

Guatemala's Peace and Justice Venn Diagram

Keira Goldstein

Introduction

In the aftermath of atrocities it was once common to sacrifice justice for peace. Prosecutions were often thought to be too risky in situations of fragile peace. Uruguayan voters, for example, upheld an amnesty for military officers who committed human rights abuses because people were afraid that prosecutions would destabilize the democratic government and result in a return to military rule.¹ In this approach to a peace process, the relationship between peace and justice is characterized as a trade off: peace *versus* justice. “The grim reality is that in order to obtain peace, negotiations must be held with the very leaders who frequently are the ones who committed, ordered, or allowed terrible crimes to be committed. Thus, the choice presented to negotiators is whether to have peace or justice.”²

More recently, however, the notion that a society must choose between one or the other has been challenged. Peace, experts write, “negotiated in the absence of the pursuit of justice will be worth little more than the paper an ensuing peace agreement is written on.”³ The concept of “lasting peace,” which is viewed as necessarily requiring elements of justice, suggests the relationship between the two be characterized as peace *and* justice.

The move from peace versus justice to peace and justice is an important one, empowering internal and external actors alike to challenge the notion that the past must be buried in order to move on. From healing and overcoming official denial to countering the culture of impunity and minimizing vigilante justice, the results of pursuing justice, which strengthens peace, are increasingly well understood. Ultimately, however, peace versus justice/peace and justice is a false dichotomy which does not capture how peace and justice interact in the actual peace processes. A peace process, in this article, is understood to mean both the efforts of the parties, external actors, and civil society to reach a peace agreement and the subsequent efforts to bring that peace off the page and into reality. This article suggests the interactions between peace and justice are more accurately captured with the image of a Venn diagram (see Figure 1). Certain aspects of a peace process do further the causes of both peace and justice (depicted in the overlap of the two circles). Of those aspects designed purely to achieve peace, some are at odds with justice, for example, amnesties. Because creating peace is more than administering justice, which is why the peace circle is bigger than the justice circle, some aspects of a peace process do not

Keira Goldstein is a second year student at Fletcher focusing on conflict resolution and Islamic civilization. Prior to coming to Fletcher she lived and taught in Guatemala for two year.

conflict with justice, but are also beyond it. As explained below, I argue that socioeconomic and race issues, as well as democratization, fall within this category. Finally, the diagram captures the fact that, if taken too far, any one of the justice mechanisms could prevent peace from being reached. Thus, while it might be just to prosecute each and every abuser of human rights, purge an entire army, and fully compensate each and every victim, doing so might come at the cost of peace.

Figure 1: Peace and Justice Venn Diagram



Using a Venn diagram to conceptualize this interplay is useful for three reasons. The first is an ethical reason: Steps toward justice should not be confused with justice. It is disrespectful to those who have suffered to suggest justice has been achieved if, in fact, that is only partly true. For example, even a significant victory for the cause of justice, such as vetting the military, should not be portrayed as justice having been achieved when prosecutions do not accompany that vetting. In addition, justice takes time to accomplish and its pursuit will be aided if the peace process is evaluated in a more nuanced fashion. Ways in which peace and justice were combined should be commended and repeated in the future. In those areas where justice was limited to achieve peace, that should be remembered to encourage its pursuit in the future when new opportunities for justice arise. The second is practical: Mapping a particular peace process this way may help practitioners assess the balances being struck and compare the emerging reality against the ideal—the ideal being a holistic approach to justice located in a larger peace process which minimizes the limitations on justice and maximizes measures to build a lasting peace. The third is intellectual: Circumscribing justice sharpens its meaning, thereby preserving its utility as a concept. As previously distinct fields such as conflict resolution, development, and justice explore their connections, they run the risk of losing focus and expertise by attempting to address too much. In this article I propose a comprehensive, yet specific and delin-

eated, definition of justice. A similarly detailed definition of peace is beyond the scope of this paper, but I do draw on notions of negative and positive peace, discussed below, developed by Johan Galtung, the founder of peace and conflict research.

This article analyzes the Guatemalan peace process using the peace and justice Venn diagram. Before beginning this analysis, I provide a brief background on the conflict and peace process. I then operationalize peace and justice by including brief examples from the Guatemalan context. In order to explore the interaction between peace and justice more fully, I discuss two mechanisms: prosecutions and truth commissions. These are examined first in the context of promoting peace and justice and then in the context of justice limited for the sake of peace. Finally, I briefly touch on important parts of building a lasting peace which fall outside of the purview of justice.

***Circumscribing
justice sharpens its
meaning, thereby
preserving its utility
as a concept.***

Background: Conflict and Peace Process

In 1954 the Central Intelligence Agency of the United States orchestrated the overthrow of the democratically elected President of Guatemala, Jacobo Arbenz.⁴ Six years later, the longest and bloodiest armed conflict in Central America began and did not formally end until December 29, 1996, when the Guatemalan Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG) rebel leaders signed the last in a series of agreements. The conflict left two-hundred thousand people dead and included what the truth commission found to be acts of genocide by the state against the indigenous Mayan people between 1981 and 1983.⁵

After this period the URNG was militarily defeated, though not eliminated.⁶ In 1986, after years of dictatorships, Guatemala returned to civilian rule and the URNG began to propose dialogue and negotiations for a political settlement.⁷ Direct talks between the URNG and the government did not start until 1991. Initially, the UN was involved in these talks only as an observer. In 1994, however, it was asked by both parties to provide a moderator (Jean Arnault was appointed) and verify the implementation of the agreements.⁸ A few months later both parties signed the Comprehensive Agreement on Human Rights and requested the establishment of a UN human rights mission, the United Nations Verification Mission in Guatemala (MINUGUA).⁹ MINUGUA was deployed in November 1994 and through the final peace signing was exclusively a human rights mission. After the signing, MINUGUA became a multidisciplinary mission charged with verification, institution-building, and, briefly, military observers who verified compliance with the terms of the ceasefire.¹⁰

One of the unique aspects of Guatemala's peace process was the role accorded to civil society. The same 1994 agreement which enhanced the role played by the UN also laid out functions for an Assembly of Civil Society (ASC). These included formulating consensus positions on the key issues of the negotiation agenda, providing its nonbinding recommendations to the parties and the UN, and the possibility of considering and endorsing as a "national commitment" those agreements reached by the parties. The ASC was the only group to produce its working papers on schedule, and the final accords reflect many of its recommendations.¹¹

Negotiating a final peace took a decade. The end result was a series of accords address-

ing operational and substantive issues. This overview is necessarily brief and serves merely as background for the analysis of the process using a peace and justice Venn diagram. Before expanding on specific elements, it is necessary to detail what is meant by peace and justice.

Operationalizing Peace and Justice

For the purposes of this article, peace will be broken into two categories: negative and positive peace. To explain the difference, Galtung differentiates between the kinds of violence each peace ends: personal violence, where there is an actor, and structural violence, where there is not. “Personal violence represents change and dynamism...waves on otherwise tranquil waters. Structural violence is silent, it does not show—it is essentially static, it *is* the tranquil waters.”¹² Expressed more concretely, structural violence is the condition in which “the poor are denied decent and dignified lives because their basic physical and mental capacities are constrained by hunger, poverty, inequality, and exclusion.”¹³ Negative peace then is the absence of personal violence while positive peace is the absence of structural violence, or positively expressed, social justice. Those aspects of a peace process which are believed to be required for a peace agreement to be signed and bring the fighting to an end, but which further neither justice nor social justice, belong in the negative peace section of the Venn diagram. Those that address hunger, poverty, inequality, and exclusion belong in the positive peace section. It is tempting to include, for example, issues addressing socioeconomics and democratization in the circle of justice; Galtung even calls them social justice. To do so, however, would explode the category of justice—everything would be justice and everything would be peace.

I, therefore, propose that justice in the context of peace processes be understood as the ways by which the consequences of atrocities are dealt with and the damage done is repaired. Though conflicts worsen problems of exclusion and poverty, such issues usually predate conflicts and especially in domestic conflicts are often among its *causes*. It is essential that the peace process address these root causes, but this is not best accomplished through justice mechanisms. Consequences of atrocities can include people losing faith in their government, wanting revenge, being traumatized, losing the primary breadwinner in their household, etc. The mechanisms of justice, depicted in the Venn diagram, include prosecutions, truth commissions, non-criminal sanctions, local customs, reparations in some cases, peace operations, and institution-building, are well suited to repairing as best possible the damage done as a consequence of atrocities. Below I briefly discuss what each mechanism is able to contribute. Of course, “it is an illusion to think that any particular response can be adequate to deal with the consequences of atrocities committed against oneself or one’s loved ones.”¹⁴ The best we can do is provide, in Kritiz’s words, “sophisticated, multi-faceted and well-integrated responses.”¹⁵

Demands for justice are often demands specifically for prosecutions. Those accused of human rights violations can be tried nationally, internationally, or via hybrid courts. For some victims of atrocities, the retributive justice prosecutions can provide is an important part of their own healing. Fair trials can also help reestablish confidence in courts which may have allowed impunity to go unchecked during the conflict.¹⁶ “The path to a future free of the plague of impunity must inevitably lead through the judicial process.”¹⁷ Establishing a credible record, which often stands in sharp contrast to official denial during and sometimes after atrocities, is also an important outcome of prosecutions. “The most

authoritative rendering of the truth is possible only through the crucible of a trial that accords full due process."¹⁸ Many human rights organizations in Guatemala have been active in pursuing justice through the courts, including the Mack Foundation, the Center for Human Rights Legal Action (CALDH), and the Fundación Rigoberta Menchu Tum.

Truth commissions are another important justice mechanism. Truth commissions help "redress the inherent individualist bias of human rights laws and instruments."¹⁹ The prosecution of individual human rights abusers does not generally shed light on the larger patterns and structures behind the abuses. Truth commissions, on the other hand, can investigate these patterns and lines of responsibility.²⁰ The role of victims in trials and truth commissions is also distinct. In the former, victims are called to testify as witnesses to specific claims, and their testimony is often directly and aggressively challenged.²¹ Truth commissions, in contrast, focus on the victims and, therefore, can be an important part of their healing. Both prosecutions and truth commissions are discussed in more detail below.

When a truth commission's investigations do not lead to accountability and punishment, some argue this institutionalizes impunity.²² Since, even under the best of circumstances, prosecutions take place for only a minority of instances of abuse, non-criminal sanctions can be an important mechanism as well. This approach usually involves excluding persons from elected or appointed offices based on "prior activities, associations, or positions."²³ In addition to having significant reach, non-criminal sanctions are resource efficient and can be a "measured response, allowing those less culpable to avoid trials or prison."²⁴ Although Guatemala did not make use of this to the extent other countries have, such as El Salvador, President Alvaro Arzu did conduct some informal purges in the army and police.²⁵

Local customs can be crucial means by which victims overcome the atrocities they have suffered. This category varies dramatically from context to context. In Guatemala, ritual "funerary practices to commemorate the dead have constituted a central feature of collective attempts by indigenous communities to deal with trauma and loss."²⁶ These practices are often preceded by exhumations, which are painful but also have

a liberating effect; it is precisely this fact of unearthing the truth, of contacting the past, and seeing their relatives, and then being able to give them the ceremonious religious burials that they want, that puts them at peace and gives them the possibility of having a relationship with them in the future as the Mayan tradition holds.²⁷

Many communities have also made memorials in which publicly naming the victims is of central importance.

Reparations are payments or services given to victims because of damage done. They can include a mix of types of redress. "Restitution aims to reestablish to the extent possible the situation that existed before the violation took place; compensation relates to any economically assessable damage resulting from the violations; rehabilitation includes legal, medical, psychological and other care."²⁸ Acknowledgment of violations is another form. Reparations can result from voluntary government programs or court orders. In 2004 for the first time, the Guatemalan government paid \$3.5 million to victims of the conflict.²⁹ Though a small sum of money given the scale of atrocities, this was still symbolically important.

As the name suggests, peace operations are primarily concerned with peace—both negative and positive. However, their actions can sometimes contribute to justice as well. The response of MINUGUA to the Xaman massacre in Guatemala is one example. In 1995 soldiers killed eleven returnees from refugee camps. MINUGUA arrived within hours and began taking testimonies and collecting forensic evidence.³⁰ MINUGUA's "pronouncements preempted the army's attempts to blame the victims, contributing to the resignation of the defense minister and the eventual (unprecedented) consignment of the case to a civilian court."³¹

The final category is institution-building. Kritz argues that "[a]ny consideration of post-conflict justice must necessarily include attention to the reconstruction of the local criminal justice system."³² The ultimate goal, according to Kritz, is the construction of stable societies wherein the atrocities will not be repeated. This, of course, threatens to erase the line between justice and positive peace, so it is important to stress that justice's

Justice, in the context of peace processes, is understood as the ways by which the consequences of atrocities are dealt with and the damage done is repaired.

role in constructing stable societies is limited to institution-building in the criminal justice system. An important innovation in MINUGUA's mandate was to combine verification with institution-building, focusing on the judicial system, the Public Prosecutor's Office, and security forces such as the National Police.³³

This section has attempted to operationalize the Venn diagram. Peace can be understood in terms of Galtung's negative and positive peace. Justice, in the context of peace processes, is understood as the ways by which the consequences of atrocities are dealt with and the damage done is repaired. Prosecutions, truth commissions, sanctions, local customs, reparations, peace operations, and institution-building are all justice mechanisms. The rest of this article illustrates the

sections of the Venn diagram: the overlap of peace and justice, negative, peace, where justice has been sacrificed to peace, and finally positive peace, which includes those aspects of a peace agreement which are beyond the sphere of justice.

In the Venn Diagram's Overlap:

Prosecutions and Truth Commissions Supporting Peace and Justice

Aspects of both prosecutions and the truth commissions in Guatemala furthered the causes of peace and justice. An example of a particularly significant prosecution is discussed below, followed by the ways in which the truth commissions contributed to both goals.

Peace and Justice as Furthered by Prosecutions

There have been only a handful of prosecutions at the national level in Guatemala.³⁴ In Latin America, however, the Inter-American Commission on Human Rights and Inter-American Court offer victims an alternative route to justice. The Commission, founded in 1959, originally was limited to observing and studying human rights in the Americas,³⁵ but in 1969 the American Convention of Human Rights expanded the role of the Commission and added the Court.³⁶ The Commission will not consider a case until domestic

remedies have been exhausted. Once accepted by the Commission, a case is processed and the Commission can decide to bring the case before the Court. Cases are between petitioners and states, not individuals. If the Court finds in favor of the petitioner, the judgment includes reparations the state must pay and the state is required to investigate, try, and punish those responsible for the violation.³⁷

In the summer of 1982, the Guatemalan military killed 268 people in the town of Plan de Sánchez. The “soldiers randomly picked their victims, raping and torturing young women before rounding up villagers in a house, throwing in hand grenades and firing machine guns.”³⁸ Unable to obtain justice in the Guatemalan courts, the survivors, with the help of CALDH, brought the case to the Inter-American Court.³⁹ Twenty-two years after the massacre, partial justice was obtained. In its decision in the *Case of Plan de Sánchez Massacre v. Guatemala*, the Court ruled that the Guatemalan government must publicly recognize its responsibility for the massacre and pay reparations of US\$25,000 to each of the 317 surviving victims. The ruling also ordered the Guatemalan government to effectively investigate the events, identify, and bring to justice the material and intellectual authors, publicly honor the victims, and provide free health care, including psychological and psychiatric care, to the victims.⁴⁰ This was an important step toward holding the state responsible for its actions.

To my knowledge, the Inter-American Court ruling has not yet been followed by domestic trials, as are required. In another case that went before the Court, however, that of Myrna Mack, a Guatemalan anthropologist murdered by the government, the Inter-American Court ruling was followed by the reinstatement of Colonel Juan Valencia Osorio's conviction. This has been the only conviction to date of a high-ranking army officer for human rights violations committed during Guatemala's civil war.⁴¹ It is not unreasonable to hope, therefore, that the state accountability established in the Inter-American Court ruling will be followed by individual accountability in Guatemalan courts.

Peace and Justice as Furthered by Truth Commissions

Guatemala had two truth commissions, the Commission to Clarify Past Human Rights Violations and Acts of Violence (hereafter referred to as the Commission), which was established through one of the peace agreements, and the Recovery of Historical Memory (REHMI), an inter-diocesan project of the Catholic Church. REHMI was, at least in part, a reaction to the limitations placed on the Commission, so I will discuss it in the section focused on those limitations. Despite the serious handicaps built into the Commission, it was able to make important contributions to both peace and justice.

The agreement to create a truth commission was signed in 1994, but the parties decided that it would not begin its work until after the final Peace Accord was signed. The Commission, which began work in 1997, was pro-active about seeking out deponents, mounting “an investigative operation unparalleled in the history of truth commissions in Latin America.”⁴² It helped to establish the truth of what had happened in Guatemala's conflict, perhaps most importantly, concluding that agents of the state had committed acts of genocide between 1981 and 1983.⁴³ Throughout the entire conflict, an estimated two-hundred thousand people were killed, one million became refugees, and an additional two-hundred thousand were internally displaced. This, in a population of eleven million.⁴⁴

The Commission provided crucial analysis in three areas. First, it could not name names, so by default it focused on patterns and structures. The final report was able to

“transmit a sense of the massive institutional nature of genocide and other crimes.”⁴⁵ In this way, the reach of its analysis surpassed that of traditional prosecutions which focus on individuals. Although in more recent years, the Inter-American Court has assigned some institutional responsibility by virtue of the fact that cases are between petitioners and *states*. The Commission provided this in a much more timely fashion. Second, the Commission looked at patterns on the side of the victims as well as the perpetrators. It found

Justice, in the context of peace processes, is understood as the ways by which the consequences of atrocities are dealt with and the damage done is repaired.

that the areas with the most victims correlated to the poorest parts of the country, which in turn correlated to the areas of greatest indigenous population.⁴⁶ Finally, by the time the Commission began its work, a partial amnesty had been agreed to by the parties and passed into law by the Congress (discussed below). Analysis by the Commission of the duty to prosecute was linked to the amnesty, and this made it much more difficult for the government to try and extend the amnesty further.⁴⁷

By offering measures of justice shortly after the signing of the final peace agreement, the Commission helped strengthen that peace. The realization of the benefits to peace and justice offered by prosecutions has taken a longer time. Even though the peace has lasted

almost a decade, it remains a peace in need of strengthening. In 2000, at least six well known activists were killed and three more disappeared.⁴⁸ In 2003, at least twenty-seven people died in election-related violence.⁴⁹ Lynching, which is common throughout much of Guatemala, is seen as the result of mistrust in the judicial system.⁵⁰ Prosecutions, therefore, are still required, both for the contributions they make to justice and those they make to peace.

Negative Peace: Justice Sacrificed to Peace

In order to achieve negative peace—the cessation of fighting – certain limitations on the justice mechanisms were deemed necessary. Prosecutions were limited by a partial amnesty and the truth commission had several different limitations placed on it. While, of course, it is impossible to know, I believe these limitations were in fact necessary to achieve peace. That said, they should still be clearly marked as having compromised justice. Taken together, these limitations tolerate a high degree of impunity, a problem that continues to plague Guatemala. Naming this is important for current struggles to end injustice.

Amnesties as Limits to Justice

Included in the Agreement on the Basis of the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteco was a partial amnesty which covered war-related crimes. Though genocide, torture, and forced disappearances were excluded from the amnesty, extrajudicial killings were not.⁵¹ Furthermore, there was a series of amnesties in place prior to 1988, the period in which most of the violence took place, which was left untouched by the agreement.⁵² For the United Nations this was an example of the “inevitable tension between the non-negotiable principles of human rights and international law upon which the organization had been founded and the pragmatic requirements and limitations of a particular political process.”⁵³

In his speech at the signing of the final peace accord, President Arzu defended the amnesty, saying, "As far as we know, this is the first time in Latin America that the causes of an internal conflict are not resolved through a full amnesty that closes the doors to complaints of abuses that may have been committed."⁵⁴ However, neither this point nor others supporting or opposing the amnesty were ever part of a national debate. Was an amnesty necessary for peace? Should extrajudicial killings have been excluded? Was it enough to limit the amnesty more so than had previously been done in Latin America? Instead of a national debate, Congress rushed to pass the National Reconciliation Law, which included the partial amnesty.⁵⁵ The limitations this placed on prosecutions clearly compromised justice by preventing the possibility of trials in many cases.

Limited Truth Commissions, Limited Justice

From the beginning, Guatemala's official truth commission was "intended to be ineffectual."⁵⁶ The Guatemalan armed forces insisted that the model used in El Salvador, in which perpetrators were named, not be repeated in Guatemala.⁵⁷ In addition to not being able to name names, the Commission's report was not to have "any judicial aim or effect."⁵⁸ Unlike South Africa's truth commission, the Commission in Guatemala was not given powers of search, seizure, or subpoena.⁵⁹ President Arzu's government provided the Commission with virtually no financial support, and it was only through foreign donations that the Commission was able to complete its work.⁶⁰ The ASC and URNG wanted the Commission's investigation to begin in 1980 with the most recent and extreme violence, but the government wanted to include the entire thirty-six years of conflict. The government also supported the idea of "symmetrical narratives" in which equal blame would be accorded to the army and the rebels. The government position prevailed in the former but not the latter.⁶¹

The government had initially opposed any truth commission whatsoever. The first peace accord signed, that on Human Rights, had provisions for establishing a truth commission removed so as to facilitate its signing.⁶² According to "some participants in the negotiations, the strong reaction to the truth commission agreement came close to derailing the peace talks altogether."⁶³ In the end, a truth commission was created only under pressure from civil society and the international community.⁶⁴

REMHI was a response to these disappointing limitations. The intention was to name both victims and perpetrators, and information collected by REMHI was given to the Commission as a "head start."⁶⁵ In the end, however, fears for the safety of those who gave testimony resulted in a failure to individualize responsibility in all but a few cases.⁶⁶ Shortly after REMHI published its findings, Bishop Juan Gerardi, the project's head, was killed.⁶⁷ Though REMHI attempted to pursue justice where the Commission could not, the Commission was the official, internationally backed truth commission and its mandate and resources reflected a trade-off between peace and justice.

Unlike South Africa's truth commission, the Commission in Guatemala was not given powers of search, seizure, or subpoena.

Positive Peace

It is beyond the scope of this article to fully address in detail those aspects of Guatemala's peace process which support lasting peace but fall outside of justice. However, three specific accords deserve at least brief mention because they directly attempt to address the root causes of the conflict. These are the agreements dealing with indigenous rights, socioeconomic issues, and democratization.

The majority of Guatemalans are indigenous, yet they have historically been the targets of extensive discrimination. The 1995 Agreement on Identity and Rights of Indigenous Peoples identifies Guatemala as a "multiethnic, multicultural, and multilingual nation,"⁶⁸ official recognition which is an important step toward inclusion. Legal, educational, and political reforms are outlined in the Agreement as well. During the peace negotiations, the IMF, the World Bank, and the Inter-American Development Bank were in close communication with UN mediators. In apparent recognition of the harmful effects of rapid liberalization in Nicaragua and El Salvador, these institutions pressed for agreements that both endorsed liberalization and also committed the government to higher levels of social welfare spending.⁶⁹ The financial institutions came to view a reduction in Guatemala's social and economic inequalities as necessary for a lasting peace, a view which is reflected in the agreement.⁷⁰

Finally, in the Accord on the Basis for Incorporating the URNG into Legality, both parties agreed that one of the origins "of the domestic armed conflict was determined by the closing of political spaces for expression and democratic participation."⁷¹ The agreement specifies how political spaces are to be kept open. Broadly speaking, in the UN-mediated peace process, groups "once excluded and repressed received new rights, legal recognition, and access to the legal political arena, among them the indigenous peoples and former revolutionaries of the URNG."⁷²

Conclusion

In a peace process, the relationship between peace and justice is not adequately captured either by the phrase peace versus justice or peace and justice. The interplay of these aims

In a peace process, the relationship between peace and justice is not adequately captured either by the phrase peace versus justice or peace and justice.

is best depicted by a Venn diagram. Most of the justice sphere falls within the larger peace sphere, but taken too far any one of the justice mechanisms could prevent peace from being achieved. Peace, on the other hand, is more than just the pursuit of justice, and those components of peace which fall outside of justice's sphere can be understood as contributing to either negative or positive peace.

Guatemalans have seen only limited justice for the atrocities they suffered. Recent developments, including important victories in some legal cases, statements by President Oscar Berger recognizing the suffering and in some instances admitting government guilt for human rights crimes, and payment of some reparations are all important signs that an improved record on achieving justice is still possible.⁷³ Very recently, all the files of the National Police were found in the "largest discovery of secret government documents in Latin

improved record on achieving justice is still possible.⁷³ Very recently, all the files of the National Police were found in the "largest discovery of secret government documents in Latin

America.”⁷⁴ The files contain documentation on everything from traffic tickets to assassinations and disappearances. The peace and justice Venn diagram highlights many of the positive lessons that should be taken from the Guatemalan experience. It is important to remember that justice has yet to be maximized, especially as continued high levels of violence, including disappearances and lynching, coincide with unprecedented discoveries of documentation of human rights abuses however. The international community should increase its support of national and international organizations dedicated to its pursuit.

ENDNOTES

- 1 Aryeh Neir, “The Quest for Justice,” *New York Review of Books*, March 8, 2001, 31.
- 2 Cherif Bassiouni, “Searching for Peace and Achieving Justice: The Need for Accountability,” *Law and Contemporary Problems* 59 (4) (Autumn 1996): 12.
- 3 Richard Goldstone, “Bringing War Criminals to Justice during an Ongoing War”, in *Hard Choices: Moral Dimensions of Humanitarian Intervention* (1998), Jonathan Moore ed., 199.
- 4 Susanne Jonas, “Democratization through Peace: The Difficult Case of Guatemala,” *Journal of Interamerican Studies and World Affairs* (Winter, 2000): 10.
- 5 Larry Rohter, “Searing Indictment: Commission’s Report on Guatemala’s Long, Brutal War Packs a Surprise,” *The New York Times*, February 27, 1999, A4.
- 6 Teresa Whitfield, “The Role of the United Nations in El Salvador and Guatemala: A Preliminary Comparison,” in *Comparative Peace Processes in Latin America*, ed. Cynthia Arnson (Stanford, Stanford University Press, 1999), 268
- 7 Jonas, “Democratization through Peace: The Difficult Case of Guatemala, 11.
- 8 Whitfield, 270.
- 9 The Aspen Institute, *Honoring Human Rights: From Peace to Justice* (Washington, D.C.: The Aspen Institute, 1998), 40.
- 10 United Nation, Department of Peace Keeping Operations, “United Nations Verification Mission in Guatemala,” http://www.un.org/Depts/dpko/dpko/co_mission/minugua.htm (accessed November 5, 2005).
- 11 Susan Burgerman, “Building the Peace by Mandating Reform: United Nations-Mediated Human Rights Agreements in El Salvador and Guatemala,” *Latin American Perspectives*, 27(3) (2000): 76.
- 12 Johan Galtung, “Violence, Peace, and Peace Research,” *Journal of Peace Research*, 6(3) (1969): 173.
- 13 Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda*, (Connecticut: Kumarian Press Inc., 1998), 103.
- 14 Simon Chesterman, ed. *Civilians in War* (Boulder, CO: Lynne Rienner Publishers, 2001): 158
- 15 Neil Kritz, *Transitional Justice: how emerging democracies reckon with former regimes*, (Washington, D.C.: United States Institute of Peace Press, 1995), 66.
- 16 Kritz, 58
- 17 Patrick Smith, “Memory without History: Who Owns Guatemala’s Past,” *The Washington Quarterly* 24(2) (2001): 67.
- 18 Michael Scharf, “The Tools for Enforcing International Criminal Justice in the New Millenium: Lessons from the Yugoslav Tribunal,” *De Paul Review*, (2000): 925-979
- 19 Charles Call, “Is Transitional Justice Really Just,” *Brown Journal of World Affairs*, 11(1) (2004): 103.
- 20 Martha Minow, “The Hope for Healing: What Can Truth Commissions Do?” in *Truth V. Justice: The Morality of Truth Commissions*, ed. Robert, R.I. and Thompson, ed..(Princeton: Princeton University Press, 2000), 253.
- 21 Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (New York: Routledge, 2002): 28.
- 22 Rachel Sieder, “War, Peace, and the Politics of Memory in Guatemala” in *Burying the Past: Making Peace and Doing Justice After Civil Conflict* (Washington, D.C.: Georgetown University Press, 2003), 209.
- 23 Kritz, 81.

- 24 Ibid.
- 25 Juan Hernandez Pico, "Peace Accords: Return of the Quetzal," *Envio*, February-March (1997): 17.
- 26 Sieder (2003): 217.
- 27 Frank La Rue, "The Right to Truth and the Right to Justice as Preconditions for the Rule of Law," in *Guatemala After the Peace Accords*, ed. Rachel Sieder (London: Institute of Latin American Studies, University of London), 177.
- 28 Hayner, 171.
- 29 "World Briefing, Americas: Guatemala: Damages Paid To Civil War Victims," *New York Times*, July 8, 2004; www.nytimes.com (accessed November 5, 2005).
- 30 Richard Wilson, "The Politics of Remembering and Forgetting in Guatemala," in *Guatemala After the Peace Accords*, ed. Rachel Sieder (London: Institute of Latin American Studies, University of London), 192.
- 31 Susanne Jonas, "Between Two Worlds: The United Nations in Guatemala," in *Peacemaking and Democratization in the Western Hemisphere*, ed. Tommie Sue Montgomery (Miami: North-South Center, University of Miami, 2000), 99.
- 32 Kritz, 84.
- 33 Susanne Jonas, "Between Two Worlds: The United Nations in Guatemala," 99.
- 34 "Be careful, very careful," *Economist*, June 21, 2001, www.economist.com (accessed November 12, 2005).
- 35 Christina Cerna, "The Inter-American System for the Protection of Human Rights," *Florida Journal of International Law* (2004). <LexisNexius> (accessed March 24, 2005).
- 36 Lynda Frost, "The Evolution of the Inter-American Court of Human Rights: Reflections of Present and Former Judges," *Human Rights Quarterly* 14(2) (1992): 171.
- 37 Cerna.
- 38 "Government Ruled against in Plan de Sanchez Massacre," *Guatemalan Human Rights Commission/USA*, 16(24) www.ghrc-usa.org/Publications/vol16no24.pdf (accessed December 5, 2005).
- 39 CALDH, http://www.caldh.org/4_3dejure.html (accessed December 12, 2005).
- 40 InterAmerican Court, *Case of Plan de Sanchez Massacre v. Guatemala*, http://www.corteidh.or.cr/seriec_ing/index.html (accessed December 4, 2005).
- 41 *Rights Organizations Hail Supreme Court Decision in Myrna Mack Case*, January 2004; www.humanrightsfirst.org (accessed March 19, 2005).
- 42 Paul Seils, "The Limits of Truth Commissions in the Search for Justice: An Analysis of the Truth Commissions of El Salvador and Guatemala and Their Effect in Achieving Post-Conflict Justice," in *Post-Conflict Justice*, ed. Cherif Bassiouni (Transnational Publishers, 2001), 795.
- 43 Rohter
- 44 Smith, 62.
- 45 Seils, 788.
- 46 Ibid.
- 47 Seils, 790.
- 48 Smith, 62.
- 49 Tim Weiner, "Guatemalan Voters Reject a Former Dictator," *New York Times*, November 10, 2003, www.nytimes.com (accessed November 4, 2005).
- 50 Smith, 62.
- 51 Jonas, "Democratization through Peace: The Difficult Case of Guatemala," 2000, 17.
- 52 The Aspen Institute, 66.
- 53 Whitfield, 278.
- 54 "Documents on Democracy," *Journal of Democracy* 8, no. 2 (1997): 185-7.
- 55 Susanne Jonas, *Of Centaurs and Doves: Guatemala's Peace Process*, (Boulder, CO: Westview Press, 2000), 90.
- 56 Rohter.
- 57 Hayner, 45.

- 58 Peace Accords, Embassy of Guatemala to the United States, *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society*, June 23, 1994 <http://www.guatemala-embassy.org/peaceaccordsclarification.php> (accessed December 3, 2005).
- 59 Wilson, 184.
- 60 Rohter.
- 61 Wilson, 184.
- 62 Wilson, 183.
- 63 Hayner, 46.
- 64 Sieder (2003), 215 or Wilson, 194.
- 65 Wilson, 189.
- 66 Sieder (2003), 217.
- 67 "Be careful, very careful," *Economist*.
- 68 Peace Accords, Embassy of Guatemala to the United States, *Agreement on Identity and Rights of Indigenous People*, March 31, 1995 <http://www.guatemala-embassy.org/peaceaccordsindigenous.php> (accessed December 3, 2005).
- 69 Roland Paris, *At War's End: Building Peace After Civil Conflict*, (New York: Cambridge University Press, 2004), 130.
- 70 Ibid.
- 71 Peace Accords, Embassy of Guatemala to the United States, *Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca*, December 12, 1996 <http://www.guatemala-embassy.org/peaceaccordslegalintegration.php> (December 3, 2005).
- 72 John Booth, "Introduction" *Journal of Interamerican Studies and World Affairs*, 42(4) (Winter, 2000): 1.
- 73 "World Briefing, Americas: Guatemala: Damages Paid To Civil War Victims," *New York Times*, July 8, 2004; www.nytimes.com (accessed December 4, 2005).
- 74 Ginger Thompson, "Guatemala's Secret Police Files May Hold Clues to War Atrocities," *New York Times*, November 20, 2005, www.nytimes.com (accessed December 4, 2005).