid*

²⁵ *Ibid*, art. 27, sect. 2

²⁶ *Ibid*, art. 28, sect. 1

²⁷ *Ibid*, art. 28, sect. 3

²⁸ *Ibid*, art. 31, sect. 1

²⁹ Constitución Política 1985, art. 46

of indigenous educational rights in Guatemala, the ILO has explicitly stated that Convention No. 169 is an international human rights instrument.³⁰

A Comprehensive Vision of the Educational Reform

On the whole, what emerges from the AIDPI, the Guatemalan Constitution of 1985, and Convention No. 169 is a comprehensive vision of educational reform that obligates the Guatemalan State to restructure the educational system in conformity with the multiethnic, multicultural, and multilingual composition of the country. The reform itself springs from the need to remedy Guatemala's historic legacy of exclusion and racism against indigenous communities, most recently expressed through the murderous excesses of the Guatemalan military during the 36-year internal armed conflict. In the area of indigenous education, the abovementioned documents combine to provide a robust description of the guidelines and expectations for this process of remediation, stipulating reforms that reposition indigenous communities as active participants in the educational system. According to this vision, indigenous people should occupy a prominent position in defining the educational policies that will allow them to achieve their economic, social, and cultural aspirations. The following section evaluates the Guatemalan government's progress in implementing these reforms and details the repercussions of the government's failure to deliver on these commitments.

II. EDUCATIONAL REFORM: AN UNFULFILLED PROMISE

³⁰ Inter-American Commission on Human Rights. *Fifth Report on the Situation of Human Rights in Guatemala*. Organization of American States, 2001. Ch. 11, para. 39, available at <http://www.cidh.org/countryrep/Guate01eng/TOC.htm>

In 2006 Guatemala's Secretariat of Peace, the government entity under the Office of the President that monitors the implementation of the Peace Accords, released its latest assessment on the government's progress in fulfilling the Accords' provisions. The report describes the current state of implementation for 11 different thematic areas, narrating both the advances made in each area and the work that still remains to be done. Under the theme of education, the report acknowledges that more than a decade after the signing of the Peace Accords, Guatemala "continues to be one of the countries that spends the least"³¹ on education in Latin America as a percentage of Gross Domestic Product (GDP) and later admits that the budget for education and health are actually "the lowest in Latin America in relation to the size of its economy."³² Citing the lack of resources committed to the Ministry of Education, the report acknowledges that bilingual language programs have only been developed for 4 of the 22 indigenous ethno-linguistic groups—K'iche', Kaqchikel, Q'eqchi' and Mam.³³

In a more optimistic tone, the report notes a "modest" increase in the Ministry of Education's budget from a dismal 1.8 % of GDP in 2004 to 2.4% in 2005 and a projected 2.6% in 2006;³⁴ however, it concludes that this annual increase "has not been sufficient to attend to the needs of the school-age population."³⁵ Though it constitutes an honest reflection of the Guatemalan government's meager investment in education as a whole, this final point is perhaps disingenuous when appraising the government's commitment to fulfilling the AIDPI's educational reform initiatives. The 2.6% of GDP cited by the

³¹ Secretaría de la Paz, Presidencia de la República de Guatemala. "Informe: Situación Actual del Cumplimiento de los Acuerdos de Paz 2004-2006." 2006. p. 33, *available at* <http://www.fundadesc.org/documentos/57InformeAcidosPazSEPAZ.pdf>

³² *Ibid*, p. 43.

³³ *Ibid*, p. 34.

³⁴ *Ibid*, p. 33

³⁵ *Ibid*, p. 62.

report represents the total allocation of funding to education in the country but masks the government's appalling lack of investment in the General Directorate of Bilingual and Intercultural Education (DIGEBI), the entity within the Ministry of Education that is legally vested with technical and administrative jurisdiction over primary and secondary education in indigenous communities.³⁶ According to the Central American Institute for Fiscal Studies' analysis of the Guatemalan Congressional Finance Commission's 2008 budget proposal, the government actually plans to reduce DIGEBI's budget from a paltry 0.16% of GDP in 2007 to 0.14% in 2008, despite an overall increase in the allocation of funding to the Ministry of Education during this same period.³⁷

The contraction of DIGEBI's budget accompanies the effort to liquidate the directorate's financial autonomy under a March 28, 2007 Ministerial Accord³⁸ and subsume it under the general auspices of the Ministry of Education. Indigenous education advocates have roundly denounced this action as inconsistent with the decentralizing spirit of the Peace Accords and label it as a cynical attempt to weaken the principal institution that was created to respond to the educational needs, interests, and problems of indigenous people.³⁹ In an interview with Carlos Xocop, the Director for Bilingual and Intercultural Education in the Kaqchikel-speaking department of Chimaltenango, he spoke frankly about the uncertainty his department faces as a result of the liquidation

³⁶ Acuerdo Gubernativo No. 726-95 "Creación de la Dirección General de Educación Bilingüe Intercultural –DIGEBI–" de diciembre 21 de 1995, Artículo 5, *available at* <http://www.iadb.org/sds/ind/ley/docs/GU-10.htm>

³⁷ Instituto Centroamericano de Estudios Fiscales. "*Proyecto del Presupuesto 2008 de Guatemala: Evaluación y Recomendaciones*," 2007. p.3, *available at* http://www.icefi.org/docs/Evaluacion_Presupuesto_2008_final.doc

³⁸ Acuerdo Ministerial No. 514-2007 del 28 de marzo de 2007.

³⁹ Campo Pagado. Prensa Libre: Guatemala. Monday, July 23, 2007. p67

process.⁴⁰ At the time of the interview, the Ministry of Education had only assigned 4 bilingual education specialists to provide technical support for primary schools in the 16 municipalities under his supervision. Given these limitations, the specialists provide assistance to 23 schools respectively and are restricted to 4 visits to each school per year. Since the liquidation effort began, Xocop reported that his 4 specialists had not been paid in 6 months, and he expressed fears that their positions may be eliminated entirely in 2008, leaving the future of bilingual education in Chimaltenango in doubt.

Despite these setbacks, Xocop claimed that bilingual education had reached 90 to 95% of schools throughout Chimaltenango, an assertion that seems as optimistic as it is dubious. Interviews with 30 teachers from urban and rural schools in two of Chimaltenango's Kaqchikel-speaking municipalities revealed a great deal of confusion about what bilingual education meant and whether it existed in their schools. Some Kaqchikel-speaking educators claimed to provide bilingual education to their students but admitted that they lacked training in the subject and had no bilingual texts for their classrooms. Others reported that they had participated in trainings from the Ministry of Education but criticized them for lacking a methodological approach to implementing bilingual instruction in the classroom. Still others insisted that bilingual programs existed in their schools but revealed that the instructors worked for a local NGO and only provided an hour of bilingual instruction per week for grades 4 through 6. When interviewed about the program, the director of the NGO—whose name has been omitted to protect the anonymity of the teachers who work with him—explained that the project began as an attempt to construct a bilingual educational model on the local level that

⁴⁰ Interview with Carlos Xocop, Jefe Departamental de Educacion Bilingüe Intercultural, Chimaltenango. August 20, 2007.

could then be assumed by the Ministry of Education. He lamented, however, that funding for the program would end in 2007 and, qualifying his experience with the government as “a headache”, discounted the possibility that the program would continue under the Ministry of Education’s auspices.

In a separate meeting, 18 teachers from 3 different rural schools in Chimaltenango asserted that bilingual education “had not arrived” in their area.⁴¹ They criticized the government for not supporting the educational reform initiative with materials, books, trainings, and a strategic vision for its implementation. In their estimation, the purported aspiration of bilingual education represented nothing more than “a falsehood” invented by the authorities to deflect criticism from international donors.⁴² One teacher, in particular, lamented the government’s lack of support for bilingual programs, emphasizing that as a child he had struggled in primary school because of the language barrier:

If I would have had the opportunity to develop in Kaqchikel, I wouldn’t have been so ashamed to speak Spanish. What’s important is to establish the child’s self-esteem in Kaqchikel so that it makes taking up Spanish so much easier. The problem is that the majority of parents would be against bilingual education because they too have been ridiculed for not speaking Spanish. The government must promote these programs and talk about what we stand to gain and explain the advantages of being able to work in two languages.⁴³

Interviews with Mayan educational advocates support the teachers’ determination that the Guatemalan government has purposefully impeded the implementation of the AIDPI’s educational reform initiatives. According to their testimony, the Guatemalan

⁴¹ The teachers requested anonymity so that they could speak freely without fear of reprisals from the Ministry of Education. In order to further protect them, the names of the municipality and villages where they teach have also been omitted.

⁴² Meeting with 18 teachers in a Kaqchikel-speaking village in the province of Chimaltenango. August 21, 2007.

⁴³ *Ibid*

educational system continues to operate on an antiquated model of monolingual instruction that is, at its core, culturally exclusive. Under this system, indigenous children do not receive an education that is relevant to their cultural context or consistent with their reality, as the AIDPI stipulates. Rather, they learn to negate the importance of their culture and history in the interest of adopting “national values” reflective of the politically dominant *ladino* population.⁴⁴ This fact leads many activists to conclude that the function of the educational system in indigenous communities is principally assimilatory, forcing indigenous children to suppress their identity and assume a national character that is not their own.

Jesús Puac Chamarro, a bilingual education consultant for UNICEF Guatemala, noted that the negation of indigenous culture and language in the country’s schools not only delays academic progress but produces negative psychological effects for indigenous children by diminishing their self-esteem and sending a message that they must mask their identity in order to succeed. “Because they have been taught to reject their own cultural context but do not feel included in the new context,” he explained, “they begin to feel resentment and act out against the system in anti-social ways. Instead of feeling secure in themselves and making a contribution to society, they feel marginalized.”⁴⁵ Others worry that this conflict of identity and its attendant effect on self-esteem contributes to a general apathy and disengagement, which, coupled with the poor

⁴⁴ Interview with Martín Sacalxot, Defensoría de Pueblos Indígenas, Procuraduría de Derechos Humanos. August 2, 2007.

⁴⁵ Interview with Jesús Puac Chamarro, Consultant in Bilingual Education, UNICEF Guatemala. July 31, 2007.

quality of education in Guatemala, helps explain why the dropout rate among indigenous children is alarmingly high.⁴⁶

Saqch'en Ruperto Montejo, head of the Presidential Commission to Combat Discrimination and Racism Against Indigenous People, agreed that the Guatemalan educational system teaches indigenous children that their culture is inferior and that they must deny their identity in order to assimilate. He labeled this lack of attention to the educational needs of indigenous children as "a part of the practice of racism in Guatemala"⁴⁷ and qualified the resistance to teaching indigenous children to read and write their own language as an irrational response by the politically dominant *ladino* population. He said that the purpose of bilingual and intercultural education was to open up a dialog between cultures and construct a more inclusive country based on the equal exercise of human rights for all Guatemalans. He emphasized that indigenous people, like all Guatemalans, have an interest in economic, social, and cultural development as well as the pursuit of the common good.

When asked why this vision of bilingual and intercultural education had not taken hold in the country, Dr. Irma Alicia Velásquez Nimatuj, one of only 8 indigenous people in Guatemala with a doctorate degree (an average that she pointed out is close to an astonishing one doctorate per million), said that the country's elites benefit from a racist educational system that utilizes Spanish language instruction "as a way to transmit their

⁴⁶ Interview with B'atz' Edgar Emilio Choguaj Chajil, Cargador Principal, Consejo Nacional de Educación Maya. July 26, 2007. Also, interview with Dr. Gerardo Roloff, Oficial de Programas Educación y Protección de la Niñez, UNICEF Guatemala. July 31, 2007.

⁴⁷ Interview with Saqch'en Ruperto Montejo Esteban, Comisionado Presidencial, Comisión Presidencial contra la Discriminación y el Racismo contra Pueblos Indígenas en Guatemala. August 2, 2007.

values.”⁴⁸ She said that the elites are aware of the abuses they have committed against indigenous people throughout history and do not wish to raise their consciousness lest they “come down from the mountains.” This statement echoes the CEH report’s determination that the mobilization of indigenous people has always provoked “the atavistic image of an uprising” in the popular (albeit racist) imagination. Quite simply, she said, the elites fear indigenous people and therefore lack the political will to provide them with educational opportunities.

In response to these criticisms, Celso Chaclán, the Vice Minister of Bilingual and Intercultural Education in the Ministry of Education, defended the government’s record on the educational reform in indigenous communities and dismissed talk about the absence of political will for its implementation as the rhetoric of populist organizations reflexively predisposed to criticize the Guatemalan government.⁴⁹ Chaclán, who recently occupied positions in a number of civil society organizations that he now derisively labels as populist,⁵⁰ characterized the fulfillment of indigenous people’s rights as “a gradual process that little-by-little goes advancing and advancing and advancing until it is realized.” At 12 years since the signing of the peace accords, with indications of the eroding autonomy of DIGEBI and an educational reform project in disarray, it is not at all clear that this “gradual process” is as inexorable as Chaclán would like to make it appear. Given the context of Guatemala’s historic discrimination against its indigenous citizens, one wonders just how “gradual” a process indigenous communities can actually afford.

⁴⁸ Interview with Dr. Irma Alicia Velásquez Nimatuj, Executive Director, Oxlajuj Tz’ikin-Centro Agrónomico Tropical de Investigación y Enseñanza. August 7, 2007.

⁴⁹ Interview with Celso Chaclán, Vice Minister for Bilingual/Intercultural Education, Ministry of Education. August 3, 2007.

⁵⁰ *Ibid*: “Before I assumed this post in the government, I was a part of civil society, and I was in the Consultative Commission for Educational Reform . . .”

According to the Secretariat of Peace's report on the fulfillment of the Peace Accords, indigenous people continue to suffer from the lowest indicators of social and economic development in Guatemala, with 75% of indigenous people living in poverty and nearly 40% in a state of extreme poverty.⁵¹ Without substantive actions and a more vigorous commitment from the government to implement the AIDPI's educational reform, it is unlikely that a broken and unresponsive educational system will provide a vehicle for indigenous people to emerge from economic and political marginalization to achieve the peace, security, and development promised to them in the historic Accords that put an end to Guatemala's 36-year internal armed conflict.

USING THE RULE OF LAW TO ENFORCE GUATEMALA'S COMPLIANCE WITH INDIGENOUS EDUCATIONAL RIGHTS

In 2001, the Inter-American Commission on Human Rights (IACHR) released a country report assessing the human rights situation in Guatemala since the signing of the Final Peace Accord on December 29, 1996.⁵² The report, which the IACHR produced subsequent to an on-site visit to Guatemala and an extensive analysis of information collected through its normal monitoring process, examined the country's implementation of the "national agenda of peace and reconciliation" and the consolidation of "a fully participatory democracy" in Guatemala.⁵³ In accordance with this mission, the IACHR paid special attention to the human rights situation of the country's indigenous population and evaluated the government's fulfillment of its obligations as expressed in the AIDPI.

⁵¹ Secretaría de la Paz 2006, p. 7.

⁵² Inter-American Commission 2001

⁵³ *Ibid*, Introduction, para. 1.

In language consistent with the findings of this report, the IACHR denounced the Guatemalan government's lack of progress on a number of initiatives affecting the rights of indigenous people, including those related to the educational reform initiative:

Since the signing of the Agreement on a Firm and Lasting Peace on December 29, 1996, the date on which the Agreement on Identity and Rights of Indigenous Peoples took effect, there has been scant compliance with the commitments made with respect to [indigenous] peoples . . .⁵⁴

The Commission should note that expanded health coverage and *educational services* in the indigenous areas has not taken place in a context of respect for indigenous customs and culture, but rather, using the standards of the ladinos (non-indigenous), something that is in keeping with the approach of Guatemalan Government entities of taking action without the consultation or participation of the populations concerned, particularly the indigenous peoples.⁵⁵ [emphasis added]

The report goes on to recommend that the Guatemalan government take corrective actions in the educational sphere in order to “reduce division and discrimination towards different ethnic groups, in particular to achieve equal opportunities, to reduce stereotypes and mistrust, and to reestablish the right of all Guatemalan citizens to dignity, free of discrimination.”⁵⁶

Two years later, Rodolfo Stavenhagen, the U.N.'s Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, submitted his own report to the U.N. Human Rights Commission on the state of indigenous rights in Guatemala based on a 10-day official visit he made to the country in 2002.⁵⁷ In language similar to that contained in the Inter-American Commission's report, Stavenhagen decried the lack of an

⁵⁴ Inter-American Commission 2001, ch. 11, para. 20

⁵⁵ *Ibid*, ch. 11, footnote 21

⁵⁶ *Ibid*, ch.11, recommendation no. 7

⁵⁷ Stavenhagen, Rodolfo. Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People: Mission to Guatemala. UNESCO, 2003.

overall system of intercultural and bilingual education set out in curricula adapted to the language and the needs, values and systems of the indigenous peoples themselves In practice, a model of Spanish-oriented education continues to exist. Although public investment in education has grown in the years following the signing of the Peace Agreements . . . the figures for school education in predominantly indigenous rural areas show very large lags compared with regions with non-indigenous populations as regards the growth of enrolment, the increase in the drop-out rate, teacher-pupil ratios and investment in infrastructure.⁵⁸

Not unlike the Inter-American Commission's recommendations, Stavenhagen exhorted the Guatemalan government to make education a "national priority" by extending bilingual education to all areas of the country and creating appropriate bilingual and intercultural teaching materials within "a realistic timeline, which must be respected."⁵⁹

Beyond corroborating the findings detailed in this report, the conclusions of the IACHR and the U.N. Special Rapportuer are important in establishing that the Guatemalan government's indifference to indigenous people's educational rights violates the States' obligations under the American Convention on Human Rights and a number of U.N.-based human rights treaties, which Guatemala has ratified, that forbid discrimination in the delivery of State services. In particular, Guatemala's practice of discrimination through the national education system contravenes Article 1 (*Obligation to Respect Rights*), Article 12 (4) (*Freedom of Conscience and Religion*), Article 13 (5) (*Freedom of Thought and Expression*), Article 24 (*Right to Equal Protection*), and Article 26 (*Progressive Development*) of the American Convention on Human Rights,⁶⁰

⁵⁸ Stavenhagen 2003, p. 19

⁵⁹ *Ibid*, p. 25

⁶⁰ American Convention on Human Rights, O.A.S.Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992), *available at* <http://www1.umn.edu/humanrts/oasinstr/zoas3con.htm>

as well as Article 13 (2) (*Right to Education*) of the “Protocol of San Salvador”, Additional Protocol to the American Convention.⁶¹ For the same reasons, Guatemala is also in violation of provisions in the International Covenant on Civil and Political Rights⁶² (Article 18 (4), Article 20 (2), Article 26, and Article 27), the International Covenant on Economic, Social, and Cultural Rights⁶³ (Article 2 (2), Article 13 (1), Article 15 (1) (b)), the International Convention on the Elimination of All Forms of Racial Discrimination⁶⁴ (Article 2, Article 4 (c), Article 5 (e) (v and vi), Article 6, and Article 7), and the Convention on the Rights of the Child⁶⁵ (Article 2, Article 8, Article 13 (1), Article 14 (1 and 2), Article 27 (1), Article 29, Article 30).

In considering how to use the rule of law to challenge the derelictions of the Guatemalan government with regard to the issue of indigenous people’s educational rights, there are several options to consider. First, it is important to note that each of the abovementioned treaties has created an attendant committee or commission charged with monitoring how the States Parties undertake their obligations in accordance with the respective conventions. The International Covenant on Civil and Political Rights

⁶¹ Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador," O.A.S. Treaty Series No. 69 (1988), *entered into force* November 16, 1999, *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 67 (1992), *available at* <http://www1.umn.edu/humanrts/oasinstr/zoas10pe.htm>

⁶² International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, *available at* <http://www1.umn.edu/humanrts/instreetree/b3ccpr.htm>

⁶³ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976, *available at* <http://www1.umn.edu/humanrts/instreetree/b2esc.htm>

⁶⁴ International Convention on the Elimination of All Forms of Racial Discrimination, G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969, *available at* <http://www1.umn.edu/humanrts/instreetree/d1cerd.htm>

⁶⁵ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2 1990, *available at* <http://www1.umn.edu/humanrts/instreetree/k2crc.htm>

(ICCPR) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), for instance, establish oversight committees that monitor the implementation of their provisions and receive communications from individuals who claim their rights have been violated.⁶⁶ However, the confidential nature of the committees' deliberations and the lack of enforcement mechanisms to give weight to their recommendations severely restrict the committees' effectiveness. As a result, their conclusions may cause significant embarrassment for noncompliant States, but they cannot compel them to take corrective action. As demonstrated above, both the IACHR and the U.N. Special Rapporteur have extensively reported on Guatemala's failure to implement the AIDPI's educational reform initiatives and administer education in indigenous communities free of discrimination, yet the Guatemalan government has largely ignored their recommendations. Without a mandate to enforce compliance, it is hard to believe that the U.N. treaty-based human rights bodies would have any more success in providing an effective remedy to Guatemala's ongoing violation of indigenous people's educational rights.

Similarly, the U.N.'s non-treaty based bodies, such as the Human Rights Council under ECOSOC or the Committee on Conventions and Recommendations under UNESCO, receive and consider complaints alleging human rights violations. However, these human rights bodies are generally afflicted by the same debilities as their treaty-based counterparts. The confidential procedure for taking complaints to the Human

⁶⁶ Significantly, although Guatemala has accepted the competence of the Human Rights Committee to receive and consider communications of human rights violations under the Optional Protocol of the ICCPR, the State does not recognize the jurisdiction of the CERD Committee to receive communications regarding the practice of racial discrimination.

Rights Council under Resolution 1503 is both “cumbersome and secretive”⁶⁷ and shields the offending State from embarrassment by publishing the names of those countries under review “but not the action taken or the nature of the alleged violation.”⁶⁸ Likewise, UNESCO’s Committee on Conventions and Recommendations has been criticized as “[un]responsive to the needs of victims of human rights violations”⁶⁹ and all too willing to accept “the government’s version of disputed facts.”⁷⁰ Not unlike the inherent weaknesses of the treaty-based human rights bodies and the Human Rights Council, “the confidential nature of the UNESCO procedure, its emphasis on friendly settlement, and the lack of strong investigatory or oversight mechanism suggest that it is relatively weak”⁷¹ in offering an effective remedy to violations of human rights that fall within its areas of competency.

The Inter-American human rights system, on the other hand, allows individuals or groups of individuals to submit cases of human rights violations to the IACHR for a full evidentiary “adversarial proceeding” and does offer the possibility of an enforceable judgment through the Inter-American Court of Human Rights. During an adversarial proceeding, the IACHR first attempts to broker a “friendly settlement” between the parties to resolve the dispute pursuant to Article 48 (1) of the American Convention. If no settlement is reached, the IACHR will issue a report of its findings to the State involved in the proceeding with its recommendations for correcting the human rights violation in

⁶⁷ Rodley, Nigel S. and David Weissbrodt. “*United Nations Nontreaty Procedures for Dealing with Human Rights Violations*”. *Guide to International Human Rights Practice*. Hannum, Hurst, ed. Ardsley, New York: Transnational Publishers Inc., 2004. p. 86

⁶⁸ *Ibid*, p. 70

⁶⁹ Marks, Stephen P. “*The Complaint Procedure of the United Nations Educational, Scientific, and Cultural Organization*”. *Guide to International Human Rights Practice*. Hannum, Hurst, ed. Ardsley, New York: Transnational Publishers Inc., 2004. p. 120

⁷⁰ *Ibid*, p. 117

⁷¹ *Ibid*, p. 120

question.⁷² The IACHR then evaluates the response from the State and may choose to either publish a final report on the case or send it to the Inter-American Court for adjudication.⁷³

Since the IACHR and the Inter-American Court (whose jurisdiction the Guatemalan government has accepted under Article 62 of the American Convention) have previously recognized the collective rights of indigenous people in landmark decisions such as the “Yanomami” case⁷⁴ and *Awas Tingni vs. Nicaragua*,⁷⁵ the Inter-American system, as opposed to the international human rights bodies seated in the U.N., clearly provides the most effective means for compelling the Guatemalan government to enforce indigenous people’s educational rights. In order to take a case in front of the IACHR, however, the party alleging the violation must first meet certain requirements. Most importantly for the purposes of this report, the plaintiffs must have exhausted all of their available legal remedies under domestic law.⁷⁶ This means that any collaboration between international and national NGOs on this issue will require a significant amount of preparatory work in order to identify a test case that can first go to the Guatemalan court system and challenge the government’s lack of compliance with the aforementioned National Law of the Peace Accords, the Guatemalan Constitution, and Convention No. 169.

The requirement for exhaustion of domestic remedies is not absolute, however.

⁷² Inter-American Commission on Human Rights. *The Human Rights Situation of Indigenous People in the Americas*. Organization of American States, 2000. Ch. 1, sect. C.

⁷³ *Ibid*

⁷⁴ *Yanomami Community v. Brazil*, Inter-American Commission on Human Rights, Case 7615, Decision of 5 March 1985, resolution 12/85, Annual Report 1984-1985, *available at* <http://www.cidh.org/annualrep/84.85eng/Brazil7615.htm>

⁷⁵ *The Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, Judgment of August 31, 2001, Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001), *available at* <http://humanrights.law.monash.edu.au/iachr/AwasTingnicase.html>

⁷⁶ Inter-American Commission 2000, ch. 1, sect. C.

Under Article 46 (2) of the American Convention, the IACHR can waive this requirement when the party alleging the violation has been denied due process of law, refused access to remedies under domestic law, or when those legal remedies are unnecessarily delayed. Given the IACHR's own critique of the country's judiciary in its 2001 Country Report on Guatemala, this exception may not be so difficult to prove. According to the IACHR, one of the greatest post-conflict challenges Guatemala faces is:

creating a judicial system that offers effective protection for the rights of the population. It is necessarily the national judiciary that serves as the first line of defense of individual rights and freedoms. While the State of Guatemala has initiated some positive steps aimed at strengthening the judiciary, impunity for human rights violations—both past and present—remains the rule. This impunity controverts the obligations of the State under national and international law, subverts the most basic principles underlying the peace accords, and undermines the rule of law.⁷⁷

Considering the glaring deficiencies of the Guatemalan judiciary, it would be tempting to circumvent the “exhaustion of domestic remedies” requirement and argue that indigenous people's historic lack of access to justice in Guatemala—a phenomenon thoroughly documented in the IACHR and the U.N. Special Rapportuer's Country Reports—represents a denial of judicial recourse as a matter of fact, if not law. Under such an argument, it is possible that the IACHR would waive the requirement and accept the case without it having passed through domestic courts. However, given the importance of the judiciary as “the first line of defense for the protection of individual rights and freedoms” and its “indispensable role in the consolidation of democracy”⁷⁸ in Guatemala, that approach would deny the Guatemalan court system the opportunity to fulfill their Constitutional obligation to enforce compliance with domestic and

⁷⁷ Inter-American Commission 2001, Introduction, para. 4.

⁷⁸ *Ibid*, ch. 4, para. 2.

international law. A favorable ruling from the Guatemalan courts, though surprising, would represent an important advancement in the consolidation of the rule of law and the concretization of Guatemala's still nascent democracy. If the Guatemalan judiciary failed to offer a suitable remedy, however, the Inter-American system would constitute an appropriate avenue for seeking corrective action and an enforceable ruling in support of indigenous people's as yet unfulfilled educational rights.

CONCLUSION

In 2004, the UN Verification Mission in Guatemala (MINUGUA) released its ninth and final report on the fulfillment of the Peace Accords. The report stated that fighting racism remains one of the biggest challenges facing Guatemala in the post-conflict period and recommended that "a far more substantial effort should be launched to eradicate the barriers that persist, to provide equal opportunity for the indigenous population and to rebuild the State along multicultural lines."⁷⁹ Sadly, this effort has been all but absent from the educational field, where schools in indigenous areas of the country continue to operate under an antiquated educational model that is unresponsive to the economic, social, and cultural aspirations of indigenous people.

This failure has taken place against a backdrop of historic discrimination and marginalization of indigenous people, a condition that the Accord on the Identity and Rights of Indigenous People and its attendant educational reform intended to correct. Yet, despite pressure from educational advocates within and without the country, as well as highly critical reports from both regional and international human rights bodies, the

⁷⁹ MINUGUA 2004, para. 62

situation in indigenous schools remains largely unchanged more than 11 years after the end of the armed conflict.

As Guatemala itself acknowledged in the Peace Accords, the government must reverse the legacy of racism and discrimination against its sizable indigenous population in order to progress and prosper as a nation.⁸⁰ To the contrary, the country will continue to be rich in diversity yet shamed by the same narrow-minded intolerance that once fueled the internal armed conflict and continues to obstruct the achievement of a long awaited and much deserved full and final peace. Given the Guatemalan government's intransigence in implementing the educational reform initiative and reversing the discriminatory elements of the country's educational system, this report recommends legal action through the Guatemalan courts or, if legal remedies are unnecessarily delayed there, the Inter-American human rights system in order to force the government into line with its domestic and international obligations. In so doing, the courts could provide an enforceable ruling that would restore the Peace Accords' position in the national political agenda and provide the impetus for an honest reform of an anachronistic educational system, whose continued existence is wholly inappropriate for the multiethnic, multicultural, and multilingual reality embraced by the Peace Accords.

⁸⁰ MINUGUA 2004, para. 38

Appendix of Interviews

B'atz' Edgar Emilio Choguaj Chajil, Cargador Principal, Consejo Nacional de Educación Maya. July 26, 2007.

CNEM is a national council of Mayan educational organizations that was created by the Peace Accords to advise the government on educational policies affecting the country's indigenous population. Mr. Choguaj provided an orientation on the deficiencies of education in indigenous areas, emphasizing that the important question was not whether indigenous people had access to education but whether that education was of sufficient quality to allow them to emerge from poverty and achieve lasting development. Mr. Choguaj was also the first of many to speak about the importance of strengthening bilingual/intercultural education that reflects the principles, values, and educational concepts of indigenous culture. These initiatives were a fundamental part of the Educational Reform contemplated by the 1996 Peace Accords; however, according to Mr. Choguaj, these reforms have not been a priority for the Guatemalan government. As evidence of this fact, Mr. Choguaj points to the Ministry of Education's current effort to liquidate the budget of DIGEBI, the General Office for Bilingual Intercultural Education, and subsume it under other auspices in the Ministry.

José Serech Sen, Director, Fundación Centro de Documentación e Investigación Maya. July 26, 2007.

Mr. Serech emphasized that educational reform is an urgent necessity to provide the country with an adequate base for development. According to Serech, much discussion has been dedicated to the theme of bilingual/intercultural education in indigenous areas of the country but very little progress has been made due to the lack of political and financial support for those programs. In his opinion, bilingual/intercultural education needs to be reevaluated and transformed as part of a general effort to modernize Guatemala's antiquated educational system. He mentioned that this modernization effort is being obstructed by teachers who are resistant to change and an educational system whose focus is on preparing good workers for the country's factories instead of inculcating civic values in order to build a peaceful, democratic country.

Father Rigoberto Pérez, Catholic Priest, Parrish of Santa María de Nebaj, El Quiché. July 29, 2007.

Father Rigoberto reiterated that bilingual education was integral to indigenous people's right to identity which was established in the Peace Accords. In his opinion, however, attempts to reform the educational system have been silenced in the same way that the peace process has. He emphasized that the current Minister of Education, María del Carmen Aceña, did not have a background in education and, therefore, her initiatives rarely coincided with the educational needs of the people. In addition, he stressed the important relationship between public education, health and poverty—all of which, he insisted, were of low priority for the Guatemalan government. He referred to a recent Pastoral Letter of the Guatemalan Episcopacy, which contained an alarming statistic

from UNICEF stating that 49.3% of Guatemalan children suffer from chronic malnutrition. According to the letter, chronic malnutrition can diminish a child's IQ by 11 points, arresting the child's ability to learn and damaging their long-term intellectual development.

Nazaria Tum Sanic, Communities of Population in Resistance of the Sierra. July 29, 2007.

Nazaria provided a context for education in the resettled communities of the Communities of Population in Resistance of the Sierra (CPR-Sierra). The CPR-Sierra was a group of internally displaced people who fled the Guatemalan military's genocidal "scorched earth" campaigns in the early 1980s by escaping into the remote forests of the Cuchumatanes Mountains. In the mountains, the CPR-Sierra elected the most educated among them (mostly students from 6th and 7th grades) to teach the younger children in makeshift schools. Nazaria herself learned to read and write in this fashion. When the war ended and the CPR-Sierra resettled into new communities, the government "professionalized" the teachers that taught classes in the mountains. However, according to Nazaria, many of them were assigned to schools outside of their own communities. Many of the teachers that filled their positions were unaware of the unique experience of the CPR-Sierra; as a result, Nazaria expressed fear that their history would be lost among the younger generations.

Francisco Velasco Marroquín, Presidente de la Mesa Regional Ixil (Nebaj, El Quiché). July 29, 2007.

Mr. Velasco emphasized that 90% of the Ixil region is indigenous but that the Ministry of Education provides educational services tailored to the interest of the 10% Spanish-speaking, non-indigenous minority. He criticized the educational system for not including indigenous cultural concepts in the curriculum and for providing an education that was conformist and exclusive. He said that the recuperation of Mayan identity was resurgent in the Ixil region but that this movement was not reflected in the schools. As a result, the promises of the Peace Accords have gone unfulfilled.

María Josefa Cedillo Marcos, Catedrática y Secretaria del Consejo Directivo de la Escuela Normal Bilingüe Intercultural Ixil. July 30, 2007.

Ms. Cedillo is a teacher at, and former principal of, the only public bilingual high school in the Ixil region that trains students to become primary school teachers. In her comments she was critical of the Guatemalan education system for not responding to the educational needs of indigenous children. She expressed frustration that the students who arrive at the high school have received very poor preparation in the lower grades. According to Ms. Cedillo, indigenous languages are not reinforced in primary school; instead, teachers explain the lesson in the local language, dictate it to the students in Spanish, and then evaluate the lesson in Spanish. The emphasis is on learning by rote—memorization and dictation—instead of critical reasoning. As a result, students are unable to read and write effectively in either language. Ms. Cedillo laments that her high

school students can read a passage in Spanish but are unable to respond to questions about the reading because their level of comprehension is so limited. In Ixil, she says they are functionally illiterate because they have never had bilingual instruction prior to the classes they receive at the high school. Additionally, Ms. Cedillo points to the difficulties that her graduates face when they are assigned to work in schools with no history of bilingual education. As 18 and 19-year old graduates, they often feel intimidated by their more experienced colleagues and are reluctant to suggest any changes to the traditional, monolingual approach.

Diego Rivera Santiago and Miguel Gurarro Raymundo, President and Vice President of Asociación del Movimiento de Víctimas para el Desarrollo Integral en el Norte del Quiché (ASOMOVIDINQ), Nebaj, El Quiché. July 30, 2007.

ASOMOVIDINQ emerged out of a need to provide accompaniment for the victims and survivors of the violence that ravaged the Ixil region during Guatemala's devastating civil war. Currently, ASOMOVIDINQ works to resolve land conflicts that resulted from the massive displacement of populations caused during the conflict; they help to solicit exhumations of clandestine cemeteries; and they provide services for the war's survivors who are currently seeking reparations from the government. Not unlike Nazaria Tum Sanic, Mr. Rivera and Mr. Gurraro expressed concern that the history of the Ixil people during the 36-year internal conflict is not taught in the schools; as a result, they fear that children have not learned to respect and value their past. Additionally, they claim that the lack of bilingual/intercultural education is a manifestation of the discrimination and marginalization that continues to affect indigenous people in Guatemala.

Asociación de Educadores Populares Reasentados de El Quiché (AEPREQ), Nebaj, El Quiché. July 30, 2007.

AEPREQ is an association of educators who began teaching classes in the CPR-Sierra during the armed conflict and were later "professionalized" and given teaching positions by the government. Two of AEPREQ's members, who requested anonymity so as to avoid reprisals from the Ministry of Education, complained that the government had played with the issue of bilingual education by promoting the idea without providing the schools with the necessary materials to implement it. Due to these deficiencies, most teachers continue to rely on the traditional monolingual approach, which negatively affects their students' participation in the classroom. With respect to the theme of historical memory (teaching the history of the armed conflict in the schools), they said that the Ministry of Education has no interest in promoting this history because the powerful are afraid of awakening the consciousness of the new generation. Additionally, they claim that new curricula have not been developed to reflect the cultural values of the community as mandated by the Peace Accords. Instead of engaging in a process of decentralization, decisions continue to be disseminated down from the capital city to the departmental and municipal level without the participation of local people.

Dr. Gerardo Roloff, Oficial de Programas Educación y Protección de la Niñez, UNICEF Guatemala. July 31, 2007.

Dr. Gerardo Roloff said that there is a tendency to emphasize the advances made in educational coverage, which according to the government's statistics has reached 93-97% of children nationwide. However, he stressed that government statistics indicate that only 61% of those children complete primary school. Dr. Roloff emphasizes that when calculating educational coverage, the number of children completing primary school should take precedence over the number of children that simply enroll. Taking into account the low quality of Guatemalan education, he considers that the nearly 40% of children not completing primary school are practically illiterate. He underscores that the number of children deserting primary school is much higher in indigenous communities, particularly among indigenous girls. Regarding bilingual/intercultural education, Dr. Roloff lamented that it has been implemented in very few communities and that, because of the highly centralized structure of the Ministry of Education, local people have had zero influence in shaping the curriculum to reflect indigenous cultural values. And though he said it is positive that there is a vice minister for bilingual/intercultural education within the Ministry, he indicates that the position has a limited budget and very little power.

Jesús Puac Chamarro, Consultant in Bilingual Education, UNICEF Guatemala. July 31, 2007.

Mr. Puac considers that the new basic curriculum is an advancement; however, he says it was developed without consulting the indigenous, linguistic communities of Guatemala. For this reason, he says that it lacks an indigenous contextualization and, therefore, represents a one-size-fits-all national curriculum that does not reflect the multi-cultural composition of the country. In his opinion, this negation of indigenous culture has negative psychological implications for indigenous children, diminishing their self-esteem and sending the message that they must mask their identity. Because they have been taught to reject their own cultural context but do not feel included in the new context, they begin to feel resentment and act out against the system in anti-social ways. Instead of feeling secure in themselves and making a contribution to society, they feel marginalized and are much more likely to turn to delinquency.

Mario Polanco, Director, Grupo de Apoyo Mutuo (GAM). August 1, 2007.

Mr. Polanco provided an orientation about the current human rights situation in the country with a particular emphasis on organized crime and the parallel powers that manipulate the structures of government. He stated that the current administration's greatest challenge was reconstructing the institutions of government that the previous administration had destroyed. Additionally, he said that the current administration had prioritized economic growth; however, in Mr. Polanco's opinion, much of the wealth that has been created has stayed in the hands of the rich and has not been evenly distributed to the other classes of society.

Diego de León, Political Analyst, Myrna Mack Foundation. August 1, 2007.

Mr. de León provided an orientation to the current political landscape in Guatemala. In his opinion, the current government has been unable to effectively confront the crisis of ungovernability and insecurity that has shaken the country since the signing of the Peace Accords. According to de León, the government has been so immersed in this crisis that it has not been able to dedicate adequate attention to the health and educational sector.

Wielman Cifuentes Estrada, Coordinator Educational Area, Rigoberta Menchú Tum Foundation. August 2, 2007.

Mr. Cifuentes emphasized that although educational coverage had increased to reach 93.5% of children nationwide indigenous children still lag far behind the national average. He said that education was not a priority for the government in general and that it is much less so for bilingual education. According to Mr. Cifuentes, the government typically opens up spaces for indigenous people to participate, as in the case of DIGEBI, but denies them the necessary funds from the budget to carry out their mission. As a result, the right to bilingual/intercultural education established in the Peace Accords has gone unfulfilled. He insists that the educational system continues to be culturally exclusive and that indigenous people continue to be invisible within the system. According to Mr. Cifuentes, the absence of indigenous art, language and culture in the classroom sends the message that indigenous children must assimilate into another cultural context, creating a conflict of identity that leads to low self-esteem and apathy.

Celia Gerónimo, General Coordinator, Mamá Maquín. August 2, 2007.

Mamá Maquín is a women's organization that was formed among refugee communities that escaped the violence of the Guatemalan civil war by fleeing across the border to Mexico. Ms. Gerónimo was born in Mexico and came to Guatemala with her family when refugee communities returned to the country en masse in the mid 1990s. According to Ms. Gerónimo, the Guatemalan government had agreed to provide education to the returned communities; however, she insists that the government's support, which was intermittent at best during the first few years of their return, has diminished significantly. Furthermore, she says that the quality of education available to returned communities is deficient, the schools lack materials, and the children have not received alimentation in the schools for 3 to 5 years. Due to the inadequate preparation of the students in local schools, Ms. Gerónimo said that the few children who decide to continue studying in the urban middle schools of the nearest municipalities generally have a difficult time adapting and perform poorly. In her promotion alone, 21 out of the 26 children that attended middle school dropped out before graduating.

Martín Sacalxot, Defensoría de Pueblos Indígenas, Procuraduría de Derechos Humanos. August 2, 2007.

According to Mr. Sacalxot, there are profound obstacles that must be overcome in order to guarantee indigenous educational rights. In the educational field, he said his office focuses mostly on issues that relate to violations of indigenous children's culture and identity. For example, he identified several cases under investigation in which indigenous

children were forced to wear school uniforms that were inconsistent with their traditional dress. In another case, teachers had prohibited indigenous children from speaking their language within the school's perimeter. Furthermore, Mr. Sacalxot indicated that the educational texts used in schools continue to employ stereotypical imagery when depicting indigenous people, representing them as poor, rural peasants with a barbaric past. He lamented that children in the schools do not see images of indigenous people as successful businessmen or professionals. Additionally, he stated that there was no interest in implementing the educational reform stipulated by the Peace Accords; he said that the Ministry of Education is more interested in promoting "national values" than multiculturalism because they believe that the multicultural message is "revolutionary".

Saqch'en Ruperto Montejó Esteban, Comisionado Presidencial, Comisión Presidencial contra la Discriminación y el Racismo contra Pueblos Indígenas en Guatemala. August 2, 2007.

Mr. Montejó stated that the fulfillment of the educational provisions in the Peace Accords have seen very little advancement and attributed the lack of will to attend to the needs of indigenous people as "a part of the practice of racism in Guatemala". As proof of this statement, he referred to a diagnostic study on racism in the government that was recently produced by Vice President Eduardo Stein. The study concluded that a tension exists between the state and indigenous people, particularly in the health, economic, and educational sectors. Additionally, he said that the intention of bilingual/intercultural education is not to try to seal indigenous people off from the rest of the non-indigenous population but to open up a dialogue between the country's diverse cultures. Just as indigenous people have much to share from their own culture, Mr. Montejó says, they also have much to learn from other cultures. Accordingly, he sees the theme of multiculturalism as a mutually beneficial two way street. Unfortunately, he said, indigenous children are taught that their culture is inferior and that they must deny their cultural identity in order to assimilate.

Celso Chaclán, Vice Minister for Bilingual/Intercultural Education, Ministry of Education. August 3, 2007.

Mr. Chaclán defended the record of the Berger administration with respect to bilingual and intercultural educational policies, saying that 49,000 more indigenous children received bilingual education than under the previous government. Furthermore, he rejected the criticism of educational advocates as the rhetoric of populist organizations reflexively predisposed to criticize the Guatemalan government. He said he viewed the full implementation of indigenous educational rights as "a gradual process that little-by-little goes advancing and advancing and advancing until it is realized," a concept he claimed civil society actors could not understand. He then said that substantive changes for the country's indigenous population would not really come about until "a block of indigenous people" graduated with university diplomas and were ready to assume positions within the government. He made no mention of how they were supposed to arrive at those heights given the current deficiencies in the Ministry of Education's administration of educational programs in indigenous communities.

Carlos Alarcón Novoa, Coordinator Culture of Peace Area, Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHA). August 6, 2007.

ODHA has worked on a proposal to teach the history of the Guatemalan internal conflict in the country's schools. The proposal is based on the REMHI project's publication, Guatemala Never Again, which was the Catholic Church's equivalent to the UN-sponsored truth commission report on the 36-year conflict. With the help of UNICEF, the proposal—which includes lesson plans, methodological recommendations, and didactic materials for teachers—was presented to the Ministry of Education for possible incorporation into the national curriculum. Mr. Alarcón reports that officials at the municipal and departmental level received the proposal with great enthusiasm but that the reaction changed markedly when it reached the political levels within the Ministry's central office. Despite the fact that he encouraged the Ministry of Education to assume the project and modify it as they saw fit, he said that ODHA had still not received a clear response from Ministry officials. According to Mr. Alarcón, there is no interest within the hierarchy of the Ministry of Education to reflect upon Guatemala's recent past.

Congresswoman Lucrecia de Palomo, Member of the Congressional Commission on Education, Science and Technology, Frente Republicano Guatemalteco (FRG). August 6, 2007.

Regarding bilingual/intercultural education, the congresswoman said that Guatemala has to choose between a country rich in diversity and a divided country in which the population does not feel as if it belongs together. She compared the situation with what she perceives is happening now with Latin American immigrants in the United States. She said that today's immigrants from Latin America receive education in their own language and as a result do not want to assimilate. In her estimation, they continue to identify themselves as Latinos rather than Americans, producing conflicts within the United States because, according to Ms. De Palomo, it is becoming a nation of multiple patriotisms. In Guatemala she said that indigenous languages were primarily oral and questioned the utility of teaching indigenous children to read and write in their own languages if there are no texts for them to read. In regard to the incorporation of indigenous cultural values in the curriculum, she asserted that cultural values are best taught in the home and not at school. Finally, she explained that Guatemala's economic elite continues to control the country and that the government and the Ministry of Education serve their interests (as evidence of this point, she referred to the million dollar transfer of funds from the Ministry of Education to the reconstruction of the national airport). Unfortunately, she said, that is why 80% of the country's laws are not complied with, although she questioned the legal validity of the Peace Accords because the people rejected them in the popular referendum of 1998.

Jovial Acevedo, Leader of the Sindicato de Trabajadores de la Educación en Guatemala and the Asamblea Nacional del Magisterio. August 6, 2007.

Mr. Acevedo emphasized that an oligarchical power elite has controlled Guatemala for the past 500 years, producing racially discriminatory policies against the indigenous majority of the country. As a result, the government has given very little importance to the subject of public education and even less attention to bilingual/intercultural education, which he insists is essential so that indigenous children do not experience delays in their learning. According to Mr. Acevedo, the government invests less than 2% of the country's Gross Domestic Product in education though the Guatemalan Constitution stipulates that 7% of GDP should go toward education. In response to criticism that the teachers' union has obstructed implementation of educational reforms, Mr. Acevedo claims that the Ministry of Education has attempted to promote an educational reform that reflects the interests of the ruling class to increase productivity and competitiveness over human development. He explained that as long as attempts at educational reform were not based on the educational reform included in the Peace Accords, they would not receive the support of the teachers' union. Furthermore, he said it is ridiculous that the Ministry of Education talks of improving educational quality as schoolhouses fall down from disrepair, books and didactic materials go missing from the schools, children come to classes sick and malnourished, and yet the government transfers millions of dollars from education to the reconstruction of the national airport.

Dr. Irma Alicia Velásquez Nimatuj, Executive Director, Oxlajuj Tz'ikin-Centro Agrónomico Tropical de Investigación y Enseñanza. August 7, 2007.

Dr. Velásquez said that the non-indigenous population of Guatemala has never had to confront the difficulty of studying in another language because the educational system, which she describes as racist, has always benefited them. She says that monolingual instruction has served to transmit their values through the Spanish language. As a result, she says the educational system is assimilatory with regard to indigenous children. Dr. Velásquez shared that she never had access to bilingual education as a child. She studied in a private school where she was not allowed to wear her traditional dress, an experience she described as painful. In school, she was taught that indigenous people were backward, and at home her family felt that learning Spanish was the only way their children could defend themselves from discrimination. As a result, she feels that she lost aspects of her culture and language that she can never recuperate. Additionally, Dr. Velásquez criticized the opposition to bilingual education as ignorant. She said that the country's elites, aware of the abuses they have committed against indigenous people, are afraid that they will "come down from the mountains". They fear indigenous people, she said, and therefore deny them educational opportunities. As evidence of this fact, Dr. Velásquez said she is one of only eight indigenous Guatemalans with a doctorate degree. Estimating that there are between 7 and 8 million indigenous Guatemalans, she pointed out that the average was one doctorate degree per million.

Anabella Giracca, Director, EDUMAYA, Universidad de Rafael Landívar. August 7, 2007.

Citing statistics from a recent study by the Permanent National Commission of the Educational Reform, Ms. Giracca qualified indigenous access to education from pre-

school to the university as “terrible” and “dramatic”. She said that indigenous children deserved to have an education that respected their identity and attended to their educational needs by employing concepts and principles from their own culture. She says that numerous models for such a system exist within the proposals of indigenous educational organizations, but the Ministry of Education has not assumed them because government policy tends to have a vision that is metropolitan, ethnocentric, and paternalistic towards indigenous people. She laments that most of the significant advancements in the field of bilingual/intercultural education—like the creation of DIGEBI—exist on paper but have had very little impact in practice. She also said that the current government has emphasized individual competitiveness at the expense of indigenous culture’s collective approach.

Clara Arenas, Executive Director, Asociación para el Avance de las Ciencias Sociales en Guatemala (AVANSCO). August 9, 2007.

Ms. Arenas criticized the way social sciences are taught in Guatemalan schools, saying that history is presented as a series of events rather than a developing process. As a result, she explained, children are not encouraged to think critically about the past and see its relationship with the problems of the present. In regard to teaching the history of the internal conflict, Ms. Arenas said that the conclusions of the Commission for Historical Clarification (CEH) should form part of the curriculum; however, she noted that there are powerful interests in Guatemala that still oppose the CEH’s report. Echoing the comments of others, she said that the current administration’s education policy reflected the interests of the country’s business class in creating a future generation of competitive laborers, emphasizing technical training over a well-rounded liberal education.

Carlos Xocop, Jefe Departmental de Educacion Bilingüe Intercultural, Chimaltenango. August 20, 2007.

Mr. Xocop said that bilingual/intercultural education reaches 90 to 95% of children in 13 of Chimaltenango’s 16 municipalities. On his staff, he has 6 technical consultants in bilingual/intercultural education that are each responsible for visiting 23 schools 4 times a year. In addition, 6 other consultants, contracted with the support of the World Bank, provide technical support to 50 multi-grade schools in which the teachers attend to more than one grade in the same classroom. Mr. Xocop said that his consultants work in three distinct phases with local teachers: 1) observation, where the consultant records his or her observations of the teacher working in the classroom; 2) intervention, where the consultant works directly with the students in order to demonstrate different methodological approaches to the teacher; and 3) evaluation, where the consultant sits down with the teachers and principals to provide recommendations for strengthening the program. Mr. Xocop said that many consultants face resistance from teachers and principals who do not recognize the value of bilingual education. He also expressed concern that the restructuring of DIGEBI within the Ministry of Education and the liquidation of its budget would compromise the initiatives that his office is currently carrying out.

Adelina Nichocomez, Sub-Director of the Escuela Normal de Educación Bilingüe “Ruk’u’x Waqxaqi Q’anil”, Chimaltenango, Chimaltenango. August 20, 2007.

Ms. Nichocomez explained that her school is one of 18 nationally that train high school students for careers as bilingual educators. She said that the school began operating in 2002 in response to the stipulations of the Accord over the Identity and Rights of Indigenous People, which forms part of the Peace Accords. She said that the school’s curriculum reflects the philosophic vision of the Popul Vuh, an ancient text of Mayan cosmology, and strengthens the cultural identity of the school’s students. She said that the creation of the school itself was a significant achievement; however, she insists that the Ministry of Education has not provided sufficient resources to make the school self-sustaining. As a result, she has had to make alliances with outside institutions in order for the school to survive.

Meeting with 18 teachers in a Kaqchikel-speaking village in the province of Chimaltenango. August 21, 2007.

The 18 teachers that came together for the interview represented three different rural schools from the area; all requested anonymity so that they could speak openly without fearing reprisals from the Ministry of Education. The teachers expressed that bilingual education was a falsehood because the initiative lacks any direction or methodology to guide it. They said that the Ministry of Education typically counted a teacher who could speak and understand Kaqchikel as providing bilingual education. However, they said that Kaqchikel was most frequently used in the classroom as a tool to help the children understand Spanish. They said that they had received some training in bilingual education but they complained that it was not systematic and lacked a clear direction or focus. Others complained that after their trainings they returned to their schools without any books or materials to implement what they had learned. Additionally, they felt that the community would not support bilingual programs in the schools unless the government made an effort to educate people on the issue. They said that many parents had suffered discrimination for not speaking Spanish and, therefore, wanted their children to only learn Spanish in the schools.