

Report submitted to the United States Agency for International Development

**Thematic Impact Assessment
USAID/Guatemala Peace Program
Executive Summary
and Final Reports**

Under the Analytical Indefinite Quantity Contract (IQC),
Contract No. AEP-I-00-99-00041-00, Task Order No. 825

September 2004

Submitted to:

USAID/Guatemala

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Table of Contents

Executive Summary

Thematic Area Number One: Access to and Effectiveness of the Justice System and Other Mechanisms for Conflict Resolution

Thematic Area Number Two: Decentralization, Local Government Strengthening, and Participation at the Local Level

Thematic Area Number Three: Indigenous Participation and Access to Resources

Thematic Area Number Four: Support to Victims of the Armed Conflict and Reconciliation

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Thematic Impact Assessment USAID/Guatemala Peace Program

Executive Summary

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Executive Summary

The Thematic Impact Assessment of USAID/Guatemala’s Peace Program—implemented through its Special Objective to support implementation of the Peace Accords (Peace SpO)—focused on four thematic areas:

1. Justice and Conflict Resolution¹;
2. Decentralization and Local Government²;
3. Indigenous Peoples³; and
4. Victims and Reconciliation⁴.

A stand-alone report has been prepared for each theme and are included with this Executive Summary.

The Peace SpO

The Guatemalan Peace Accords came into force in December of 1996, formally ending 36 years of armed conflict. The Accords constitute a key agenda oriented toward overcoming causes of the armed conflict and establishing a blueprint for the political, economic, social and cultural development of the country. USAID established its Peace SpO to support implementation of the Peace Accords through key initiatives in four areas: National Reconciliation, Integral Human Development, Productive Development in Ex-Conflictive Areas, and Modernization of State Institutions. Within this context, the consultant team was asked to focus on the four themes enumerated above.

USAID Impact

The framework used to assess impact of USAID support involves analysis at three distinct levels: 1) individual/community-level impacts; 2) institutional-level impacts; and 3) system-level impacts. Given time limitations, the breadth of activities under review and the fact that systematic monitoring and evaluation had not been done regarding some of the activities in question, the analysis is more rigorous in certain areas than others. Organized by report, the most significant impacts are:

- **Justice and Conflict Resolution.** The single most important impact of USAID initiatives in these areas has been the widespread adoption and development of the Justice Center model. The adoption of the model has had significant impacts concerning the formal justice system, alternative dispute resolution (ADR) and indigenous customary law. These impacts can be seen at the individual/community level, at the level of justice and conflict resolution institutions, and at the systemic level. Systemic impacts include better inter-institutional coordination at both national and local levels, and an evolving legal framework that recognizes the prominent role Justice Centers play within the larger justice system. But perhaps the most important systemic impact has been the way in which Justice Centers have permitted civil society and justice sector actors to come together within a stable institutional space to formulate policy and oversee its implementation. Justice Centers are now vital hubs for the ongoing development of a national justice system that integrates citizen participation within its institutional fabric, and thus Justice Centers contribute to the perceived and actual legitimacy of the overall justice system.

¹ Full title: *Access to and Effectiveness of the Justice System and other Mechanisms of Conflict Resolution.*

² Full title: *Decentralization, Local Government Strengthening and Participation at the Local Level.*

³ Full title: *Indigenous Participation and Access to Resources.*

⁴ Full title: *Support to Victims of the Armed Conflict and Reconciliation.*

- **Decentralization and Local Government.** USAID focused national legislative and policy attention on the fundamental issue of municipal reform, particularly fiscal policy, and promoted donor coordination related to decentralization. With significant variation in results due to a series of mainly external factors, USAID achieved significant progress in establishing the administrative and fiscal conditions for more transparent, accountable, and democratic local governance in 20 municipalities. In relation to citizen participation in the same geographic area, the introduction of program instruments for joint stakeholder planning within an improved statutory context began to establish conditions for greater citizen participation in public decision making, particularly through reformed community and municipal development councils.
- **Indigenous Peoples.** Overall, impact of USAID activities to alter historic patterns of indigenous participation in public affairs and democratic life has been limited. All initiatives had impact at the individual and community level, and some achieved significant impact at this level (e.g., EDUMAYA and INCIDENCIA). To date, institutional-level impact is relatively limited although this may increase with time. For example, CNEPU-Maya and related associations offer significant potential, and newly developed public policy spaces may prove important. System-level impact has been limited for reasons related to project design or, more frequently, external political and structural factors; some higher-level impact may yet be realized with time and effort. Although not closely assessed, the main impact affecting indigenous peoples regarding land conflicts and titling seems to be at the individual and community level, and does not seem to have occurred in a significant way at institutional or systemic levels.
- **Victims and Reconciliation.** The most significant impact from USAID support in this area has been an increase in community-level participation in both formal and informal political spaces, manifest in attitudinal shifts and the beginnings of changes in local practices and norms. An important element has been closer relations between civil society and local state authorities, coupled with a degree of strengthened legitimacy of local authorities. Local knowledge about human rights, the armed conflict, ADR and related social issues has also increased. Local-level reconciliation has begun between victims and perpetrators of human rights abuses. Communities targeted by USAID support appear to have experienced positive impacts that are not discernible in nonbeneficiary communities. At the institutional level, impacts have included a strengthened and more legitimate Human Rights Procurator's Office (PDH), civil society organizations that have become involved in conflict prevention/resolution, institutional mechanisms for reparations have been established (e.g., the National Reconciliation Program and local-level reparations committees), the CICIACS coalition has been formed, and a mental health network has been established. System-level impacts have been limited: national-level reconciliation has been minimal, draft laws relating to human rights and reconciliation have not been passed, relevant national-level norms and practices have changed minimally (with the exception of the PDH), and the CICIACS coalition has been deemed unconstitutional.

Future Recommendations

A few transversal recommendations that reflect needs identified in each of the four thematic areas are as follows:

- **Reframing the Peace Accord objectives within a new transitional period.** Even though the formal peace process is ending, Guatemala continues to face unique challenges that reflect the underlying causes of the internal armed conflict and that were central themes within the Peace Accords. The country should be understood as entering a new transitional period in which the Peace Accord goals are reframed within a context that aims to consolidate a responsive and transparent democracy, characterized by inclusive economic growth.

- **Constructing citizenship.** Consider the concept of constructing citizenship—one grounded in an intercultural reality—as a guiding theme regarding support efforts.
- **Monitoring and evaluation (M&E).** Prioritize M&E as permanent ongoing activities, with two potential dimensions. First, consider establishing an internal M&E unit, responsible for improving program management decision making and accountability of implementing partners across all program pillars. Second, consider coordinating with other donors to support the design and implementation of national systems to monitor and evaluate program activities in areas such as decentralization and justice.

The most significant recommendations from each report are succinctly summarized or mentioned below; the complete recommendations appear in each respective report.

- **Justice and Conflict Resolution.** As a general strategy, USAID should provide appropriate support for the three-part justice system articulated in the Peace Accords: formal state justice, ADR and indigenous customary law. More specifically, support for the Justice Center model should be continued, in a range of different ways. Participatory M&E should be implemented at both the national and local levels in conjunction with the Justice Centers and in coordination with other relevant actors, including the PDH and the *Instancia Coordinadora de Justicia*. The bilingual language program regarding justice should be evaluated for potential recovery. Support should prioritize improving the efficiency and responsiveness of the justice system on various fronts. The use of ADR and pre-trial settlement options should be promoted and strengthened. Initiatives to strengthen the scope and quality of legal education should be considered. Efforts should target improving crime prevention and criminal investigations.
- **Decentralization and Local Government.** Recommendations begin at the national policy level regarding decentralization policy and ongoing fiscal and administrative reform to strengthen local governance. At the program support for municipal governance level, the continuance of existing activities is recommended, while mechanisms to provide performance incentives should also be explored. In order to achieve strengthened citizen participation, current activities should be maintained while strengthening participatory M&E and facilitating participation of women and indigenous peoples in a range of reform processes regionally and nationally. Finally, it is recommended that USAID explore potential joint donor strategies in collaboration with the government, particularly in the area of design, implementation, monitoring, and evaluation of decentralization, including the focus on ‘*mancomunidades*’ and institutionalization of permanent training for public officials and civil society.
- **Indigenous Peoples.** Internally, USAID should consider establishing mechanisms/procedures to provide indigenous-specific input into programmatic analysis and planning at various levels, and to improve relevant M&E. Existing indigenous organizations should be strengthened where feasible and the tendency to create new institutional structures for project implementation should only be done when necessary. Targeted support should strengthen indigenous CSOs at the national level regarding their involvement in a range of processes related to key public policy issues (e.g., economic matters, racism and discrimination), and at the local level through involvement in existing bodies and authorities (e.g., *Consejos de Desarrollo*, Justice Centers). Support could also be directed toward the PDH, as well as issues of electoral and political party reforms. Targeted scholarships in areas such as law, health and bilingual translation warrant consideration, and CNEPU-Maya may warrant follow-up support. Recommendations related to indigenous peoples and justice issues are incorporated into the justice report, and a focused assessment of land issues is proposed as a means to identify appropriate programmatic interventions.

- **Victims and Reconciliation.** The prosecution of emblematic cases of human rights violations committed during the armed conflict should be supported, as well as efforts to combat corruption, illegal activity and human rights violations. Consider supporting the PDH to become more involved with both the Justice Centers and *Consejos de Desarrollo* in human rights and ADR. Support could also target development and strengthening of a network of health promoters to address intra-familial violence, violence against women, as well as child and reproductive health matters; consultation with indigenous peoples and women should be prioritized in this, as should the fulfillment of their needs. School curriculum and instruction should be strengthened in areas of citizenship rights, including materials on inter-culturalism, conflict prevention and resolution. Lastly, it is proposed that human rights be considered as a potential theme under USAID's new crosscutting funding mechanism, and a few project ideas for this are suggested.

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Table of Contents

ACRONYMS AND ABBREVIATIONS.....	ii
1.0 BACKGROUND	1
2.0 IMPACTS.....	1
2.1 METHODOLOGY	1
2.2 INDIVIDUAL/COMMUNITY-LEVEL IMPACTS RELEVANT TO USAID INITIATIVES	2
2.3 INSTITUTIONAL-LEVEL IMPACTS RELEVANT TO USAID INITIATIVES	2
2.4 SYSTEMIC-LEVEL IMPACTS RELEVANT TO USAID INITIATIVES	4
3.0 FACTORS INFLUENCING IMPACTS.....	5
3.1 INTERNAL FACTORS.....	5
3.2 EXTERNAL FACTORS.....	6
4.0 CONCLUSIONS	7
5.0 RECOMMENDATIONS.....	8
ANNEX A. LIST OF PERSONS INTERVIEWED RELEVANT TO THE JUSTICE THEME	
ANNEX B. JUSTICE CENTERS	
ANNEX C. METHODOLOGY/REFERENCED MATERIALS	
ANNEX D. USAID-SUPPORTED ADR VS. FORMAL JUSTICE	
ANNEX E. SUSTAINABILITY	
ANNEX F. IMPEDIMENTS TO POLICY REFORM IN GUATEMALA’S JUSTICE INSTITUTIONS	
ANNEX G. GENERAL RECOMMENDATIONS	
ANNEX H. ADDITIONAL PROGRAMMATIC RECOMMENDATIONS	



Acronyms and Abbreviations

ACRU	(The Guatemalan judiciary's) Alternative Conflict Resolution Unit
ADR	Alternative Dispute Resolution
AED	Academy for Educational Development
ASDI	<i>Agencia Sueca para el Desarrollo Internacional</i> (Swedish International Development Agency – SIDA)
CEJA	<i>Centro de Estudios de la Justicia de las Americas</i> (Justice Studies Center for the Americas)
CICIACS	<i>Comisión de Investigaciones de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad</i> (Commission of Investigation of Illegal Groups and Clandestine Security Forces)
CONALFA	<i>El Comité Nacional de Alfabetización</i> (National Committee for Literacy)
CONTIERRA	<i>Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos sobre la Tierra</i> (Presidential Office for the Legal Assistance and Resolution of Land Conflicts)
COP	Chief of Party
CPC	Criminal Procedures Code
CREA	Creative Associates Inc.
CSO	Civil Society Organization
CTO	Cognizant Technical Officer
DPK	DPK Consulting
FRG	<i>Frente Republicana Guatemalteca</i> (Guatemalan Republican Front)
IDB	Inter-American Development Bank
IECCPG	<i>Instituto de Estudios Comparados en Ciencias Penales de Guatemala</i> (Institute for Comparative Studies and Criminal Law in Guatemala)
IEPADES	<i>Instituto de Enseñanza para el Desarrollo</i> (Institute for Teaching Sustainable Development)
INACIF	National Autonomous Institute of Forensic Sciences
<i>Instancia</i>	<i>Instancia Coordinadora de Justicia</i>
INTRAPAZ	<i>Instituto de Transformación de Conflictos para la Construcción de la Paz en Guatemala</i>
IR	Intermediate Result
M&E	Monitoring and Evaluation
MINUGUA	<i>Misión de la Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala</i> (United Nations Verification Mission in Guatemala)
NJC	National Justice Commission
PDH	<i>Procuraduría de Derechos Humanos</i> (Human Rights Procurator's Office)
PNC	<i>Policia Nacional Civil</i> (National Civilian Police)
REMAR	<i>Rehabilitación de los Marginados</i> (Rehabilitation of the Marginalized)
ROL	Rule of Law
SIASEJU	<i>Sistema de Información Sector de Justicia</i> (Information System of the Administration of Justice)
SO	Strategic Objective
UNDP	United Nations Development Program
URL	University Rafael Landivar
USAC	University of San Carlos
USAID	United States Agency for International Development
WSP	War-Torn Societies Project

1.0 Background

The Peace Accords define the Guatemalan justice system to have three aspects: the formal state justice system, Alternative Dispute Resolution (ADR), and indigenous customary law. USAID's justice sector programs have engaged each of these aspects to varying degrees, building upon prior efforts to institutionalize the reforms mandated by a Criminal Procedures Code (CPC) that came into effect in 1994. The overarching purpose of the CPC reforms has been to convert Guatemala's inquisitorial criminal justice system into an accusatorial one. The success of this conversion project has required the creation of a public prosecutor (*Ministerio Público*) and a public defender (*Instituto de Defensa Pública Penal*), as well as the coordination of these institutions with the judiciary and the police.

Responding to these needs, USAID's DPK/CREA program (1993–1998) sought to facilitate inter-institutional coordination through the Justice Center concept of housing local justice institutions under the same roof. USAID also supported the United Nations Verification Mission in Guatemala (MINUGUA)-based Administration of Justice and Multilingualism Project (1996–1999), and it was this project that pioneered bringing state justice officials and civil society organizations (CSOs) together in a single and local institutional space (a *Comité Directivo*) for the purposes of developing and monitoring initiatives in the justice sector (in this case, access to bilingual justice).

Over the past six years, USAID has drawn on some of the best aspects of these early experiences, spending \$11,515,825 on a two-phase Justice Program implemented by Checchi and Company Consulting, Inc. (Checchi): Phase I was implemented between 1999 and 2003, and Phase II in 2003 to 2004. The primary objective has been to improve the Guatemalan justice system by making it more accessible, responsive, efficient, respectful of rights, transparent and accountable. The Justice Program has worked in four areas: Justice Centers (54.26% of budget), institutional strengthening (19.68% of budget), legal education (12.43% of budget), and non-formal dispute resolution (ADR and indigenous customary law in Phase I; ADR in Phase II) (8.25% of budget).¹

Much of the work in institutional strengthening, legal education, and ADR takes place within Justice Centers. As a consequence, Justice Centers benefit from resources not specifically earmarked for them, all the while facilitating synergies and multiplier effects between the distinct budget line items by providing a forum for state-CSO collaboration.²

USAID also supports a conflict resolution project in Alta Verapaz that is not linked to the Justice Program. The project *Conflict Prevention and Resolution in Guatemala* (2003–2004) seeks to develop mechanisms to resolve land conflicts and is being implemented by the Academy for Educational Development (AED) and Mercy Corps.

2.0 Impacts

2.1 Methodology

Subsequent comparative analysis of Justice Centers and program impact assessment with respect to beneficiaries is based on information and resources gathered during a two to three week period of field research, pursuant to the methodology set out in Annex C. Impacts are organized into three distinct levels: individual/community level, institutional level, and system level.

¹ The remaining 5.75% was disbursed as a "Fixed Fee."

² See Annex B for a brief description of the Justice Center structure and *modus operandi*.

2.2 Individual/Community-Level Impacts Relevant to USAID Initiatives

- **Justice official capacity.** Interviews with justice officials in Quetzaltenango and Chimaltenango confirm that they have better knowledge sets and skills to perform assigned tasks than prior to the arrival of the Justice Center model, evidence of which can be found in their use of oral procedures at the pre-trial and trial stages of criminal proceedings.
- **Citizen awareness of rights.** Individual members and beneficiaries of the CSOs that participate in the Justice Centers' executive committees have better knowledge of their legal rights.
- **Respect for rights.** Overall, Justice Centers have created greater respect for individuals' due process rights, though this does not hold true in the case of access to justice in indigenous languages. The best evidence that the Justice Center model has improved access to justice is found in (i) greater use of pre-trial oral procedures that improve the efficiency of the justice system, and (ii) greater use of ADR mechanisms supported by Justice Centers to resolve conflicts.
- **Indigenous rights, customary law.** There is better understanding of indigenous rights and customary law on the part of officials in Justice Centers where the executive committees have put into place commissions that deal with indigenous issues. Training programs and workshops directed toward justice officials have also been useful, though monitoring and evaluation (M&E) of their effect is difficult unless there is an indigenous-focused commission within the executive committee to carry out M&E.
- **Impact on urban vs. rural communities.** There is as yet no established method to evaluate the differential impact Justice Centers may have on urban areas in which they are located versus more remote rural areas. Some problems that afflict access to justice, such as distance to Justice Centers, are intractable, and these problems suggest that some uniform standards of evaluation may be inappropriate (e.g., standards that rely on indicators based on the number of complaints lodged with the Public Ministry, given the hardship faced by the members of rural communities who must travel considerable distances to reach the Public Ministry offices). However, one geographically crosscutting justice sector activity that could admit of relatively standardized indicators is ADR, since physical access to ADR is relatively equal for both (assuming the presence of an ADR facility in or near the rural community).

2.3 Institutional-Level Impacts Relevant to USAID Initiatives

- **Institutional capacity.** The Justice Centers have created better institutional capacity on the part of the respective justice institutions to prosecute, adjudicate, and defend cases at the pre-trial stage in accordance with the Criminal Procedures Code (CPC). Less emphasis has been placed on crime prevention and investigation, which remains very weak. The Institute for Comparative Studies and Criminal Law in Guatemala (IECCPG) claims that more than 95% of all arrests are of suspects allegedly committing crimes *en flagrante*, which indicates that prosecutors are engaged in relatively few investigations that result in the petition from a judge of an arrest warrant that is later executed by the police. (*Note: criminal investigation generally refers to what happens before an accused party is detained and charged; criminal prosecution refers to what happens after an accused party is detained and charged.*) While criminal prosecution relies on good investigative techniques (such as good detective work, evidence collection and storage, and the proper apprehension and detention of the suspect), prosecution has other elements as well, such as presenting the case to a judge at a pre-trial hearing, and then arguing the merits of the case at trial. It is possible to make improvements in these latter areas and thereby improve criminal prosecution without doing anything about criminal investigation. Interviews with Justice Center staff and CSO Justice Center participants and beneficiaries in Quetzaltenango, as well as The ARD Team's direct observation of a Justice Center-supported pre-trial hearing in Chimaltenango, confirm that this is exactly what is happening.

- File management.** Nationwide, there is better handling and management of case files by the courts, but far less improvement on the part of the public prosecutor (1,300,000 files are buried “under investigation” in its Guatemala City offices). Justice Centers can take some credit for improving file management practices in their jurisdictions in both the courts and the Public Ministry. In Quetzaltenango, for example, files long buried or “under investigation” have been cleaned out from the Public Ministry, and throughout Justice Center jurisdictions the Public Ministry now successfully uses a file library system to ensure that files are not lost. Perhaps the best new example of transparent and efficient file management—the results of which are shared and disseminated in Justice Center Commissions that address ADR—comes from the judiciary’s Alternative Conflict Resolution Unit (ACRU), created in February 2002: its 23 mediation centers housed in court facilities across Guatemala use a standardized intake and file management system. This system permits each center to produce and remit detailed, relevant and commensurable statistics on a monthly basis (e.g., statistics on case type, number of cases resolved with a written agreement, number of cases resolved without a written agreement, number of cases ongoing, number of cases opened, how the cases came to the mediation center, demographic information of the parties, etc.). Justice Centers could propose (perhaps on a pilot basis in a Center with particularly responsive judges) that the courts adopt an intake and reporting system similar to the ACRU’s. Because the ACRU is part of the judiciary, this proposal has a reasonable chance of success. The information gathered could then be disseminated to other justice officials and CSO participants in the Justice Center to facilitate oversight and inform ongoing adjustments to local policy.
- Monitoring and evaluation.** It is not clear that the Justice Program has contributed as much as it could have (through policy dialogue, institutional strengthening and local interventions via Justice Centers) to the capacity of justice institutions to monitor and evaluate their own performance. Their M&E capacity is generally weak and sporadic, frustrated by a lack of current and reliable data concerning case management and disposition. The judiciary’s case management statistics are not readily available to the public.
- Engagement with local social issues.** Justice Centers have given justice institutions a greater capacity to address social problems with legal dimensions (e.g., domestic violence) by supporting the CSO-driven Executive Committees that deal explicitly with these issues through their Commissions.
- ADR and pre-trial settlement options.** USAID has supported ADR and pre-trial settlement options (e.g., plea bargains, suspended sentences), and these reduce caseload to the extent that they are used by people who otherwise would use the formal justice system. Nevertheless, as indicated below at 5.2, USAID can make better use of Justice Centers to encourage the judiciary and the public prosecutor to take full advantage of ADR pre-trial settlement options.
- Recognition of indigenous customary law.** At some Justice Centers (e.g., Quetzaltenango), justice institutions are better able to recognize and respect the practice of indigenous customary law, though there is considerable uncertainty regarding the kinds of cases that may be settled authoritatively (i.e., without subsequent judicial review) through customary law. Indigenous law has proved successful for criminal, civil and family law cases, and indeed is the law that first applies to indigenous people subject to the authority of their own legal institutions.
- Legal education.** The University of San Carlos (USAC) in Guatemala City is reportedly difficult to work with given internal resistance to institutional and curriculum reform. Apparently, there is virtually no supervision of professors nor any kind of system in place to evaluate academic staff. However, USAID assistance to the Guatemala City USAC did lead to the development two well-regarded programs on indigenous customary law (a Diploma and a Masters), and the USAC in Quetzaltenango developed a Diploma program on multilingual justice for judges and bilingual justice officials. Further, Justice Centers typically have ongoing public education and awareness programs, and most make use

of considerable local media resources donated to them to discuss current issues and to announce upcoming events and activities.

2.4 Systemic-Level Impacts Relevant to USAID Initiatives

- **Access to Justice.** Access to justice has improved considerably following the establishment of 15 Justice Centers. However, access to bilingual justice remains weak and unsupported.
- **Justice Centers.** There is widespread support and acceptance of the Justice Center model. Draft legislation is now circulating that would give the *Instancia Coordinadora de Justicia (Instancia)* legal status and certain powers. In this legislation the Justice Centers and their inter-institutional justice sector Coordinating Units are explicitly recognized as *the* entities charged with strengthening justice in the country's interior. The Justice Center model is the only state-citizen institution to evolve directly from the Peace Accords that continues to flourish throughout Guatemala, and flourishes to such an extent that municipalities who do not have Justice Centers actively solicit them. In Chimaltenango, the model has replicated itself such that every municipality has formed an executive committee, each of which typically includes the police and the municipality along with CSOs. This is a striking initiative that speaks to both the importance of justice sector issues to municipalities in Chimaltenango, and to the leadership ability of the Chimaltenango Justice Center Coordinator, María Tuyuc, a highly regarded indigenous leader. Ms. Tuyuc's capability and initiative, combined with combined with a high degree of local civil society engagement with justice sector issues, are the key elements that have led to the successful replication of executive committees in Chimaltenango.
- **Oral procedures.** Where USAID technical assistance via Justice Centers has resulted in the implementation of oral procedures, there is increased protection of due process rights, as well as quicker and more efficient pre-trial hearings and motions. There is also less opportunity for corruption, and the judges who use oral procedures tend to have the respect of their communities (e.g., judges in Zacapa, Chimaltenango and Quetzaltenango).
- **Inter-institutional coordination.** USAID assistance to Justice Centers has produced better inter-institutional coordination at the local level. With respect to regional- and national-level inter-institutional coordination, progress is limited, but two USAID-supported initiatives stand out. The first is a series of Justice Center networks at the regional and national levels that the Justice Program is organizing. The second is the draft bill alluded to above that will give the *Instancia* legal status and (it is hoped) greater legitimacy before the state justice institutions.
- **Non-violent conflict resolution.** USAID technical and financial assistance has increased non-violent conflict resolution through the use of local ADR Community Mediation Centers, as well as through initiatives to make the state justice system more accessible and (in some ways) more efficient.³ A few Community Mediation Centers ceased to operate when in December 2003 USAID funding to the two part-time mediators who staff each Center—\$75.00 per month each—was cut off without an alternate source in place to cover the mediators' wages. Surprisingly, most Centers have continued to function despite a lack of funds, with mediators working once or more a week for no compensation. The minimum conditions for success of these Centers, once they are up and running, is \$150 per month to cover the mediators' wages.
- **Public education/awareness.** In their regions, USAID staff operating from Justice Centers have used radio spots and other local media (much of which has been donated by CSOs that belong to the local

³ See Annex D for an economic comparison of ADR vis-à-vis the formal state justice system in conflict resolution capacity and efficiency terms. *Annex D also presents the kinds of cases that USAID-supported Community Mediation Clinics address.*

Executive Committee) to increase public awareness of both justice sector services and channels for citizen participation in local policy formation.

- **Criminal investigation.** Even in Justice Centers with USAID support, criminal investigation is very weak, and coordination between justice institutions for this purpose remains poor. The Justice Program has focused on legal procedures that are triggered (or that should be triggered) once a person is detained, rather than on crime prevention and investigation. Impunity is still deeply entrenched: there are no arrests in 95% of the homicide cases reported in the countryside. Clandestine groups and organized crime continues to operate beyond the reach of the law.
- **Crime scene management.** The Justice Program has contributed to some improvements in crime scene control and evidence storage, but this area too remains weak.
- **Forensics.** Justice Program personnel made significant contributions to the policy dialogue that resulted in a draft bill that would create a central forensic institute. At present, the police, the public prosecutor and the judiciary each have forensic laboratories, and as a rule they do not coordinate with one another, nor have formal channels for purposes of joint collaboration.
- **Victims of crime.** USAID programs have supported the public prosecutor's Victim's Assistance Office, which has attended more than 47,000 cases since its inception in 1995. The Office operates in Guatemala City and in each of the Justice Centers. The majority of its clients are women who are victims of domestic violence, and it is reasonable to assume that in a culture as patriarchal as Guatemala's, the Victim's Assistance Office provides an invaluable service to some of the most vulnerable, overlooked and frequent victims of violent crime.

3.0 Factors Influencing Impacts

3.1 Internal Factors

- **Inclusive and participatory project design.** The Justice Center model built successfully on previous experiences regarding the benefits to be gleaned from local and institutionalized state-CSO forums dedicated to joint state-CSO policy formation and implementation.
- **Flexible and context-sensitive approach.** The implementing team has been sensitive to the different local dynamics found in the 15 municipalities with Justice Centers. This approach has likely contributed to the fact that while the Justice Center model has been implemented with varying degrees of success, in no case have local authorities rejected it outright (either before or after implementation). See "External Factors" below for the local conditions that may help or hinder the success of Justice Centers.
- **Strong and inherent local focus.** The Justice Center model is based inherently on the participation of state and CSO actors who work in the municipality or the department in which the Justice Center is located. Working from the ground up in this manner has helped to ensure transparency and accountability because the actual people served by the justice institutions also oversee them. This reciprocity between local state and non-state actors contributes to greater citizen ownership of the justice sector, and therefore adds to its actual and perceived legitimacy.
- **Experienced technical team.** The Checchi team has undergone a change in staff composition as the project has unfolded (the Chief of Party [COP] changed, and two of the initial Checchi architects left after a few years), but both the original and the current team had extensive and valuable experience in the Guatemalan justice sector, and it is plausible to assume that this experience has contributed to the overall success and acceptance of the Justice Center model.

- **Professional hiring and staff retention practices.** The Checchi team deserves praise for having retained competent staff from the prior DPK/CREA program, thus easing the transition and reducing startup overhead.
- **Cognizant Technical Officer (CTO) engagement.** The implementation team has indicated that over the past six years the presence and absence at different times of close CTO engagement has had positive and negative effects. The ARD Team was told that when the CTO has gone into the field and met with local counterparts, those counterparts are left with a greater sense that USAID supports their efforts. The negative effects of lack of engagement are lower morale on the part of the implementation team as well as on the part of Guatemalan staff and implementing partners in the field.
- **M&E indicators.** Some indicators were inappropriate, such as one that sought to measure the effects of the Justice Program on lessening the length of trial procedures, given that the Justice Program’s initiatives from the outset were directed almost exclusively to pre-trial rather than trial procedures. For instance, if Justice Program pre-trial oral initiatives succeeded in reducing the pre-trial detention time, this result would not be captured by an indicator that concerned itself with the length of the trial process (nor would it be captured as precisely as it might be even if the “trial process” is taken to include pre-trial and trial procedures together, since it is possible that things might get worse at the trial stage while improving at pre-trial, and so an indicator insensitive to the difference between the two stages would miss the improvement at the pre-trial stage). It is also not clear whether local actors in Justice Centers were encouraged to use or establish indicators to track progress. While there is much evidence of progress on many fronts, some indicators cited now (e.g., inter-institutional agreements regarding how to process cases) seem to have been sought and applied after the fact. While this kind of analysis is useful, its after-the-fact nature suggests that some indicators have not been used on an ongoing basis to help local institutions measure progress, refine policy or ensure accountability.
- **Lack of an integrated sustainability plan.** Sustainability does not appear to have received much attention during Phase I, and this seems to have led to a certain understanding of sustainability during Phase II: find someone else to pay, even if the “someone else” is simply another international donor, with the possible result being no increase in buy-in on the part of Guatemala’s justice institutions.⁴

3.2 External Factors

- **Characteristics of justice institutions.** Guatemala’s justice institutions suffer from a series of well-known ailments that impede policy reform on both the national and local levels. These include isolationism, formalism, conservatism, frequent staff rotation and limited institutional leadership. See Annex F for details.
- **Limited resources.** The justice institutions lack the necessary budgetary resources to fulfil their mandates. This problem was exacerbated when in 2003 the *Frente Republicana Guatemalteca* (FRG) government slashed the judiciary’s budget by a third in retaliation to the Supreme Court’s reluctance to sign off on motions related to the legality of Rios Mont’s presidential candidacy.
- **Donor coordination.** Donors sometimes do not consult with each other in advance when determining funding priorities. They seem to act on a policy of “first come, first served,” so that whoever gets into a particular justice area first is thought to have a presumptive claim to it, largely on the grounds that duplication of donor effort is an inefficient use of scarce resources. While this justification is sound *given* a policy of “first come, first served,” it is not clear that “first come, first served” is the best way to determine the areas in which the different donors are likely to have the most impact.

⁴ See Annex E for further discussion of sustainability, including suggested indicators to monitor progress with respect to the non-financial aspects of sustainability.

4.0 Conclusions

The ARD Team's sense is that the Berger regime is relatively open to justice sector reforms and initiatives, such as those presented in the following section. In October 2004 the Supreme Court appointments will be announced. These appointments will play an important role in determining whether there will be political will in the justice sector amenable to reform.

Justice Centers

Three conditions contribute to healthy and vibrant Justice Centers where fruitful state-CSO interactions are the norm: strong leadership ability on the part of the Justice Center Coordinator, support from the local judiciary and public ministry for the Justice Center model, and a history of engaged CSOs with experience or interests in the justice sector. Where these three elements are present (e.g., Chimaltenango), Justice Centers do very well. Where one of these elements is missing (e.g., Huehuetenango, where some members of the judiciary have been hostile to the Justice Center), it is more difficult to get state and civil society actors to collaborate on a shared agenda of local justice reform. The ARD Team was unable to detect whether ethnic context or years in operation makes a difference to the success or failure of Justice Program activities. However, it does appear now that broad acceptance of the Justice Center model is making start-up faster and easier in new jurisdictions.

On balance, the Justice Center model has contributed positively to access to justice and respect for due process rights. Justice officials that work within Justice Centers seem to be better trained and have a better disposition toward their work than those who do not, and they are more likely to use pre-trial oral procedures. While some beneficiaries have complained that Justice Centers have not done as much as they could have done to improve case processing time (with a lack of medium-term goals and inadequate M&E tools being the alleged culprits), one of those same beneficiaries admits that the Justice Program has done more to improve the justice system than the *Instancia*, the National Commission of Justice, the judiciary and its Modernization Committee, or any other donor program. This is a fair assessment of the Justice Program's overall impact.

In a nutshell, Justice Centers have generated greater perceived and actual legitimacy in the formal justice system due to the following factors: greater transparency and accountability through CSO oversight of state justice institutions; greater citizen participation in (and ownership of) design and implementation of local justice sector policies; and coordination with ADR and indigenous customary law.

ADR

The Justice Program's efforts in the area of ADR with the community mediation centers have shown immediate and impressive results in terms of their dispute resolution capacity, but this initiative is in danger of collapsing due to a lack of institutional and modest financial support.

Law School Curriculum

Attempts to reform the USAC law school curriculum have met with difficulty given the USAC's internal administrative practices. However, training justice officials in workshops and seminars conducted through the Justice Centers has played an important role in implementing pre-trial oral procedures, and has been used effectively to make justice officials aware of ADR and indigenous customary law.

5.0 Recommendations

SO1: More Inclusive and Responsive Democracy Relevant IR: Ruling Justly – Strengthened Rule of Law (ROL)

General Strategic Approach

Provide appropriate support for the **three-part justice system** articulated in the Peace Accords—**formal state justice, ADR, and indigenous customary law**—taking into account the following considerations:⁵

- What **other donors** are doing or are willing to do;
- Consultations with **local institutions** in the justice, public security, conflicts, and indigenous sectors;
- USAID’s comparative advantage in setting up and supporting **Justice Centers**;
- Opportunities to institutionalize **M&E** within Justice Centers;
- Support for **bilingual justice**; and,
- Increased collaboration with the **Human Rights Procurator's Office (PDH)**.

Key Programmatic Recommendations

The ARD Team presents here its key programmatic recommendations listed in the order of priority that the Team believes USAID should assign them based on four criteria: impact, sustainability, cost-effectiveness and USAID’s comparative advantage. For additional programmatic recommendations, see Annex H.

1. Continue support of Justice Centers.

- *Immediate*: consider signaling to counterparts that basic support of Justice Centers will continue.
- *Short term*: consider a mechanism to provide bridge support as well as a hand-off period until the new procurement process runs its course.
- *Medium term*: provide ongoing support of current Justice Centers, and extend the model into new municipalities. If feasible, keep all Justice Centers under USAID’s aegis, since parceling them out to other donors may make it more difficult to maximize the beneficial effects that could follow from the regional and national networks of Justice Centers currently under construction (e.g., standardized indicators and M&E tools).
- *Long term*: build detailed sustainability plan into new justice program.
- Continue to use Justice Centers as sites for program interventions. For example, most Justice Centers have specialized Public Security Commissions that could play a useful role in future crime prevention and investigation activities at the local level.

2. Build legitimacy through participatory M&E. Use Justice Centers to facilitate joint state-citizen M&E:

- Encourage executive committees in Justice Centers to set up M&E commissions.
- Consult with justice institutions, IECCPG and the Justice Studies Center for the Americas (CEJA) to develop and validate unified indicators for ongoing M&E of justice institutions (e.g., review the justice sector’s information system [SIASEJU] and the IECCPG’s Judicial Observatory).
- Use results of ongoing M&E to inform policy decisions, track progress toward pre-defined indicators, and assist with performance reviews of justice officials.
- Encourage the PDH to play a lead role in local M&E commissions, thus permitting the PDH to use the M&E results to monitor the primary justice sector/human rights intersection by determining the

⁵ See Annex G for a more detailed account of these considerations.

extent to which the justice sector is respecting human rights related to access to justice and due process. The PDH does not at present have the capacity to monitor and evaluate justice services in a systematic way, but could be strengthened to leverage its participation in Justice Centers to monitor the sites where the justice sector and human rights intersect. The ARD Team considers this to be the single best way the Mission can stay engaged with human rights in the justice sector.

- Consider the *Instancia* as the possible national-level home for M&E results, with an eye to conducting national-level M&E using the results from the Justice Centers, possibly overseen by the National Justice Commission (NJC). (*Note that the Instancia and the NJC virtually mimic at the national level the design and institutional roles of the Coordinating Unit and the Executive Committee in the Justice Centers at the local level.*)

3. Support justice system efficiency and responsiveness.

- Continue consolidation and extension of oral pre-trial procedures.
- Evaluate and consider further support of the public prosecutor's "*sistema de turnos*."
- Continue support and extension of the *Sistema de Gestion Penal* to new locales of the Clerk's Office in the courts.
- Continue support of the public prosecutor's Victim's Attention Office, including support of pending draft legislation that will formally recognize the Office as a legal entity.
- Given the potential scope of the project, evaluate and consider further support to reengineering of the public prosecutor, but as a partner rather than as a lead player.
- Consider implementation of witness and justice official protection programs, perhaps using Colombia as a model.
- Explore the possibility of supporting the public defender, especially its indigenous defense branch.
- Encourage standardization of police intake forms, using those developed in Justice Centers as models.
- Consider technical revision and support of the draft General Procedure Code.

4. Support ADR.

- *Immediate/short term*: consider signaling that basic support of community mediation centers will resume; consider bridge financing.
- Encourage executive committees that do not have ADR commissions to create them.
- Develop guidelines to help justice officials recognize the kinds of cases that may be diverted to available ADR institutions. In the Justice Center in Escuintla, the executive committee's ADR commission has apparently worked through the Center's coordinating unit to collaborate with the local public prosecutor and police to develop guidelines and a mechanism to facilitate diverting cases to ADR. These case diversion guidelines and the mechanism adopted deserve review and possibly elaboration, with an eye to exporting them to other Justice Centers.
- Train justice officials to use diversion guidelines and mechanisms to divert cases to ADR.
- From Justice Centers, conduct M&E of case diversion to ADR, as well as other uses of ADR that are not triggered by case diversion.
- Consult the PDH with respect to the possibility of the PDH providing institutional support and accreditation to the community mediation centers.
- Continue training of community mediators as needed to staff mediation centers.
- Consider supporting mediator accreditation programs, possibly through the *Instituto de Transformación de Conflictos para la Construcción de la Paz en Guatemala* (INTRAPAZ), the University Rafael Landívar (URL), and in coordination with the judiciary.
- Continue to use conciliation and mediation as the chief models for ADR interventions via Community Mediation Centers.
- Consider working with CONTIERRA and its new director to establish and support conflict resolution mechanisms to deal with land conflicts.

- Consult with members of the Alta Verapaz roundtable and beneficiaries of the AED project to determine its effectiveness; initial discussions with observers of the project and the roundtable revealed concerns over the criteria and methodology AED is using to determine that a land conflict is “settled.”

5. Support pre-trial settlement options.

- Develop guidelines to help justice officials recognize the kinds of minor cases that may be dealt with quickly through pre-trial settlement options: plea bargains, fines, suspended sentences, stays in proceedings, etc.
- Strengthen parole and suspended sentence support institutions (Red Cross, National Committee for Literacy [CONALFA], Rehabilitation of the Marginalized [REMAR])⁶ by bringing them into executive committees and addressing their needs.
- Train officials to use pre-trial settlement guidelines.
- Set benchmarks and indicators, and conduct relevant M&E in Justice Centers.

6. Bilingual justice.

Evaluate recovery of bilingual language program. If a decision is made to enter this space, dedicate a team to coordinate with the universities, justice institutions, legal professional associations, and indigenous organizations to develop and support a multifaceted program to supply either interpreters or bilingual officials trained in legal translation. The issue is both the lack of training opportunities for legal interpreters (leading to a lack of interpreters) and the lack of fiscal support and institutional accommodation of interpreters within the judicial branch.

7. Support legal education.

- Reevaluate commitment to USAC in Guatemala City. Perhaps condition further support on the adoption of anonymous and standardized student evaluations of professors, as well as other evaluation methods and standards for promotion.
- Explore working with the USAC in Quetzaltenango, where there is a history of cooperation and program development aimed at bilingual justice.
- Consider support of URL, where a new law school curriculum reform is underway, and includes material on indigenous rights and customary law.
- Support curricula and pedagogical innovations designed to help teach the CPC, since criminal law is the bread and butter of USAID Justice Program initiatives. A secondary area worth considering is labor law, because labor conflicts give rise to land conflicts as well as ordinary crime.
- Explore with the Bar Association any interest it may have in playing a greater role in overseeing law school curricula development (the Bar Association has an academic unit as well as representatives on the *Consejo Superior Universitario* and the *Consejo de Facultad de Ciencias Jurídicas y Sociales de la Universidad Estatal*.)
- Consider support of student internships in Justice Centers, possibly as assistants to the coordinator.
- Consider supporting clerkship programs that place top students with Supreme Court and Constitutional Court judges.
- Consider scholarships for legal studies that target appropriate indigenous candidates.

⁶ The ARD Team was advised by Justice Center staff that these are the only institutions authorized by law to serve as parole and suspended sentence support institutions.

ANNEXES

ANNEX A. List of Persons Interviewed Relevant to the Justice Theme

NAME	POSITION	ORGANIZATION
Aguilar, Mariel	Director	Intrapaz / CONTIERRA
Amani, Todd	Director, Office of Democratic Initiatives	USAID/Guatemala
Anders, Glenn	Mission Director	USAID/Guatemala
Arévalo De León, Bernardo	Director for the Latin America Office	WSP International, Latin América
Barwick, Peter	Official, Political Advisory Section	MINUGUA
Campbell, Maia	Community Mediation Center Coordinator	USAID Justice Program
Castillo, Carlos Humberto	General Coordinator	Unidad de Resolución Alternativa de Conflictos del Organismo Judicial de Guatemala
Chavarría, Oscar	Project Manager, Rule of Law	USAID
Chinchilla, Borys	National Director	Mercy Corps, Guatemala
Contreras, Ramiro	National Coordinator, Justice Centers	USAID Justice Program
De León Escribano, Carmen Rosa	Director	IEPADES
Ferrandino, Alvaro	Chief of Party	USAID Justice Program
Ferrigno, Víctor	Coordinator	Legislative Reform Commission
Gonzalez Lopez, José Enrique	Regional Coordinator	National Network of Community Mediation Centers
Fry, Kathy	Senior Program Officer for Latin America	Mercy Corps
Juarez, Erick	Professor, Criminal Law	USAC, Quetzaltenango
Kennedy, Deborah	Deputy Director	USAID/Guatemala
Mesquit, Luis	Human Rights Observer	MINUGUA, Quetzaltenango
Parodi, Cesar	Program Officer	USAID Justice Program
Parrilla, Sergio	Program Officer	IDB
Pineda, Rudy	Judge	First Instance Court, Chimaltenango
Ramírez, Luis	Director	Instituto de Estudios Comparados en Ciencias Penales
Reisman, Lainie	Former Peace Coordinator	USAID/Guatemala
Riby, Henrik	Program Officer	ASDI
Jordán Rodas	Councilor	Municipality of Quetzaltenango
Rodríguez, Jorge	1. President 2. Director	1. Asociación de Justicia y Multiculturalidad 2. Faculty of Law, URL (Quetzaltenango)
Rojas, Carlos	Coordinator	Court Mediation Center, Quetzaltenango
Solís, María Eugenia	Advisor, Legal Area	Fundación Miran Mack
Tuyuc de Curruchiche, María	Coordinator, Chimaltenango Justice Center	Programa de Justicia de USAID
Van Pelt, Sharon	Sub-Director, Office of Democratic Initiatives	USAID/Guatemala
Yrigoyen Fajardo, Raquel	Consultant, Author of ASDI Report on Justice Sector	International Institute on Law and Society
Yurrita, Astrid	Coordinator, Quetzaltenango Justice Center	Programa de Justicia de USAID

ANNEX B. Justice Centers

Consolidating and extending the Justice Center model has been the Justice Program's main focus. The Justice Center model consists of a Coordinating Unit composed of the justice sector institutions (judiciary, public prosecutor, public defender, police), as well as an Executive Committee made up of the Coordinating Unit, and Civil Society Organizations (CSOs). The Coordinating Unit meets every two weeks or once a month. The Executive Committee meets as a general assembly once every three months. Its Board of Directors meets once a month, as do its affiliated working groups or commissions.

Most Executive Committees have three to five commissions, organized around thematic areas such as domestic violence, justice system functioning and public security, ADR, legal pluralism, legal education, lynchings, the environment, minors, the penitentiary system, land conflicts and labor law.

Each Justice Center has a Coordinator and a Communications Specialist who organize and coordinate the activities of the Coordinating Unit and the Executive Committee. These institutionalized spaces permit the justice sector and civil society to work together for the purposes of local policy formation and oversight.

ANNEX C. Methodology/Referenced Materials

The ARD Team conducted over 30 interviews (see Annex A) with USAID personnel, Justice Program personnel, Mercy Corps personnel, justice sector officials, Guatemalan CSO Justice Program counterparts, Justice Program beneficiaries, MINUGUA personnel, and non-US international donor personnel.

The ARD Team visited Justice Centers in Quetzaltenango (chosen because it has an eight year history of justice sector-CSO collaboration) and Chimaltenango (chosen because it is one of the newer Centers, and because it has replicated Executive Committees in each of Chimaltenango's municipalities). The Team visited Community Mediation Centers in Sololá, Suchitepequez and Totonicapan. The Team also visited the headquarters of the judiciary's new Alternative Conflict Resolution Unit (ACRU) in Guatemala City, as well as its Mediation Center in Quetzaltenango.

The ARD Team reviewed extensive reference materials, including:

- USAID documents (e.g., statements of work, quarterly program reports, internal program memoranda);
- Justice sector evaluations conducted by other donors and Guatemalan CSOs (e.g., ASDI's Access to Justice in Guatemala, 2003; UNDP's Consolidation of the Rule of Law in Guatemala, 2003; IECCPG's evaluation of the Justice Program, 2001-2002); and
- Draft legislation, and literature from Guatemalan CSOs concerning access to justice, public security, indigenous customary law and ADR, including the recent AED/INTRAPAZ publication on ADR.

The Team has taken into account the relative strengths and weaknesses of the way Checci has supported ADR, which is not tied to one of the four models of ADR per se (i.e., negotiation, conciliation, mediation and arbitration), but rather to Justice Program objectives and local needs.

ANNEX D. USAID-Supported ADR vs. Formal Justice

Community Mediation Centers

One of the Justice Program's important achievements has been the use of Justice Centers and their ADR Commissions to establish and support 13 Community Mediation Centers in remote areas of Guatemala, mostly in the highlands. Most of the people they serve are poor and indigenous, and communication with them is in their indigenous language. The Centers are housed in modest spaces provided by the municipalities, covering 178 *caserios* and 102,020 inhabitants. They deal largely (and effectively) with small crimes, bad debts, tort and property disputes, and some domestic matters.⁷ In 2003 the 13 Centers attended 1,906 cases, with mediators reporting that the parties reached a successful settlement in roughly 80% of them (1,525 cases). A Center has one or two community mediators who are each paid a part-time wage of \$75 a month. In 2003 each Center resolved an average of about 10 cases a month. If we assume two mediators per Center at a total salary cost of \$150 per month, and then double this figure to account for ongoing office expenses, then the total monthly cost of a Center is \$300, and it resolves roughly 10 cases a month at a unit cost of **\$30 per case**.

ACRU Mediation Centers

By comparison, in 2003 the 23 more sophisticated Mediation Centers of the judiciary's ACRU resolved 3,331 of 6,351 total cases (52.45%),⁸ an average of 12 cases resolved per month per Mediation Center. Roughly 50% of the persons served are indigenous, 38% are women, and 33% are illiterate. The ACRU's 2003 budget was \$562,500 (1/2 of one percent of the judiciary's total budget), which breaks down to **\$169 per case** resolved. Note that on an ongoing basis this cost would actually be lower, because much of the 2003 budget (the sum used here to determine the per case cost: \$562,500 / 3,331 cases = \$169) went to start-up costs.

The Courts

The economic comparison of ADR with the formal justice sector, in terms of sheer conflict resolution, is impressive: the IECCPG reports that in Quetzaltenango's two trial and sentencing courts, judges resolve between two to three cases a month, at a cost of roughly **\$6,340 per case**, if one counts only the salaries of the local justice employees.⁹

In the absence of a detailed empirical study, it is difficult to quantify the long-term impact of incarceration on accused individuals, victims, affected families, and broader socioeconomic networks that suffer dislocation when a person becomes incarcerated. However, it is obvious that incarceration implies

⁷ USAID has supported a further 17 Mediation Centers that have been started by the Justice and Multicultural Association based in Quetzaltenango, with much the same mandate and client base as the 13 Centers supported now by the Justice Program. The main difference is that the Association decided not to compensate their mediators on the grounds that there was no institution that could continue to provide ongoing compensation once the Association's support ended. The Association's Coordinator recognizes that to build a cadre of trained and committed mediators will require providing them with some compensation, and has suggested looking to the PDH as the institution to provide it. See "Support ADR" under "Programmatic Recommendations."

⁸ ACRU, *Consolidado de Casos Registrados en los Centros de Mediación del Organismo Judicial. Período enero – diciembre 2003*.

⁹ Interviews with USAC of Quetzaltenango Criminal Law Professor Erick Juarez, 4 May 2004. The calculation is somewhat "rough and ready," as it is based simply on a number of salaries divided by 2.5 (the number of cases resolved per month). The salaries are: 3 judges per court who each make \$2,937.50 per month; one public defender at \$1,687.50 per month; one public prosecutor at \$1,875 per month; and, 9 court officials and workers at approximately \$400 each per month.

significant long-term cost, to the accused as well as to society at large, above and beyond the already costly prosecution of the offender. Further, once a person becomes incarcerated, he or she is less able to make reparations to the victim. These considerations suggest that, whenever feasible, preference should be given to ADR, pre-trial settlement options, and indigenous customary law.



ANNEX E. Sustainability

Three sustainability issues are noteworthy.

1. The Nonpecuniary Aspects of Sustainability

There are nonpecuniary as well as financial dimensions to sustainability. These include appropriation of the Justice Center model by local justice officials and CSOs, establishment of a new work ethic and culture in local institutions, successful adoption of new administrative and pre-trial procedures, the newly-developed capacity of local institutions and CSOs to set and implement locally relevant policies, and national-level integration of the Justice Center model within the legal framework of the justice system. USAID does not appear to have adopted or encouraged the use of indicators that could be used to track progress in these areas, all of which are critical to the future sustainability of Justice Centers.

While the following indicators would have to be fleshed out and vetted with the implementation team and local partners, The ARD Team offers them for the sake of illustration:

Nonpecuniary elements of Justice Center sustainability	Possible Indicators
Local appropriation of Justice Center model by justice institutions, CSOs	<ul style="list-style-type: none"> • Representatives of justice institutions continually participate in meetings of Coordinating Unit, Executive Committee and some thematic Commissions • Broad range of CSOs continuously participate in Executive Committee and thematic Commissions • Executive Committees are replicated in the department's municipalities
New work ethic / culture	<ul style="list-style-type: none"> • Fewer accusations of petty corruption • Old problems / issues do not reappear (e.g., the problem of losing case files) • Greater use of periodic performance evaluations • Greater staff retention
Newly developed capacity of local institutions, CSOs	<p><i>Note: Specific indicators here will depend on the nature of the institution or CSO we are trying to monitor (e.g., is it a court, a public ministry, a women's organization, etc.?), as well as the particular capacity in question (e.g., the capacity to delivery local justice sector services, the capacity to influence local policy, the capacity to communicate policy decisions to a wider audience, etc.). Examples may include:</i></p> <ul style="list-style-type: none"> • Local policies reflect concerns of local CSOs • Decreases in pre-trial detention time • Greater use of pre-trial settlement options and ADR • Judicial deference to decisions of indigenous authorities
National-level integration of Justice Center model within legal framework of justice system	<ul style="list-style-type: none"> • Legislation is drafted and passed that recognizes role of Justice Centers within the justice system • Key in the judiciary and public ministry agree to extend the Justice Center model throughout Guatemala, and begin implementation • Jurisdictions without Justice Centers solicit them

2. Linking Ongoing Support to Performance

USAID's approach to sustainability seems to be disconnected from performance evaluation such that no matter how successful a particular activity is evaluated to be by a particular standard (e.g., cost efficiency,



transparency, accountability, capacity to resolve conflicts, accessibility, local and national buy-in by Guatemalan counterparts), 100% of ongoing support costs are liable to be cut at a predetermined time. Such has been the fate of the 13 Community Mediation Centers which in December 2003 lost the \$150 to \$300 a month that is minimally required to keep them operational.

3. Are Justice Centers and Community Mediation Centers Sustainable?

The answer to this question depends on what it really is asking. If it is asking whether Justice Centers and Community Mediation Centers would be able to find resources to support themselves if USAID withdrew its financial assistance without having first located another source of funds, then the answer is no.

Institutional and systemic reforms take time. One of these steps toward reform mentioned in the body of this assessment is widespread acceptance of the Justice Center model by key national actors, an acceptance that includes formal recognition of Justice Centers within the legal and policy framework being developed by the *Instancia Coordinadora*. With time, Justice Centers and Community Mediation Centers may become funded through IDB loans, and ultimately through dedicated budget lines coming from the judiciary, the Ministry of Justice, or a mix of national and municipal sources (many municipalities already provide space for Justice Centers activities and Community Mediation Centers). There is no question that getting this kind of buy-in will require hard lobbying and considerable time. But no donor is better able to do this work than USAID, so long-term sustainability augers against shifting the cost (and the long-term sustainability problem) to another donor.

In the meantime, the Mission may wish to consider whether its interest in supporting cost-effective conflict resolution would justify continued financing of existing Community Mediation Centers. With respect to Justice Centers, considerations of impact relative to strengthening the rule of law, as well as sheer cost-effectiveness, commend continued USAID support of existing Centers. The Mission may wish to consider using buy-in strategies as part of a future extension of the now-proven Justice Center model.

ANNEX F. Impediments to Policy Reform in Guatemala's Justice Institutions

- **Isolationism.** While the *Instancia* and the National Justice Commission represent national-level attempts at inter-institutional coordination, the fruits of their labors have yet to be seen in practice. The justice institutions still tend to operate in isolation from one another (especially in Guatemala City), with the judiciary assuming that it has authority to set unilaterally the justice agenda for the nation.
- **Formalism.** Intra-institutional administrative procedures are cumbersome and opaque, and tend to retard the implementation of local policy reforms. The default understanding of many Justice Center officials is that local initiatives that merely seek to bring legal procedures into conformity with the law (such as the oral procedure requirements of the Criminal Procedures Code) must have the express approval of a higher, central authority.
- **Conservatism.** Except where the Justice Program has been active, the justice institutions generally have not adopted the oral procedures mandated by the CPC reforms. The judiciary is reluctant to change a work ethic that permits judges to attend their offices for just a few minutes in the morning in order to delegate substantive pre-trial decisions to subordinate officials. Many judges are away from their desks for most of the day, returning momentarily in the afternoon merely to sign off on the pre-trial decisions made by their officials. These decisions determine whether accused parties remain incarcerated prior to trial.
- **Rotation.** Justice officials, especially the police, tend to be rotated on a periodic basis. This practice makes it difficult to develop and instill a new work culture of transparency and accountability, since the gains made may be lost if the official's next assignment does not have a Justice Center. On the hand, there are now reports of localities soliciting Justice Centers partially due to the word-of-mouth recommendations they receive from officials who have come from municipalities that have Justice Centers.
- **Limited institutional leadership.** With a few exceptions, institutional leadership has been weak and uninspiring.

ANNEX G. General Recommendations

1. Consider what **other donors** are doing or are willing to do. The Swedes, for example, (and to a lesser extent the UNDP) plan to work through the National Justice Commission to become involved in the areas of labor law, land law, and indigenous customary law. Other significant players include the IDB, the UNDP, the Netherlands and Norway.
2. Consult with key **local institutions** in the justice, public security, conflict, and indigenous sectors.
 - In the justice sector—apart from the judiciary, public prosecutor, public defender and police—these institutions include the *Instancia*, the National Justice Commission, PDH, IECCPG, *Fundación Myrna Mack*, the Justice and Multiculturalism Association, and the universities (at least USAC and URL).
 - In the public security sector, WSP and IEPADES are critical.
 - In the conflict sector, CONTIERRA, ACRU (attached to the judiciary), the roundtable for land conflicts in Alta Verapaz, INTRAPAZ, and the *Pastoral de la Tierra* of the Roman Catholic Church are important.
 - In the indigenous issues sector, consult with the Justice and Multiculturalism Association, *Defensoria Indígena*, *Defensoria Maya* and the URL.
3. Make the most of USAID’s comparative advantage in setting up and supporting **Justice Centers**, and exploit the high levels of local and national support the model currently enjoys.
4. Institutionalize **M&E** within Justice Centers such that (ideally) justice institutions are able to use the same indicators that USAID uses to track results and progress.
5. Reevaluate supporting **bilingual justice** as part of a context-sensitive understanding of access to justice, an understanding that in Guatemala includes access to bilingual justice for Guatemala’s indigenous population.
6. Seek to involve the **PDH** to a greater extent in justice sector activities, including M&E and ADR.
7. When establishing **funding priorities**, identify the distinct rationales for supporting distinct justice initiatives, as well as the relationships between these rationales and initiatives. For instance, investment in ADR provides far better returns in terms of the number of conflicts that ADR mechanisms can resolve versus formal state institutions. But ADR cannot address issues of impunity and corruption, since the coercive force of the state must be harnessed to address those issues. However, the overwhelming majority of criminal cases in fact are small crimes and misdemeanors that clog the system, and which may be dealt with best via ADR. Using ADR to deal with these cases therefore has the ancillary effect of unclogging the formal system, and thus ADR frees resources that can be used to deal with high impact crimes (corruption, homicides, kidnapping, etc.). This kind of consideration (and the same argument can be made for indigenous customary law) suggests continued and perhaps added support of ADR.

ANNEX H. Additional Programmatic Recommendations

1. **Continue justice official training.** Continue training justice officials on oral procedures; human rights susceptible to violation through a lack of due process; and indigenous rights and customary law.
2. **Support inter-institutional coordination.**
 - Support the *Instancia* and the National Justice Commission.
 - Support passage of the draft legislation that will recognize the role of Justice Centers and give the *Instancia* legal status. *Note: support here may profitably take the form of simply attending and offering advice at Instancia and National Justice Commission meetings. If the IDB and Swedes intend to fund these bodies and the working groups attached to them, USAID need not dedicate fiscal resources, but should nonetheless collaborate with them given their importance to ongoing policy formulation.*
3. **Support crime prevention.** Support development and implementation of an integrated crime prevention policy that includes:
 - Addressing the chronic and acute causes of crime (e.g., poverty, alcohol, drugs, gangs);
 - Prevention before the fact (police deployment based on analysis of information concerning crime patterns and victims);
 - Response policies that are engaged when the police are notified of the crime;
 - Coordinated investigation (see below);
 - Proportionate punishment and resocialization of the offender;
 - Consultation with IEPADES and PNC with respect to the status of the use and implementation of a crime prevention manual and “early warning” system that are allegedly being pilot tested in the capitol; and
 - Promotion of community-based crime prevention through community policing, linked with Justice Centers, and sensitive to local ADR and indigenous conflict resolution mechanism.
4. **Support criminal investigation.**
 - Support development and implementation of a criminal investigation policy that helps the police and public prosecutor to prioritize and coordinate investigations. There is a draft proposal circulating which, if finalized and signed, will establish guidelines to coordinate police and public prosecutor investigation efforts. These guidelines could then be taken to the Justice Centers for implementation.
 - Engage the *Consejo Asesor de Seguridad*, a state-CSO body recently established by law that is charged with setting policy on public security, possibly including criminal investigation policy.
 - Support creation and coordinated use of the National Forensic Institute contemplated already as INACIF.
 - Continue and develop support of crime scene and evidence management.
 - If created, support the Commission of Investigation of Illegal Groups and Clandestine Security Forces (CICIACS) and its coordination with the justice institutions.

Report submitted to the United States Agency for International Development

**Thematic Impact Assessment
USAID/Guatemala Peace Program**

**Thematic Area Number Two:
Decentralization, Local Government
Strengthening, and Participation
at the Local Level**

Under the Analytical Indefinite Quantity Contract (IQC),
Contract No. AEP-I-00-99-00041-00, Task Order No. 825

September 2004

Submitted to:

USAID/Guatemala

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Table of Contents

ACRONYMS AND ABBREVIATIONS	ii
1.0 BACKGROUND	1
2.0 IMPACTS	1
2.1 METHODOLOGY.....	1
2.2 MONITORING AND EVALUATION.....	1
2.3 INDIVIDUAL/COMMUNITY-LEVEL IMPACTS.....	2
2.4 INSTITUTIONAL-LEVEL IMPACTS.....	2
2.5 SYSTEM-LEVEL IMPACTS.....	3
3.0 FACTORS INFLUENCING IMPACTS	4
3.1 INTERNAL FACTORS.....	4
3.2 EXTERNAL FACTORS.....	5
4.0 CONCLUSIONS	7
5.0 RECOMMENDATIONS	8
ANNEX A. LIST OF PERSONS INTERVIEWED RELEVANT TO LOCAL GOVERNMENT	
ANNEX B. ADDITIONAL INFORMATION ON IMPACTS	
ANNEX C. ADDITIONAL DETAIL ON FACTORS INFLUENCING IMPACTS	
ANNEX D. RELEVANT DONOR ACTIVITY	



Acronyms and Abbreviations

AC	<i>Acción Ciudadana (AC)</i>
ADR	Alternative Dispute Resolution
AED	Academy for Educational Development
AFIM	<i>Administración Financiera Municipal (Municipal Financial Administration)</i>
AGAAI	<i>Asociación de Alcaldes y Autoridades Indígenas (Guatemalan Association of Indigenous Mayors and Authorities)</i>
ANAM	<i>Asociación Nacional de Municipalidades</i>
CDUR	<i>Consejos de Desarrollo Urbano y Rural</i>
CECI	Canadian Center for International Studies and Cooperation
COCODES	<i>Consejos Comunitarios de Desarrollo Urbano y Rural</i>
COMUDE	<i>Consejo Municipal de Desarrollo Urbano y Rural</i>
CONTIERRA	<i>Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos sobre la Tierra (Presidential Office for the Legal Assistance and Resolution of Land Conflicts)</i>
COP	Chief of Party
CSO	Civil Society Organization
CTO	Cognizant Technical Officer
DAI	Development Alternatives, Inc.
DG	Democracy and Governance
EG	Economic Growth
FRG	<i>Frente Republicano Guatemalteco (Guatemalan Republican Front)</i>
FRM	<i>Fundación Rigoberta Menchú</i>
FUNCEDE	<i>Fundación Centramericana de Desarrollo</i>
GOG	Government of Guatemala
GTZ	<i>Gesellschaft für Technische Zusammenarbeit (German Agency for Technical Cooperation)</i>
IDB	Inter-American Development Bank
ILO	International Labor Organization
IR	Intermediate Result
M&E	Monitoring and Evaluation
MAFIM	<i>Manual de Administración Financiera Municipal (Municipal Financial Administration Manual)</i>
MINUGUA	<i>Misión de la Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala (United Nations Verification Mission in Guatemala)</i>
NGO	Nongovernmental Organization
PDH	<i>Procuraduría de Derechos Humanos (Human Rights Procurator's Office)</i>
PEP	<i>Planificación Estratégica Participativa (Participatory Strategic Plan)</i>
PIMA	<i>Plan Integral Municipal Administrativo</i>
OPM	Office of Municipal Planning
RTI	Research Triangle Institute International
SEGEPLAN	<i>Secretaría General de Planificación Económica</i>
SEPAZ	<i>Secretaría de la Paz de la Presidencia de la República</i>
SIAF	<i>Sistema Integrado de Administración Financiera (Integrated Financial Management System)</i>
SO	Strategic Objective
SpO	Special Peace Objective
TSE	<i>Tribunal Supremo Electoral</i>
UNDP	United Nations Development Program
USAID	United States Agency for International Development

1.0 Background

Following the signing of the Peace Accords in 1996, USAID agreed to assist the Government of Guatemala (GOG) in strengthening local government, increasing citizen participation, and providing advice on necessary policy and legislative reform. Each of these areas can be found across the GOG's Peace Accord commitments, which in broad terms focus on enhancing inclusive participation with full respect for the rights of indigenous peoples, particularly through reform and strengthening of municipal government and of the development council system. The three USAID intermediate results (IRs) have also been fundamental in pursuing USAID's principal Strategic Objective (SO) in Guatemala of "more inclusive and responsive democracy" under the 1997-2001 Country Plan (now reformulated as "more responsive, transparent governance" in the 2003-2008 Plan). The Phase I objective (1997-2002) under this SO was "strengthened local governments more responsive to citizen interests." The Phase II (2002-2004) objective was revised slightly to "increased citizen participation in strengthened local governments."

A key strategic shift from Phase I to Phase II was to refocus on institutionalizing citizen participation within the new national legislative and policy framework, and on increasing local revenue generation through taxation, user fee collection, and private investment, while continuing training in leadership skills for local actors. Crosscutting emphasis on the participation of women and indigenous peoples is found in the terms of reference for both phases (implemented by Development Alternatives, Inc. [DAI] in 1998, followed by Research Triangle Institute International [RTI] in 2002).

Note: this project will be referred to herein as "the Program."

2.0 Impacts

2.1 Methodology

The comments below are based on available DAI and RTI progress reports regarding mainly outputs, as well as interviews with key actors nationally and in two departments, El Quiché and Chimaltenango, during a brief field visit (see Annex A for a list of personnel interviewed).

Annex B presents details regarding individual, institutional, and systemic-level impacts. These impacts are briefly summarized in Sections 2.3 through 2.5. First, however, a brief analysis of the crosscutting monitoring and evaluation (M&E) issue is presented, given its relevance to the discussion of impacts.

2.2 Monitoring and Evaluation

The Program is in a strong position to develop more robust monitoring and evaluation that is (1) implemented on a permanent basis (versus one-off, short-term consultancies); (2) implemented with stakeholder participation and ownership of the process (to ensure lessons learned and sustainability); and (3) implemented with solid baseline data (of the kind sought in the Transparency Code, for example) across all Program activities. Evaluation of the quality and extent of participation in development councils (especially by women and indigenous peoples), for example, would benefit from baseline data that includes citizen attitudes and perceptions in relation to precisely defined areas of increasingly decentralized public authority and responsibility. This will also ensure that key stakeholders are held accountable for specific areas of growing responsibility and competency promoted and supported by the Program.

Comparative evaluation of impact between Program municipalities (and in contrast to municipalities lacking similar support from other donors or nongovernmental organizations [NGOs]) is currently difficult without this kind of integrated baseline data. Nonetheless, a viable second-best option would involve

retrospective construction of a baseline that could then be applied for the purpose of such a comparative study (conducted over a period of several months).

It is important to recall that impacts sought by the Program are short, medium, and long-term in nature. Much of the Program's positive achievements to date, for example, relate to the establishment of the institutional and personnel capacity for achieving expected impact. Adoption and implementation of this support by local public officials is at an early stage.

2.3 Individual/Community-Level Impacts

- **Training of public officials.** Municipal public officials in 20 municipalities received and, in general, positively evaluated, significant technical training across a range of policy instruments (see Annex B). To the extent that these beneficiaries include indigenous officials (no figure available regarding percentage), the Program may assist in changing the disproportionate percentage of these public services performed by non-Indigenous people. Sustainability of such a trend would require institutionalization of permanent training and retraining, including rapid training for new public officials in light of frequent change of personnel following elections.
- **Participation of women and indigenous peoples.** Available Program reports provide little evaluation of impact regarding the historically weak capacity of women and indigenous peoples to participate in public decision making and planning processes *in representation of the specific interests of these marginalized sectors*. Program initiatives that were planned but not yet implemented may be worthy of further attention (see footnote 1, Annex B). Indigenous leaders in Quiche and in Chimaltenango also emphasized the need for greater attention in this area. Program activities planned in support of the Guatemalan Association of Indigenous Mayors and Authorities (AGAAI) in mid-2004 include workshops focused on women's participation, and would appear to respond directly to this need.

The introduction of a Participatory Strategic Planning (PEP) model by the Program built upon earlier efforts in Phase I (citizen agendas, roundtables, inter-sectoral groups, etc.) and provides a concrete instrument that brings together all stakeholders in the planning process. This is a significant contribution with the potential to institutionalize mechanisms for concrete participation, transparency, and accountability. The extent to which citizens are aware of the PEP process and consider themselves central stakeholders is, as yet, not established in a systematic evaluation of community participation. The development of systematic baseline data across Program activities, as in the Transparency Manual exercise, is fundamental for ongoing Program planning and a sense of local ownership over the process of change.

- **Elections.** USAID also provided significant support for election monitoring (separate funding) and voter awareness, and the Program invested in complementary initiatives related to raising voter awareness and provided opportunities for candidates to meet voters and express their commitment to existing planning goals.

2.4 Institutional-Level Impacts

- **Main contribution.** Program activities since 1998, reinforced and refocused by legislative reform of key local institutions in 2002 (municipal government and development councils), have created the conditions in most of the 20 participating municipalities for the development of more transparent, accountable government, local financial management and revenue generation. This impact is enhanced by virtue of USAID policy instrument linkage to policy development through the GOG (Integrated Financial Management System [SIAF], Municipal Financial Administration [AFIM], *Tribunal Supremo Electoral* [TSE], etc.).

The reorganization of municipalities in accordance with the new Municipal Code, particularly the establishment and strengthening of planning and finance offices, combined with the introduction of new policy instruments, has dramatically improved the capacity of participating Offices of Municipal Planning (OPMs) to facilitate the relationship between municipalities and communities. The impact of this training will have to be measured by an evaluation of citizen attitudes and perceptions in addition to other more empirically observable results (e.g., infrastructure development).

- **Institutionalizing citizen participation.** The establishment and strengthening of the community and municipal development councils and municipal institutions, combined with the execution of diagnostic studies in some areas (public services), as well as the introduction of concrete instruments for joint stakeholder planning (PEP), has created conditions for greater citizen participation and for the development of new decision-making processes. Of particular interest is the potential of development councils (particularly the *Consejo Municipal de Desarrollo Urbano y Rural* [COMUDE]) to strengthen institutional links between the state and indigenous institutions (see Annex B, regarding Tecpan case study). These evolving institutional dynamics, which draw upon indigenous principles, norms, and practice, are worthy of further study over time across all of the participating municipalities. The economic dividends of ongoing democratic reform are not immediate nor guaranteed, and there are signs that rising expectations generated by citizen participation in developing PEPs and in forming councils, may turn to frustration (e.g., as suggested by mayor of Chiche). Stakeholder participation in M&E can relieve the burden that otherwise may fall entirely on elected representatives, in terms of the participatory and transparent identification of objective limits to development.
- **Mayoral associations.** The Program has had limited success in strengthening the influence of mayoral associations (*Asociación Nacional de Municipalidades* [ANAM] and AGAAI) largely due to structural issues that require fundamental reform (see external factors described below). The AGAAI executive secretary acknowledges with gratitude support from entities like USAID and the Human Rights Procurator's Office (PDH) that provide support in critical moments of its still fragile development (from technical advice to funding assembly meetings). One of the key interests of mayoral association members is to raise revenue and to obtain more reliable transfers from central government. A related challenge is the persistent politicization of central revenue transfers to municipalities, a tendency that was practiced to new extremes during the *Frente Republicana Guatemalteca* (FRG) government, as evidenced, for example, in the discrimination against of Chiche in regional and departmental development councils. The Program might usefully focus future efforts in improving dialogue between central and municipal government through the reform and strengthening of mayoral associations and supporting their ongoing participation in key existing and potential future spaces of national policy dialogue (Commission on Modernization and Decentralization, National Governability Pact, Fiscal Agreements, consultation with indigenous peoples in accordance with ILO Convention 169, etc.).

2.5 System-Level Impacts

- **National policy.** USAID has had important successes in positively influencing critical national policy, in collaboration with other donors (principally GTZ). This includes focusing national attention on municipal fiscal policy, and more recently, in encouraging the GOG to develop a coherent decentralization strategy in coordination with donors (see Annex D).
- **Legitimacy of democratic authority.** The legitimacy of municipal government appears to have been enhanced in some municipalities, such as Pachalum, which have energetically adopted transparency, accountability, and financial management instruments. Specific systemic changes are notable in relation to planning policy and instruments (PEP, PIMA, development councils), public service provision (automation of civil registry, diagnostic studies of public service, technical assistance), taxation, debt collection and financial administration (MAFIM, SIAFITO). Perceptions of the legitimacy of local democratic government is a potential focus for M&E in order to verifiably track this

important indicator. The successful implementation of PEPs and other instruments will be enhanced to the extent that the Program is able to respond to concerns (noted earlier) of some beneficiaries that further accompaniment is required both in providing technical advice and in ensuring that civil society is empowered to participate. In a related systemic impact, Program activities to strengthen the electoral process appear to have served to promote a new discourse of accountability and transparency, and respect for citizen participation in investment planning.

- **Potential significance of development councils.** Local civil society actors across the country appear prepared and often enthusiastic to establish and make use of the development councils (following their legislative reform), but there is also skepticism based on historical mistrust of the political process. Issues of institutional integrity and sustainability have arisen specifically in relation to alleged political manipulation in the selection of council members (in San Antonio Ilotenango, Santa Cruz, and San Martín Jilotepeque, for example). There is also some confusion locally (e.g., interviews with local council member in Santa Cruz municipality) regarding the legitimacy and role of the COCODES and the future role of older structures such as the community improvement committees. The latter issue is inherent in the process of building a new institution. As noted in the last section, there are also examples of how the development councils may provide an opportunity to bridge the gap—systemic and institutional—between the state and indigenous principles and norms (please see note regarding Tecpan in Annex B, under “Strengthened channels for increased communication of citizens in local decision making”).

The issue of political patronage and manipulation of these councils is part of a much broader challenge to democratic development that challenges other overlapping spaces for citizen participation, including “*mesas de concertación*”. These latter spaces often lack, however, the national statutory mandate of the development councils that seeks to institutionally bridge the gap between the state and civil society. A *Secretaría General de Planificación Económica* (SEGEPLAN) representative suggested that the development councils may best serve as temporary institutional vehicles for systemic democratic reform, meaning that some of the bureaucratic layers of the council system (particularly regional and departmental) may become unnecessary at some point if they succeed in inculcating effective, decentralized, transparent and accountable government.

- **Other systemic impacts.** The Program is in the early stages of bridging the gap between public and private sectors at the municipal level, including an important initiative implemented through *Acción Ciudadana* (AC). Finally, as noted earlier, Program activities during two electoral periods (1999, 2003) promote a new discourse of accountability, transparency, and respect for citizen participation in development and fiscal planning.

3.0 Factors Influencing Impacts

See Annex D for more details on some of the factors listed below.

3.1 Internal Factors

- **Successful conceptual and strategic focus.** A three-part focus on municipal strengthening, citizen participation, and national policy context since 1998, appears to have been a consistent and fruitful approach.
- **High capacity of contractor and implementing partners.** Without exception, the officials interviewed at USAID, RTI, *Fundación Rigoberta Menchu*, AC, and *Fundación Centramericana de Desarrollo* (FUNCEDE) demonstrated impressive expertise as well as enthusiasm for the Program. Most of the factors noted below, as well as many of the recommendations that conclude this report, arose from conversations with these individuals, themselves. USAID has wisely ensured institutional

memory and Program continuity through the long-term presence of very capable actors within each of these institutions and organizations. Unusual turnover in contracting party staff slowed program development in the early stages but recent implementation by RTI has exceeded established targets in many areas.

- **Limited and discontinuous monitoring and evaluation.** See earlier comments under “Methodology” for the Team’s assumptions in this regard.
- **Limited efforts to empower women and indigenous populations in representation of their specific interests.** In practice, with the shift from Phase I to Phase II, USAID reduced its attention to the capacity of CSOs to participate in public decision making, particularly for women and indigenous populations in representation of their specific interests (see footnote 1, Annex B). More generally, some observers from other donor programs suggested were mindful of the risk of unintentionally undermining the strengthening of municipal government by leaving civil society behind, including the productive sector and political parties.
- **Limits to Accompaniment of Local Processes.** The shift to task order contracts under RTI may have had the unintended effect of limiting much-needed, ongoing accompaniment of local officials and citizens by Program facilitators, with attention to the specific challenges of varying local contexts. It is obvious, however, that these problems are inherent in the process of local institutional and political reform, and that the Program cannot be present in every community, meaning that this is an issue of reconsidering the current allocation of Program resources in this area. The focus by implementing partners on product delivery may also lend itself to “stove-piping” by diverting attention from process issues that cut across USAID strategic objectives and individual program areas.
- **Underutilized synergies between USAID activities.** As AID officials acknowledged, there is a need to increase interaction between DG, economic growth (EG), health and education. Lessons learned in other projects (e.g., Barillas - USAID/Canadian Center for International Studies and Cooperation [CECI]) suggest that integrating technical governance support with productive sector activities has enormous potential (former beneficiaries of noted program now newly elected members of municipal corporation and its staff).
- **Insufficient coordination between implementing partners.** Tight product deadlines meant that the three implementing partners often did not find time to coordinate, nor does it appear that they were they sufficiently required to do so by the contractor. Implementing partners indicate that this may have limited potential synergies, awareness of lessons learned, and effectiveness of management decisions.
- **Sustainability plan.** The sustainability of the Program’s impact is challenged by a series of external factors noted in the next section. While these factors are structural (e.g., political will of elected mayors, patterns of undemocratic rule, and the consequences of post-election staff turnover), there may be ways to mitigate and avoid wasted efforts and negative impacts (see Annex D for suggestions).
- **Issue of collaboration with the GOG.** A critical dimension of the Program’s objective is to ensure that decentralization translates into more democratic governance and equitable development, a result that challenges prevailing national/local political culture and practice. Achieving this goal is a long-term process that requires built-in strategies for sustainability, one of which might include further linking Program activities normatively and programmatically with the GOG’s current decentralization planning and implementation.

3.2 External Factors

- **GOG and congressional commitment.** Central government actors (SEGEPLAN, SEP, COPRE) used a common language of constructing citizenship in describing the objectives of decentralization. SEGEPLAN, as of May 2004, was focused on developing a plan to monitoring the transparency of

central government transfers to municipalities. Congressional support will be essential to achieve the paradigmatic changes that the intended decentralization process implies.

- **Legislative framework.** An adequate national fiscal structure is vital to support the recent legislative changes related to local governance (e.g., Municipal Tax Code). Other vital laws and policy initiatives are only in early stages of implementation by GOG leadership (Civil Service Law, *Consejos de Desarrollo Urbano y Rural* [CDUR] Law, Municipal Code, Decentralization Law, more democratic selection of governors, etc.), and regulatory ambiguity remains in key spheres of institutional change (e.g., lines of authority separating role of municipal corporations, COMUDURs, CODEDEs, and COCODEs).
- **Commitment of indigenous and women's organizations.** While continuing to be fragile and critically divided in some cases, national and regional indigenous and women's organizations, including AGAAI and its counterparts, represent an enormous potential for and strong commitment to bringing these marginalized voices to various spaces of dialogue and negotiation (distinct commissions within COMUDEs, national commissions on issues related to decentralization, modernization, rural development, etc.).
- **Decentralization and donor strategy.** Donors are in the process of exploring mechanisms for inter-donor coordination as they develop their post-2003 programming, but there are important differences in their views of decentralization, participation, and development (e.g., viability of the development council system and the breadth of a definition of 'participation'). There appears to be a genuine shared interest in promoting the decentralization, in the spirit if not letter of the Peace Accords, as an instrument for achieving democratic consolidation and inclusive development. There are sufficient lessons learned globally, particularly USAID's own experience, to construct a sound inter-donor strategy in collaboration with the GOG.
- **Political culture.** The Department of El Quiche may be the best example of the historically challenging characteristics of Guatemalan political culture: weak legitimacy of state institutions and a persistent gap between state and civil society (particularly indigenous populations), and the weak capacity of political parties to mediate this relationship.
- **Political will and capacity of municipal leaders.** The mayor of Pachalum stands out among participating public officials in a large part because, unlike most mayors, he has had access to advanced education and also shows a strong vocation for thinking beyond narrowly defined municipal functions to broader economic and political challenges. Lack of access to higher education and leadership training among indigenous peoples and women, in addition to the legacy of the armed conflict, are some of the factors that require ongoing monitoring and attention to overcome this critical deficit.
- **Leadership skills at municipal level.** CSO representatives emphasized their weak capacity to participate in local public institutions and to influence decision making. Women and indigenous peoples continue to be largely unrepresented and, according to indigenous leaders in Quiche and Chimaltenango, they require much greater access to training programs.
- **ANAM, AGAAI, and INFOM.** These are key institutions for political (ANAM) and technical (INFOM) leadership, but they are structurally unable to meet these challenges without institutional reform to advance beyond outdated mandates. AGAAI has demonstrated stronger and more consistent leadership. A key issue for these institutions, as noted above, is to change the practice of central government to discriminate (particularly with regard to transfers) against municipalities not led by the national governing party, while also adopting transparency and accountability practices for their own local governments.

4.0 Conclusions

The following conclusions are framed in a manner to indicate the conditions for the success of the program.

Role of Civil Society

Program capacity to flexibly accompany civil society beneficiaries is a key determinant of success in a reform process that has both technical and political uncertainties and complexities at the local level. Indigenous leaders in Quiche and in Chimaltenango, for example, emphasized their need for more support (formal training and ongoing informal facilitation) to strengthen their participation in the development council system in representation of their specific interests. Instruments such as the transparency and social audit manuals, in addition to ongoing development of PEPs and PIMAs, similarly require Program capacity to respond to local requests for assistance as communities move towards inclusive participation and sense of community ownership. Achieving more capable participation by local civil society organizations may also lead to opportunities to address related social issues—including reconciliation, justice, and discrimination—within the new public spaces provided by the development councils. To the extent that civil society actors gain confidence in their participation, they may be able to mitigate the risk that participatory planning is undone by newly elected representatives for narrow political interests.

Citizenship

Constructing democratic citizenship is an objective that directly challenges the prevailing authoritarian and clientelist political system in Guatemala. The integrated Program emphasis on local government, civil society, and national policy, provides an appropriate programmatic framework for promoting this objective, since it attempts to bridge the longstanding gap between civil society and the state. The promotion, monitoring, and evaluation of participation by women and indigenous peoples is critical in this sense (a mere generic focus on participation without regard for specific interests and aspirations would miss the opportunity for dialogue related to this difficult debate). The recent trio of legislative reforms (Municipal Code, development councils, decentralization) provide a legal and constitutional framework for advancing this project of constructing democratic citizenship, as was recognized in the Peace Accords (which promoted these reforms). Focusing on citizenship as a common objective gives normative weight to institutional change, and puts into a critical light less democratic norms and practices that still dominate.

Coordination between Implementing Partners (FUNCEDE, FRM, AC)

The integrated promotion and strengthening of municipal government, civil society, and national public policy and law, creates synergies and lessons learned across these areas. Future success will be enhanced by strengthened communication between implementing partners under the guidance of the contractor.

Accompaniment of Public Officials

The Program introduced well-designed policy and technical instruments for the strengthening of municipal government in its fiscal, administrative, and political dimensions. Initial Program advances and future sustainability in distinct municipalities hinges significantly on flexible provision of assistance by the Program to public officials challenged with implementing democratic institutional reform in the face of entrenched patterns of clientelism and corruption of both the public and private sector.

Links to Economic Development

As pointed out by the mayor of Chiche, linking strengthened local governance with economic development is crucial in order for citizens—particularly given the Program focus on a region of endemic poverty and social exclusion—to see the concrete benefits of democratic reform. Beyond the technical challenges, success depends on grappling with the enormous influence of private and public sector corruption locally and nationally. The promotion by FUNCEDE and AC of transparent and accountable budgetary processes, nationally (Congress, SEGEPLAN, social funds) and locally (PEPS, PIMA, transparency and social audit manuals), is a critical ingredient for future success in this regard.

Municipal Support

- **Support for *Mancomunidades*** appears to be a compelling strategy that allows local government, the private sector, and civil society to strategically link their efforts around specific development needs and aspirations. A related challenge is to include poorer municipalities where possible in order not to further isolate these marginalized areas but rather to convert the *mancomunidad* into an opportunity to more equitably distribute resources among municipalities. In this sense, for example, the Program might strategically assist municipalities (such as Santa Cruz and San Antonio Ilogenango) to find mutually beneficial arrangements (particularly related to water use in this example) where none appears currently viable.
- **A strengthened ANAM and AGAAI** can play a key role in the redistribution of political and fiscal authority between central and municipal government. This continues to be an important objective for the Program, particularly in the short term, in order to establish an effective check on discriminatory treatment against some municipalities by central government. INFOM currently is a less than optimal but potentially important central government technical counterpart if sufficiently reformed (see external factors noted above).
- **The political will and individual capacity of municipal leaders** is without doubt one of the most critical factors determining success. However, even where this will or capacity is weak, participation by civil society actors (through development councils and mancomunidades, for example), as well as incentives built in to national policy (transfers, access to loans, etc.) can mitigate this structural obstacle. Similarly, as noted above, mancomunidades can be strategically designed to create incentives and support for underperforming and poorer municipalities.

5.0 Recommendations

The following are some recommendations that flow from the latter discussion regarding conditions for past and future success.

1. **Maintain activities for national policy and legislative reform.** Maintain Program activities at the national level focusing on development and implementation of decentralization policy. Other areas of focus could include relevant dimensions of the Law on Elections and Political Parties and related initiatives to combat corruption; policy and administrative reform of ‘social funds’; the development of the Municipal Tax Code; the regulation of Municipal and Departmental Development Councils; the effective implementation of Civil Service Law (strengthen civil service career, including formal consolidation of association of professionals); implementation of SIAF and AFIM, and of PEP/PIMA strategy; strengthening ANAM and AGAAI; and reforming and strengthening INFOM as a body for coordinating technical assistance to municipalities.
2. **Strengthen local government.** As part of Program efforts to mitigate the resistance of some officials to democratic reform, a certification system might be considered (FEMICA has proposed one model)

that would require certified training and performance by municipal officials in order to access certain kinds of credit and resources. More generally, Program participants expressed both praise for the training and the need for ongoing assistance on a flexible, as-needed basis.

3. Strengthen citizen participation.

Monitoring the development council system. As noted in Section 4, further attention might be given to M&E of COMUDES, COCODES and second tier municipal associations, as core Program activities continue. The development council system is perceived by many civil society actors, in spite of local mistrust of the political process, as an opportunity to make systemic changes in the way public resources are distributed and used. Against this optimism, Guatemalan experts on local governance and decentralization, as well as some donor countries, have serious doubts about whether the Council System can work as currently structured (claiming, for example, redundant and unnecessary bureaucratic levels, especially the regional and departmental councils). The uncertainty as to the future of this reformed institution makes M&E all the more important. In addition to participating in these new institutional spaces, these stakeholders can play a central role in monitoring and evaluating their impact. This would include generation of baseline and qualitative data regarding attitudes and perceptions of distinct sectors. The transparency and social audit manuals recently introduced will contribute to this objective.

Women and indigenous peoples. Ensure sufficient strategic planning to enable implementation of sub-IRs related to the capacity of women and indigenous peoples to participate (as proposed in Fourth RTI Quarterly Report). These sectors should remain an explicit focus of programming, particularly regarding development councils as well as leadership and public service training. These actors enthusiastically welcome planned Program support for AGAAI and for specific working meetings related to gender and indigenous peoples.

Permanent training facility. Consider joint donor mechanisms for establishing a permanent training facility, perhaps building on the current program of *Accion Ciudadana* (see below). One of the most difficult challenges for increasing the technical and political capacity of public officials is the frequent turnover following elections. As with the Program more generally, sustainability strategies must include handover of ongoing activities and targets to private or public entities.

4. Develop joint donor strategies. There appears to be a coincidence of programmatic donor interest in working with and through state institutions in a post-2003 context. Avoiding past duplication and overlapping of efforts where coordination between donors and with the state has been weak. These are reasons to continue and expand USAID's joint initiative with GTZ to establish a donor coordination group related to decentralization, and to consider additional measures.

A Strategic Steering Committee might be mandated to define, and maintain coherence of, broad strategies shared by GOG, donors, and CSOs, related to decentralization, democratic consolidation, and equitable and inclusive economic development (might convene every four to six months; should be led by GOG; could include Ministry of Finance, PDH, COPREDEH, SCEP, COPRE, Ministry of Public Finance, SEGEPLAN, INFOM, ANAM/AGAAI, relevant NGOs, and donors). The ARD Team is unaware of explicit GOG interest in this kind of entity but there is a clear commitment to exploring more effective means to coordinate with donors.

Geographic equitable coverage. As international cooperation increasingly focuses on linking democratic governance with economic development at the level of *mancomunidades*, it is important to ensure that clusters of less viable or more remote municipalities are not left behind. Similarly, donors might coordinate with the GOG regarding its plan for assisting poorest municipalities and help to ensure that these populations are not left out of broader, longer-term, integrated development strategies that donors are inclined to support.

Monitoring and evaluation. Recognizing the potentially fundamental political reorganization of the state under current decentralization law and policy, and the importance that decentralization translate into democratic benefits for citizens (against the risk of local elite capture of resources and power), it is recommended that USAID consider supporting the design and implementation of a national system to monitor and evaluate this process. As noted earlier, this requires a *permanent* process of evaluation with *stakeholder* buy-in and clear *baseline* data developed in accordance with *explicit* decentralization objectives. Note that SEGEPLAN (as of May 2004) is developing an evaluation system to monitor the decentralization process (no further details available). The PDH is also in process of developing a related system of objective indicators as pilot program in Ratahuleu. The PDH (providing independent monitoring of the integrity of institutional reform on the basis of human rights criteria) and COPREDEH (reporting to regional and international rights monitoring regimes and informing GOG entities of their obligations within this regime) have important roles to play in the monitoring process.

Permanent training and intercultural dimensions. Consider jointly financing establishment of permanent, decentralized training programs (underpinned conceptually by the notion of democratic citizenship through more responsive and inclusive governance). Beneficiaries may include: municipal public officials (building upon current program implemented by AC); civil society, with emphasis on women and indigenous peoples (civic education, human rights, leadership training, political formation). Support processes of research and dialogue to explore a range of possibilities for linking Indigenous to state institutions (e.g., role of indigenous elders in San Bartolome Jocopilas, role of indigenous mayors in Joyabaj, role of community mayors in San Cristobal Totonicapan, etc.).

5. Consider further recommendations regarding program strategy.

Mancomunidades. Develop criteria for the selection of *mancomunidades* that present conditions for an integrated approach that combines DG, EG, health and education programming by USAID. Criteria might include resources and capacity to absorb more ambitious economic development initiatives (might include municipalities such as Chichicastenango, Chimaltenango, and other larger centers, strategically linked with smaller, perhaps less economically viable, municipalities). Tripartite funding schemes might be considered (international cooperation, municipality, central government transfers). Prioritize civil society participation to mitigate the risk that such associations lead to decision making among mayors without sufficiently guaranteeing inclusive citizen participation.

Constructing citizenship. Consider adopting the concept of “constructing citizenship” as a foundational idea that links all program strategic areas and permits sensitivity to inter-cultural relations, gender, human rights, and reconciliation.

Monitoring and evaluation. Consider establishing an internal USAID M&E unit, responsible for improving program management decision making and accountability of implementing partners across all USAID program pillars. The M&E unit might also assume responsibility for providing technical assistance to the national M&E system proposed above under “Joint Donor Activity”.

Implementing partners. Consider contracting only one implementing partner in each municipality in order to strengthen the coherence and integrity of support.

Focus on process. In consultation with implementing partners and in light of lessons learned to date, consider Program design modifications that might permit more flexible (time and location) accompaniment of civil society actors and public officials as institutional changes are introduced.

ANNEXES

ANNEX A. List of Persons Interviewed Relevant to Local Government

NAME	POSITION	ORGANIZATION
Calvo, Jorge	Subsecretario	SEGEPLAN
Cruz, Margarita	Coordinadora Oficina Regional del Quiché	MINUGUA
De León Escribá, José Antonio	Director General para la Descentralización	Secretaría Ejecutiva de la Presidencia
De León, Alfonso		Programa de Gobiernos Locales y Descentralización de USAID, Research Triangle, Inc.
Fión, Carlos	Presidente	INFOM
García González, Daniel	Modernización Institucional	Unión Europea
García Velásquez, Selvin	Alcalde Municipal	Municipalidad de Pachalúm, Quiché
Holla, Peter	Coordinador	Programa para la Descentralización y el Desarrollo Municipal
Jager, Patricia	Directora Ejecutiva	FEMICA
Kennedy-Iraheta, Deborah	Sub-Directora de la Misión	USAID/Guatemala
Marroquín, Alfredo	Coordinador	Acción Ciudadana
Marroquín, Mario	Oficial de Proyectos	Banco Mundial
Méndez, Ana	Directora	CECI
Morales Alvarado, Sergio	Procurador de los Derechos Humanos	Procuraduría de los Derechos Humanos
Neffa, Juan	Coordinador Nacional	Programa de Gobiernos Locales y Descentralización de USAID Research Triangle, Inc.
Palencia, Mayra	Executive Coordinator (Chamber of Commerce)	Transparency Coalition
Paz, José Mynor	Representante	Mesa de Concertación
Recinos Sandoval, Guillermo	Coordinador Nacional del Programa de Fertilizantes e Insumos 2004	Ministerio de Ganadería y Agricultura
Van Pelt, Sharon	Sub-Directora de la Oficina de Iniciativas Democráticas y Gerente del Programa de Gobiernos Locales	USAID/Guatemala
Witbeck, Harris	Director	COPRE
El Quiche and Chimaltenango Departments		
Baquiax, Modesto	Representante	Asociación Achin Ixim
Can, Isabel (with members of Indigenous Network)	Indigenous Sector Representative, Departmental Development Council and Representative of Network of Indigenous Organizations of El Quiche	El Quiche
Hernandez C., Joaquin	Facilitator, Fundacion Riboberta Menchu	San Martin Jilotepeque, Chimaltenango
Jacobo, Victorino Armira	Second Councilman, Municipal Corporation	San Martin Jilotepeque, Chimaltenango
Estrada, Otto Rene	Coordinator, MPO	San Martin Jilotepeque, Chimaltenango
Escobar, Laura Beatriz	Official, MPO	San Martin Jilotepeque, Chimaltenango
Molinari, Marguerite	Official, MPO	San Martin Jilotepeque, Chimaltenango

NAME	POSITION	ORGANIZATION
Méndez, Leopoldo	Representante	Centro Maya Sacbé
Nicolás, Cristina	Representante	Comunidad Lingüística Cackchiquel
Serech, Nery	Representante	Defensoría Indígena
Natareno Lopez, Ricardo Delfino	Mayor	Santa Cruz del Quiché El Quiche
Garcia Velasquez, Selvin Boanerges	Mayor	Pachalum, El Quiche
Macario Chitic, Hipolito	Mayor	Chiché, El Quiche
Lastor Tol, Tomas	Coordinator	OPM Santa Cruz del Quiché
Chavez, Domingo	Coordinator	OPM San Antonio Ilotenango, El Quiche

ANNEX B. Additional Information on Impacts

1. Overview of Activities Relevant to Individual and Institutional Impact

While this Program was initiated in 1998 as “Nexus Municipal”, conditions for achieving significant impacts at the institutional level were created with new legislation in 2002. The RTI Phase II program, began in June 2002, narrowed the geographic focus of the Program to Quiche and Chimaltenango. While continuing to focus on development council support, RTI shifted the balance from raising public awareness around issues of participation to technical assistance to institutionalize that participation in re-organized and strengthen municipal governments, giving life to the new legislation. As pointed out Fundacion RM staff, some participating municipalities experienced a one to two-year gap (measured by actual program activities in specific municipalities) between DAI and RTI activities. The efforts listed below, were able to build upon pre-2002 achievements to varying degrees. Both Phase I and Phase II including national elections (1999 and 2003), which presented difficulties in practice both with regard to continuing with non-election related program activities, and in terms of disruption caused by a change of municipal government, usually followed by a complete change of officials hand-picked by newly elected mayors.

Key activities since 2002 include the following:

Transparency and Accountability

- Consolidation of OPMs and training for OPM staff, plus the delivery of two workshops regarding municipal organizational structure, OPM functions, and PEP, in all 20 municipalities. A manual on municipal organization was distributed nationally to all municipalities.
- Formation of Community and Municipal Development Councils in accordance with new laws, with orientation provided by Program for community representatives.
- Training of OPM officials regarding elaboration of PEPs and PIMAs. Elaboration of PEPs through citizen participation.
- Development of Transparency Code and Social Audit and early training in this regard.

• *Financial Administration and Revenue Generation*

- In coordination with the Ministry of Public Finance, training was provided regarding the Integrated Financial Management System (SIAFito, later SIAF III). Training was also provided to 94 municipalities on the establishment of Financial Administrative Units with the use of a Manual (MAFIM) approved by the Inter-institutional Commission. These units should eventually replace and enhance the Municipal Treasury.
- USAID and other donors combined provided training in 90% of 331 municipalities.
- Assistance in updating and computerizing tax rolls as well as systematizing of data related to debt, cost recovery, and public service users.

• *Economic Development*

- Use of Program Investment Fund to provide incentives for municipal development planning.
- Socioeconomic and legal analysis conducted as groundwork for promoting public-private collaboration in municipal planning and investment.

• *Civil Registry*

- Provision of necessary software and technical training on automated civil registries (all 20 municipalities), Links with TSE established in order to advance efforts to streamline registration process and to create a single unified identity card.

• *Elections*



- Workshops conducted by *Accion Ciudadana* in 20 municipalities for targeted citizen groups regarding the qualities of mayoral candidates;
- Support for public campaign to increase and update voter registration;
- Support for domestic electoral observation ('Mirador Electoral', under separate DG funding) and for local elections forums in each municipality (300-400 participants)
- Political fora in 20 municipalities during the 2003 electoral campaign, in which candidates manifested commitment to the results of participatory planning.

2. Individual/Community Level

Overview

Intermediate Result 3.2 of the Program seeks, in part: “Strengthened democratic skills for increased communication and participation of men and women in local decision making. Within this objective, the Program has sought, in part, to “improve the dialogue, negotiation, and overall leadership and organizational capacities of citizens”.

Capacity of Public Officials

The Program has sought both to increase the capacity of public officials to manage and generate local finances and, importantly, to improve “leadership” and “dialogue skills of local municipal leaders to effectively engage citizens and provide leadership that leads to the institutionalization of democratic practices” (Sub IR 3.1).

In general terms, technical assistance has been embraced by participating municipalities across the range of activities noted above. Their ability to implement these policy instruments without further accompaniment varies. In addition, in some cases Treasury and Secretary officers resist the new emphasis on Municipal Planning Offices as well as the scrutiny that is implied by administrative reforms.

Coordinators of Municipal Planning Offices in San Martin Jilotepeque, Pachalum, and in Santa Cruz del Quiché, reported very favorably regarding Program impact in terms of their individual capacities. While this enhanced capacity is often lost from the municipality when a new government is elected, the trained individuals remain in an informal pool that is drawn upon frequently by other institutions. Some actors suggested that a formal organization of these professionals ought to be established in a national system that provides links these capacities to vacancies in public institutions.

Some OPM officials emphasized the need to ensure that OPM staff is more fully trained regarding various technical capacities. For example, one OPM official suggested that more attention to OPM capacity was necessary with regarding to PEP implementation, in order to ensure sustainability of the process. This OPM official stated that the implementing partner was often carrying out the bulk of the planning work. The facilitator from FRM agreed that this was important but added that he had to balance this objective against the need to achieve Program targets within limited timeframes (*see section on Internal Factors Affecting Impact in main text*).

To the extent that the beneficiaries of this training include Indigenous officials (no figure available regarding percentage), the Program may assist in changing the disproportionate percentage of these public services performed by non-Indigenous people. Sustainability of this training requires institutionalization of permanent training and re-training, including rapid training for new public officials in light of frequent change of personnel following elections.

Capacity of Citizens to Influence Public Decisions

Statements of work related to USAID’s efforts to strengthen local government and citizen participation include a focus on increasing the capacity of women and indigenous peoples to participate in local

governance. This is a critically important dimension of the Program in order that civil society, particularly its most excluded sectors, takes ownership of this process of institutional and political change. While Program activities contribute to this participation by virtue of working in primarily Indigenous populations, the Program strives to address the specific needs and aspirations of these actors, as well, rather than simply ensure their generic presence in evolving institutional spaces. Some of the planned programming, in this sense, which appears not to have been implemented to date, would be worthy of further attention.¹

According to discussions with the FRM, local citizens participated in the establishment of Community Development Councils to varying degrees. Even with one Program facilitator assigned to each municipality, FRM could not accompany as much as necessary the local processes for the formation of Community Development Councils. However, typically 30 to 60 community members gathered in meetings held at the community or micro-regional level, to discuss the purpose of the new COCODES. FRM's message was that citizens were being offered an opportunity to participate through the new legislative framework that would help to overcome marginalization. However, more targeted training for community leaders was limited. It is likely, as FUNCEDE has suggested, that the new legislation helped community members to overcome their traditional fear of participation, although there is no systematic evaluation of citizen attitudes in this regard. Discussions with newly elected public officials in San Antonio Ilotenango, Santa Cruz del Quiche, and with Indigenous leaders in Chimaltenango, suggest that there was significant political manipulation or lack of agreement regarding the composition of COCODEs and COMUDEs formation, leading to mistrust. As a result, newly elected mayors and OPM staff are making adjustments in some cases, and Program staff are also meeting with new officials to facilitate further progress with the councils. To a large extent, however, what is needed is attention at the community level, which is the foundation for the future success of the decentralization process. Personnel and timing limitations faced by the Program are significant factors, therefore, in achieving success and sustainability of the Program.

ARD attended a meeting of the CODEDE in Sta. Cruz Quiche, in which the participation of the indigenous peoples representative was notably active, as was participation in general. In an interview with this representative and with the Board of Directors of the Network of Mayan Organizations in El Quiche, these civil society representatives acknowledged that the Development Councils may offer an opportunity for real participation in public decision making, but emphasized that their capacity to take advantage of this opportunity is extremely weak. This view was also clearly voiced by leaders of several Mayan organizations in Chimaltenango. Rather than focusing on elected officials, whose tenure is typically one term and who tend to respond to narrow interests, these leaders emphasized the importance of raising the capacity of civil society, particularly women and Mayan leaders, to influence public decision making. None of these leaders identified USAID programs that were benefiting specifically women or Mayan leaders in this regard, although it is by no means unusual for local beneficiaries of a range of different kinds of external assistance to be unaware of the names of specific funding agencies. More recently, the Program

¹ The Second Qlty Report anticipates activities to determine strategic issues related to women's participation. The Third Qlty Report refers to meetings with local partners to define elements related to CDUR, including "particular attention to women, indigenous organizations and the private sector to be included in such development process". The Fourth Qlty Report refers to an unspecified amount of training for women on prioritization of projects within the CDUR and also anticipates activities related to (1) the future design and implementation of "**a training strategy for community councils to strengthen their knowledge on the current legal framework and the importance of their participation as citizen's right and obligations**", (2) the **strengthening of women's participation through "training and follow-up"**, (3) the fostering of "women's issues thematic groups" in relation to PEP, and (4) the **strengthening of Indigenous participation through "training and follow up"** related to CDUR. The Fifth Qlty Report makes no reference to the delivery or planning of any such training related to the participation of women or Indigenous peoples. In this regard, comment is limited to the 'incorporation' of women and Indigenous peoples organizations into the CDUR. No evaluation of the quality of this participation was available, beyond the perception that women's participation was "active".

has provided significant support at this level through AGAAI, including initiatives focused on the capacity of Indigenous women. This kind of initiative would appear to address the needs identified by Indigenous leaders in Quiche and in Chimaltenango.

The introduction of a Participatory Strategic Planning model by the Program built upon earlier efforts in Phase I (citizen agendas, roundtables, inter-sectoral groups, etc.) and provides a concrete instrument that brings together all stakeholders in the planning process. This is a significant contribution with the potential to institutionalize mechanisms for concrete participation, transparency, and accountability. The extent to which citizens are aware of the PEP process and consider themselves central stakeholders is, as yet, unclear. The development of systematic baseline data across Program activities, as in the Transparency Manual exercise, will provide a basis for evaluating this impact over time.

Capacity for Voter Participation

An evaluation of the qualitative impact of USAID activities related to the 2003 election results in Quiche and Chimaltenango was not available. Various actors noted, however, the importance of the local election forums and of the public commitments by political candidates to ethical conduct and to participatory planning processes. The pattern of vote-buying and intimidation practiced in Quiche during the electoral period suggests that the ethical commitments made by many candidates were not complied with in practice. In the twenty municipalities participating in the Program, seven mayors were re-elected. Observations by national and international electoral observers in El Quiche, where 14 of a total of 21 municipalities chose to participate in the Program, confirmed a pattern of intimidation and vote-buying, which took advantage of an already existing climate of fear and impunity conditioning the electoral process.

El Quiche is among the most complex departments in Guatemala. Its majority indigenous inhabitants suffer high levels of poverty, social exclusion, as well as the consequences of the internal armed conflict. In this department, the FRG party increased its hold on municipal power by winning an additional 6 municipalities, for a total of 15. These results interrupted Program continuity in municipalities like Joyabaj, Santa Cruz del Quiche, and San Antonio Ilotenango, all visited by the author. In the 1999 elections in San Antonio Ilotenango, which is mainly populated by Maya-Kiche speakers, the FRG won only 3% of the vote. The 2003 elections, the FRG won an overwhelming majority and proceeded to ‘review’ and ‘revise’ the Community Development Councils. An analysis of the relative impact of factors including Program activities, the PAC compensation issue, politicization of Development Councils, among others, was not possible within time-frame of this assessment but would provide useful lessons for future planning. However, at a systemic level, local observers suggested that these public events served to promote a new discourse of accountability and transparency, and respect for citizen participation in investment planning.

3. Institutional Level

Intermediate Result 3.1 seeks “Increased capacity of local governments in development and investment planning and execution.”

Strengthened local government capacity

The introduction of the policy instruments noted above has created conditions for increased transparency and accountability in municipal administration, as well as for reducing dependence on central government resources through tax and service fee collection combined with improved public and private sector investment. The Program has also been able to link this technical assistance with national policy, enhancing the sustainability of impact (for example, linking civil registries to the TSE, linking financial planning to SIAF and AFIM, etc.).

The FUNCEDE director, responsible for task orders in this area, did not have at his disposal systematic evaluations of the impact of these activities, but offered his own view that, since 1998, participating municipalities have shown progress in a number of areas: improving social organization and participation, increased sense of citizen freedom, better qualified mayors elected to office, improving planning capacity, and the development of a local culture increasingly accepting of tax and service fee collection.

In some municipalities, such as Pachalum, rapid progress appears to have been made on all of these fronts; in others, such as Joyabaj, elections have brought reversals in earlier progress. Rapid training programs are of great importance for new municipal officials in order to maintain Program continuity. In a related project, Accion Ciudadana is offering technical training on a twice-yearly basis, an effort that may hold the possibility of becoming permanent. Unfortunately, there is no formal entity that identifies and maintains contact with public officials who may lose their jobs for political reasons but are still available for work in related institutions .

Strengthened channels for increased communication of citizens in local decision making

The primary channel for citizen participation supported by USAID is the Development Council System, which the Program has sought to give life against significant ongoing challenges. The development councils are less government institutions than spaces ideally owned by civil society for the planning and coordination that flows from public policy. To date, about 25% of community councils and 50% of municipal councils have been formed nationally. The Program has been supported the implementation of the Development Council Law for less than two years. It is therefore too early to expect significant impact in terms of citizen participation. The Program's Transparency and Social Audit manuals, recently implemented, will provide important baseline data and monitoring processes with stakeholder involvement.

Reports are varied with regard to the degree and quality of participation in these Councils to date. In the case of Pachalum, for example, it appears that capacity of the development councils has advanced significantly in terms of increased awareness of citizens, the dedication of sufficient resources to make the council system function, and the effective application of appropriate policies and rules. In other instances, as noted with reference to the CODEDE meeting in Santa Cruz (above, under "Individual Impacts"), weak citizen capacity to participate effectively is exacerbated by political manipulation of Council functions, perceived lack of legitimacy of some Council members by some citizens and authorities, and the failure of some mayors to make effective use of Councils.

The problem of political patronage and manipulation of development councils is part of a much broader challenge to democratic development that challenges other overlapping spaces for citizen participation, including "*mesas de concertacion*". These latter spaces lack, however, the national statutory mandate of the development councils that seeks to bridge the gap between the State and civil society. A SEGEPLAN representative suggested that the development councils may best serve as temporary institutional vehicles for systemic democratic reform, meaning that some of the bureaucratic layers of the council system (particularly regional and departmental) may become unnecessary at some point if they succeed in inculcating effective, decentralized, transparent and accountable government.

Tecpan Example. The case of Tecpan would provide an interesting case study for longer term monitoring and evaluation of institutional development. In 2002, according to a representative of the current Civic Committee (which won the municipal elections) who was also a member of the former municipal government, the mayor resisted the formation of COCODES. Civil society organizations took it upon themselves, however, in accordance with newly reformed legislation, to organize the COCODES themselves. Those leading this movement later supported the Civic Committee that won the elections and now continues to work with the COCODES and COMUDE. It may be, of course, that the former mayor correctly assessed that those organizing the community councils threatened his position. These local political conflicts are inherent in the process of institutional and political reform. The critical issue is

whether there are processes in place to transparently deal with conflict and mistrust. In this sense, this representative of the current municipal administration noted that conflict sometimes arises between COMUDE members and their represented communities, when the representatives appear to make decisions that have not been discussed with the communities. Because of these disputes, the mayor has apparently developed a regularized process of meeting with all of the COCODES at once to resolve such disputes, forcing COMUDE representatives to accept the outcome. These evolving dynamics, which draw upon Indigenous principles (of social harmony), norms (of consensus), and practice (open meetings), are worthy of further study over time across all of the participating municipalities.

The Office of Municipal Planning (OPM) also serves to mediate between municipal government and local populations. ARD interviewed coordinators of these offices in San Antonio Ilotenango, Santa Cruz del Quiche, and San Martin Jilotepeque. Without exception, USAID assistance was highly praised as professional and well-accepted. These officials also expressed the need, however, for ongoing technical assistance and accompaniment.

Institutionalizing Participatory Planning. Reports were also received from implementing partners as well as members of Municipal Planning Offices that the strict RTI timeframe for elaborating a participatory plan in accordance with PEP methodology inevitably limited the desired impact at the individual and community level. A local sense of ownership of the PEP plan, more specifically, is limited and may impact on the sustainability of the PEP in some municipalities where participating municipal councils changed significantly after elections. Civil society leadership may have been insufficient in these circumstances to ensure political will among new public officials to maintain the PEP and other products of citizen participation.

Role of Mayoral Associations. The Program has had limited success in strengthening the influence of mayoral associations (ANAM and AGAAI) largely due to structural issues that require fundamental reform (see external factors described below). The AGAAI executive secretary acknowledges with gratitude USAID and PDH support in critical moments of its still fragile development (from technical advice to funding assembly meetings). One of the key interests of mayoral association members is to raise revenue and to obtain more reliable transfers from central government. A related issue is the tendency of central government to discriminate against municipalities not led by the national governing party, a tendency that was practiced to new extremes during the FRG government, as evidenced, for example, in the discrimination against of Chiche in regional and departmental development councils. The Program might usefully focus future efforts in improving dialogue between central and municipal government through the reform and strengthening of mayoral associations and supporting their ongoing participation in key existing and potential future spaces of national policy dialogue (Commission on Modernization and Decentralization, on the National Governability Pact, on the Fiscal Agreement, on policy for GOG consultation with indigenous peoples in accordance with ILO Convention 169, etc.).

4. System Level

Monitoring and Evaluation

In the absence of a GOG-owned monitoring and evaluation system, policy decisions are made on the basis of inadequate information and key actors are less liable to be held accountable for new areas of responsibility and authority. SEGEPLAN and the PDH, for these reasons, are developing systems of indicators to monitor and evaluate in different areas (SEGEPLAN, in relation to municipal transfers and the role of Congress; the PDH in relation to citizen participation in Ratahuleu). These initiatives that may be worthy of USAID technical assistance (see recommendations section for more detail).

National Policy and Legislation

Following Phase I of the local governance Nexus program, two critical lessons learned were noted in the Phase II task order: national of national political commitment to decentralization and the absence of clear policy; and the absence of an adequate legislative framework until April 2002. It would appear, in May, 2004, that both of these external factors have been significantly addressed.

USAID has worked successfully, in the absence of effective national and local leadership, to ensure that important policy and legislative issues related to local governance remain on the agenda of congress and the government. Important initiatives include:

- The inclusion of specific accountability mechanisms as well as the establishment of Municipal Planning Offices as part of reforms to the Municipal Code in 2002.
- The National Forum on Municipal Finance, which arose with joint support from USAID and GTZ, played a key role in raising awareness of the importance of this issue as part of the national fiscal strategy. There is ongoing need for involvement related to the Municipal Tax Code, the Municipal Audit Regulation, and internal regulation of departmental and municipal Development Councils.
- These national policy efforts were critical in creating a legislative framework that has now permitted Phase II of the Program to evolve naturally from efforts in Phase I, institutionalizing mechanisms such as Citizen Agendas and Roundtables in specific municipalities where possible.
- The convening of a donor group on decentralization.

Impact of New Municipal Policy and Legislation

Effective technical and policy instruments (including PEP, PIMA, MAFIM, Transparency Code, public service diagnostics for improvement and cost recovery, social audit) are in varying stages of introduction to most of the participating municipalities. These instruments imply significant improvements in transparency, accountability, and participation, thereby strengthening the legitimacy of local government. Success in this regard will be enhanced to the extent that the Program is able to respond to concerns (noted above) of some beneficiaries that further accompaniment is required both in providing technical advice and in ensuring that civil society is empowered to participate.

The adoption of participatory planning instruments in the last four years has raised local expectations in the face of scarce resources, and some mayors worry that they are becoming the victims of this demand as central government transfers continue to be manipulated politically (for example, Chiche (URNG) entirely excluded during the FRG Government). Stakeholder participation in monitoring and evaluation can relieve the burden that otherwise may fall entirely on elected municipal leaders, in terms of identification of structural limits to development. In using PEP and PIMA instruments, mayors also have the opportunity, through the OPM, to systematically and transparently distinguish guaranteed and other resources.

In a related initiative, the Program also supported exchanges of best practices among municipalities with positive results related to technical dimensions of local water supply systems. These valuable exchanges can help to expand systemic impacts even as specific problems are being addressed.

Taxes and Public Service Fees

Public service assessments and collection of arrears and regular fees has been supported with growing focus. There is apparent growing acceptance in some municipalities of public service fee collection (e.g., Pachalum). Full involvement of stakeholders in planning and implementation will reduce the high risk of conflict around this issue. In other municipalities, systemic changes of this nature have not taken place for reasons related primarily to political will and local capacity. A measure of ongoing resistance is the fact that some mayors campaigned on the platform that they would not levy any new fees or taxes.

Implementation of Development Council System Law

The Program is in the very early stages of facilitating the establishment and operation of community and municipal councils under reformed legislation. Little attention has been paid to departmental, regional, and national level implementation of the system. USAID financed an important study of this institution through CIEN, an important contribution to policy discussions, particularly regarding congressional and government manipulation of budgetary decisions related to municipal investment.

In some of municipalities participating in the Program, municipal corporations are increasingly respectful of Municipal Development Council recommendations (e.g., Pachalum, Chicamán), suggesting systemic level changes. As noted earlier, in other municipalities, the new councils have yet to achieve widespread political legitimacy. In others, the public is still very uncertain about the purpose of shifting to yet another organizational model. At a departmental development council meeting in Quiché, the author observed the active participation of both public and civil society actors regarding the distribution of national development council funds. Participants later interviewed, including the representative of indigenous peoples and mayors, stated that it was the first time that democratic debate had taken place.

Changes in Relationship between Public and Private Sector

The Program is in the very early stages of a process of legal and socioeconomic analysis designed to promote public-private sector collaboration in development initiatives. Private sector representatives participate only in a minority of the COMUDES, reflecting the traditional divorce between the public and private sector.

ANNEX C. Additional Detail on Factors Influencing Impacts

This list includes more information on some of the factors listed in Section 3.

Internal Factors

- **Successful conceptual and strategic focus.** USAID efforts at the national policy level, in conjunction with other actors—particularly GTZ, helped to create the legal framework that permitted an effective refocusing of efforts by implementing partners to institutionalize citizen participation and municipal strengthening in Phase II. The Program’s increasing focus on working with associations of municipalities (*mancomunidades*) has met with a positive response by most actors, including the participating mayors and other donors. It shows an early potential to mobilize both civil society and local public officials around specific development issues and possibilities. However, this latter strategy could limit impact in terms of underperforming or less economically viable municipalities if they are not strategically included in these municipal associations or integrated in special programs (for example, the GOG plans to address the poorest municipalities).
- **Limited and discontinuous monitoring and evaluation.** The DAI Phase I Final Report in October 2002 stated that “no direct measures were made of citizen attitude through surveys,” an important dimension for evaluation. In 2002, the ARD democracy and governance (DG) assessment recommended impact analysis. The Phase I First Quarterly Report, August 2002, reports on the development of a “monitoring and evaluation plan” to cover the period from July 2002 through 2004. RTI representatives confirmed in May 2004 that this plan was still in development. The Transparency Manual and its implementation are important complementary steps to providing permanent evaluation with stakeholder participation. Short-term consultancies in 2004 cannot substitute for ongoing evaluation against baseline data established before the evaluated Program activities are initiated. A second-best option is to retrospectively construct baseline data against which current citizen attitudes and other more empirically observable indicators can be measured in relation to specific areas of public authority (that will change as decentralization policy is implemented); and in relation to GOG explicit, short, mid, and long-term decentralization objectives (for example: efficient and equitable allocation and utilization of public resources, more confidence in democratic system, poverty alleviation, etc.).
- **Limits to Accompaniment of Local Processes.** The shift to task order contracts under RTI may have had the unintended effect of limiting much-needed, ongoing accompaniment of local officials and citizens by Program facilitators, with attention to the specific challenges of varying local contexts. The formation of community and municipal development councils, for example, ideally would have access to permanent technical advice and facilitation in municipalities like San Antonio Ilotenango, Santa Cruz, Joyabaj, and San Martin Jilotepeque, where there are allegations and uncertainty regarding the legitimacy of COCODES established under the Program.
- **Sustainability plan.** The sustainability of the Program’s impact is challenged by a series of external factors; while these are structural (e.g., political will of elected mayors, patterns of undemocratic rule, and the consequences of post-election staff turnover), there may be ways to mitigate and avoid wasted efforts and negative impacts—for example, by avoiding initiation of Program activities just before elections where risks of turnover are high and civil society participation is still weak (Joyabaj); by strategically training for community leaders who can lobby for post-election support of PEPs, PIMAs, etc.; and by promoting the establishment of national incentives (conditional loans, transparent project fund distribution, etc.) for transparent municipal governance. Longer-term sustainability will also require a plan to transfer responsibility for follow up to public bodies or NGOs.
- **Issue of collaboration with the GOG.** A risk is that too close a relationship will hamper Program flexibility and independence (which has been beneficial for achieving Program targets to date) without

necessarily including opportunities to facilitate and promote accountable and effective decision making and policy design (GTZ has experienced frustrations in this sense). Striking the appropriate balance will require an assessment of national political will as well as an analysis of complementary or alternative strategies available to ensure both a broader (national) and more sustainable impact. Complementary efforts are required, in this sense, to ensure that other actors, such as the mayoral associations, mancomunidades, and civil society groups, are able to participate fully in this process.

External Factors

- **Commitment of indigenous and women’s organizations.** As Program experience shows, even relatively small financial support for AGAAI has an enormous impact, given that it struggles for sufficient funding even to hold regular members’ meetings. It is important to note that AGAAI’s statute permits participation by non-indigenous mayors in the spirit of its pursuit of inter-cultural dialogue and mutual respect. In addition to AGAAI, regional CSOs representing the interests of women and indigenous peoples demonstrate a strong commitment to promoting more inclusive local governance, but critically lack the capacity to do so. As with AGAAI, relatively small funding can go a long way in empowering their participation.
- **Political will and capacity of municipal leaders.** While a study of voter perceptions against baseline data would be required to draw verifiable conclusions, the mayor of Pachalum reports significant positive changes due to Program support in voter attitudes related, for example, to payment for public services. In other cases, such as in Joyabaj or San Antonio Ilotenango, for example, the defeat of the incumbent (PAN, DCG) and the election of an FRG mayor, will require new strategies that address this new political landscape.

ANNEX D. Relevant Donor Activity

Overview

- Donors in early stages of developing programs post-elections, awaiting leadership of GOG related particularly to decentralization and fiscal policy
- USAID and GTZ have led in establishment of nascent decentralization group

European Union

- Is in early stages of developing programming that will include strengthening of political territorial organization (ie., decentralization) and institutional strengthening, attention to rebuilding social organization, issues of exclusion, and rural development.
- Overall focus is support for consolidation and implementation of public policy at an institutional-territorial level.
- Understands that for current GOG, “descentralization” means strengthening of municipal government as a matter of reforming the political-territorial organization of the State. Views this as implying a qualitative leap to a new political culture.
 - CDUR an instrument that is primarily a social institution for coordination and planning rather than government institution; it fills a void that can be used to build confidence in democratic governance.
 - Sceptical regarding value of levels of CDUR system above municipality.
- Prioritizes reaching agreement among donors regarding strategic focus.
 - Need to clarify differing views of decentralization (some view as equal to participation; others equate with strengthening municipality)
 - Need to clarify linkages between decentralization, social participation, and development

CECI – Canada

- Emphasizes need for “integrated approach”, drawing on success of CECI/AID program in Barillas, particularly the focus on constructing citizenship through productive programs
- Prioritizes reaching agreement among donors for a minimum agenda of support for municipal government, ensuring national coverage.

GTZ - Germany

- Current and projected programming includes policy advice, strengthening local governance (including capacity to promote local economic development), and environmental/disaster management.
- Redesigning monitoring and evaluation to focus on the “change” that is sought rather than outputs, as well as ensure appropriate balance between national policy and local level impact.
- Works directly with GOG institutions, in contrast to USAID, which works more independently once agreement is reached with GOG.

Inter-American Development Bank (IDB)

- Is focused on construction of citizenship, avoiding instrumentalization of citizens
- In process of finalizing report on lessons learned from Decopaz experience, where there was a failure to integrate microregional development with municipal governance

World Bank

- Current planning emphasizes linking strengthening of local governance with economic planning

UNDP

- Emphasis on strengthening civil society participation in the broadest sense possible.



- Ensure that strengthening of municipal governments and ‘mancomunidades’ is done with strategies to guarantee full citizen participation.



Report submitted to the United States Agency for International Development

Thematic Impact Assessment USAID/Guatemala Peace Program

Thematic Area Number Three: Indigenous Participation and Access to Resource

Under the Analytical Indefinite Quantity Contract (IQC),
Contract No. AEP-I-00-99-00041-00, Task Order No. 825

September 2004

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Table of Contents

ACRONYMS AND ABBREVIATIONS.....	ii
1.0 BACKGROUND	1
2.0 IMPACTS	1
2.1 METHODOLOGY	1
2.2 INDIVIDUAL/COMMUNITY-LEVEL IMPACTS	1
2.3 INSTITUTIONAL-LEVEL IMPACTS	2
2.4 SYSTEM-LEVEL IMPACTS.....	3
3.0 FACTORS INFLUENCING IMPACTS.....	3
3.1 INTERNAL FACTORS.....	3
3.2 EXTERNAL FACTORS.....	4
4.0 CONCLUSIONS	5
5.0 RECOMMENDATIONS.....	6
ANNEX A. LIST OF PERSONS INTERVIEWED RELEVANT TO THE INDIGENOUS THEME	
ANNEX B. METHODOLOGY AND DETAILED REVIEW OF PROJECT IMPACTS	
ANNEX C. KEY REFERENCE MATERIALS	



Acronyms and Abbreviations

ADR	Alternative Dispute Resolution
AED	Academy for Educational Development
ASDI	<i>Agencia Sueca para el Desarrollo Internacional</i> (Swedish International Development Agency – SIDA)
CIRMA	Center for Regional Investigations on Mesoamerica
CONTIERRA	<i>Dependencia Presidencial de Asistencia Legal y Resolución de Conflictos sobre la Tierra</i> (Presidential Office for the Legal Assistance and Resolution of Land Conflicts)
CADI-Joven	<i>Proyecto Cuerpos de Accion para el Desarrollo Integral de Guatemala</i>
CAL	<i>Cuerpo de Accion Local</i>
CNEPU-Maya	National Council for Professional Mayan University Students
COP	Chief of Party
COPMAGUA	<i>Coordinadora de Organizaciones del Pueblo Maya de Guatemala</i>
CSO	Civil Society Organization
CTO	Cognizant Technical Officer
DG	Democracy and Governance
EDUMAYA	<i>Educacion para la Poblacion Indigena de Guatemala</i>
EG	Economic Growth
FONTIERRA	<i>Fondo de Tierras</i>
GRIP	Grassroots Immersion Program (World Bank)
INCIDENCIA	A USAID-funded project to strengthen civil society advocacy organizations
IOM	International Organization for Migration
M&E	Monitoring and Evaluation
MAGA	<i>Ministerio de Agricultura y Ganaderia</i>
MINUGUA	<i>Misión de la Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala</i> (United Nations Verification Mission in Guatemala)
NGO	Nongovernmental Organization
PDH	<i>Procuraduría de Derechos Humanos</i> (Human Rights Procurator's Office)
SEPAZ	<i>Secretaria de la Paz de la Presidencia de la Republica</i>
SO	Strategic Objective
SpO	Special Peace Objective
ROL	Rule of Law
UNDP	United Nations Development Program
USAID	United States Agency for International Development

1.0 Background

USAID assistance under the Special Peace Objective (SpO) regarding indigenous participation and access to resources was provided in order to support fulfillment of some of the key objectives of the Peace Accords. Assistance in this thematic area focused on fulfilling objectives regarding the Agreement on the Identity and Rights of Indigenous Peoples, and certain aspects of the Agreement on Social and Economic Aspects and the Agrarian Situation (especially education and land-related issues).

Given the breadth of USAID support concerning indigenous peoples and the crosscutting nature of the theme, numerous projects were reviewed during this assessment, including EDUMAYA, implemented by the Universidad Rafael Landívar; CADI-Joven, implemented by Partners of the Americas; the Civil Society Program and INCIDENCIA, implemented by Creative Associates International (especially initiatives directed toward the Paq'Uch Coalition, Defensoria Maya, and the *Commission de Reforma Constitucional* within COPMAGUA); the Conflict Prevention and Resolution Activity, implemented by the Academy for Educational Development (AED)/Mercy Corps; FONTIERRA; CONTIERRA; and certain infrastructure support provided by the *Ministerio de Agricultura y Ganaderia* (MAGA). Given the nature of USAID assistance in this thematic area, attention was also directed to certain activities outside the formal SpO. Some project activities are reviewed in greater detail than others.¹

2.0 Impacts

2.1 Methodology

In the course of this assignment, it has not been possible to measure the overall impact of USAID support regarding indigenous communities, *per se*. This is a function of time limitations, the breadth of the activities under review and the fact that systematic monitoring and evaluation does not seem to have been done regarding some of the activities in question. The report, therefore, was designed to provide a broad discussion of the more significant impacts and outputs that have resulted from USAID support, organized into three distinct levels of impact: individual/community level, institutional level, and system level.²

While this discussion consolidates comments regarding all projects reviewed, Annex A provides a more detailed project-by-project overview of impacts and outputs as well as a description of the methodology employed.

2.2 Individual/Community-Level Impacts

- **Mayan graduates of the university scholarship program.** Significant individual-level impact has been achieved by successfully supporting almost 1000 (mostly) Mayan graduates through a university scholarship program (i.e., EDUMAYA). With time, the graduates have potential to affect significant community-level impact.
- **Trained teachers, education promoters and education technicians.** Significant impact has been achieved by supporting the training of over 2000 (mostly) Mayan individuals including teachers, education promoters

¹ For example, almost no attention was able to be directed towards the mixed commissions linked to SEPAZ and focused activities such as the documentation of indigenous women (IOM).

² The distinction between institutional and system levels of impact is broadly drawn as follows: the institutional level covers the creation, strengthening or restructuring of institutions with particular goals; the system level refers to policy changes and/or other systemic level changes that take place at a regional or, more commonly, a national level.

and adult education technicians (EDUMAYA); training focused heavily on bilingual and intercultural methodologies and content.

- **Indigenous youth trained in leadership skills.** Over 500 indigenous youth have been trained in a mix of leadership, life and employment skills through leadership ‘training camps’ (e.g., CADI-Joven). The individuals trained do not represent established indigenous leaders, however, nor are they affiliated with indigenous organizations.
- **Relevant skills and knowledge in certain subjects relevant to indigenous peoples.** Although a detailed assessment has not been done, a degree of individual and community level impact has resulted from skills and knowledge training provided through indigenous CSOs (e.g., through INCIDENCIA and the Civil Society Program)³
- **Better management of individual land conflicts.** A number of individuals, families and communities have benefited from better management of land conflicts—whether by conflict mitigation or resolution—although the scope and depth of the impact cannot be measured without completing a more focused assessment (i.e., CONTIERRA and AED/Mercy Corps).
- **Land titles granted to indigenous communities.** Although not assessed in detail, an estimated 100,000 indigenous families have benefited from support that contributed to granting community land titles (i.e., FONTIERRA), and some of these also benefited from targeted infrastructure development (i.e., MAGA).

2.3 Institutional-Level Impacts

- **Formation of the National Council for Professional Mayan University Students (CNEPU-Maya) and related regional associations.** These indigenous associations—formed by the EDUMAYA graduates—represent institutional structures with significant potential impact related to ongoing professional development, networking opportunities, lobbying power and social support. The longer-term potential of these institutions is significant but remains unclear at this time, partly because their mandates are not yet fully defined.
- **Formation of the ‘Cuerpos de Accion Local’ (CALs).** These new institutions have had no significant impact on indigenous organizations or the indigenous movement in general. Their impact is further limited because they are not linked to any sustainable local organizational structure whether indigenous or nonindigenous.
- **Development of new public policy institutional spaces relevant to indigenous peoples.** New institutional spaces have been created, although it is too early to determine the nature of their impact and, in the time available, this assessment did not document the detailed concrete results of these new bodies (e.g., Paq’Uch formed a Presidential Commission Against Racism and Discrimination, and the ‘*Ente de Consulta de los Pueblos Indigenas*’⁴).
- **Institutions relevant to the resolution of land conflicts.** Support to CONTIERRA did not reach a significant level of institutional impact for various reasons, including a lack of political will on the part of the government. Although not reviewed in detail, observers suggest that AED/Mercy Corps has had

³ For example, *Defensoria Maya*’s work in indigenous customary law, Commission for Constitutional Reform in the area of negotiating with government, and Paq’Uch in terms of achieving national level political impact on important issues of public policy.

⁴ Annex B describes that certain negative institutional impacts may be associated with what some observers believe to be a competition between the ‘*Ente de Consulta*’ and the ‘*Consejo de Pueblos Indigenas*’, an institutional space established through United Nations support.

a relatively minimal impact on the conflict resolution capacities of relevant local institutions because, it is suggested, harmonious institutional coordination has not always been easy at the local level.

2.4 System-Level Impacts

- **Educational models and methodologies.** EDUMAYA has developed and applied an innovative methodology of bilingual education along with materials for bilingual/intercultural education. Although the full impact of these developments has not been assessed, they represent important normative developments with significant potential system level impact, if applied more broadly. As matters stand, however, system level impacts are not likely due to a lack of governmental political will.
- **Indigenous leadership.** Individually, EDUMAYA graduates will very likely have long-term impact on national level issues related to social, cultural, political and economic spheres of life. While relatively costly (\$14.1 million), EDUMAYA has successfully developed a new generation of educated indigenous people, a unique and very important output with significant leadership potential. The longer-term impact and domino effect of these graduates could increase dramatically with appropriately designed follow-up activities. CADI-Joven, on the other hand, has primarily targeted ‘youth at risk’ rather than ‘indigenous leadership’, *per se*. While representing a significantly less expensive approach to leadership development (\$1.5 million), the overall impact on developing indigenous youth leadership has been limited and resulted in no significant system level impact⁵.
- **Legal and policy reforms.** National level impact related to support for legal and policy reforms have been limited, or remain unclear to date. The impact of support for the Commission for Constitutional Reform could have been very significant if the constitutional changes had been approved. Paq’Uch’s support for reforms to the ‘Organismo Judicial’ produced proposed reforms beyond the scope of the project’s original intent and beyond what will likely be acceptable to government. The impact of a policy on racism and discrimination that will be reviewed by the Presidential Commission established through Paq’Uch remains unclear.
- **Resolution of land conflicts.** Support in this area has not yet achieved significant system level impacts. If government will in this area were to exist, however, careful project design could change this.
- **Land titling.** Although this assessment did not have the time to properly assess institutional or system level impacts in this area, initial impressions suggest it is unlikely that they were not achieved.

3.0 Factors Influencing Impacts

For the sake of brevity, only the most significant external and internal factors influencing the impacts of the various projects are summarized below. The information is not presented on a project-by-project basis but, rather, the experiences of the various projects are consolidated.

3.1 Internal Factors

- **Advice and consultation.** Project design and implementation are better grounded within the Guatemalan context and more strategically focused—including in regard to indigenous concerns—when input is received from advisory or consultative mechanisms involving knowledgeable

⁵ CADI-Joven’s impact on developing indigenous youth leadership would have increased through, for example, a methodology that involved: closer coordination with indigenous organizations/leaders; and curricular content more specific to the challenges, strengths and context of Guatemalan indigenous peoples.

Guatemalans (INCIDENCIA did this well; the implementation of CADI-Joven seems to have been largely disconnected from indigenous input).

- **Limited donor coordination.** Limited coordination with other members of the international community can allow projects to be designed that duplicate, compete or even conflict with each other (e.g., Paq'Uch setting up the *Ente de Consulta de los Pueblos Indigenas*).
- **Building on existing institutions.** Institutional-level impact is generally best achieved by strengthening existing organizations (e.g., INCIDENCIA), whereas creating new institutional structures to implement a project will often limit the significance and sustainability of the institutional impact (e.g., CADI-Joven's establishment of the CALs).
- **Supporting areas of established expertise.** Supporting indigenous CSOs to work in areas where they have established expertise can increase the chances of project success and impact (e.g., support to *Defensoria Maya* regarding customary indigenous law).
- **Supporting work on national policies or high-level negotiations with government.** Designing projects to achieve impact at the national policy level or law related to indigenous concerns, or to promote high-level negotiations between indigenous peoples and government, seem to be effective means of potentially achieving significant system-level impacts.
- **Resolving land conflicts often requires policy/legal changes.** The resolution of land conflicts (as opposed to merely managing/mitigating their disruptive social and political effects) will be difficult and often impossible in the absence of parallel support directed toward strengthening national-level policy issues (and perhaps relevant legislation) (e.g., CONTIERRA; AED/Mercy Corps).
- **Impact of support to land titling increases with follow-up support.** The socioeconomic impact of land titling and regularization increases dramatically when appropriate follow-up support is provided in the form of technical, financial and/or infrastructure activities.
- **Impact of support to job skills/vocational training increases with follow-up support.** Job skills/vocational training programs have greater impact when 'graduates' receive follow-up post-training support to help them find work as employees or become self-employed (e.g., CADI-Joven does not appear to be doing this effectively).

3.2 External Factors

- **A profound divide exists between indigenous peoples and ladinos.** The dramatic socioeconomic and cultural divides between indigenous and ladino populations in Guatemala contextualize all potential interventions that could benefit indigenous peoples. Unfortunately, the significance of this is frequently not addressed adequately in project design and implementation, thereby limiting the potential impact on indigenous peoples.
- **Limitations facing indigenous peoples.** For various reasons, indigenous peoples generally have limited access to the skills, resources and formal education required for meaningful participation and involvement in the broader political and economic life of Guatemala. At the same time, these factors can also limit the effective involvement of indigenous peoples in many development initiatives.
- **Indigenous political leadership is divided.** Partly as a function of history, indigenous political leadership is quite divided in Guatemala. As a result, positive project impacts may be limited if design and/or implementation contribute to exacerbating indigenous political tensions (e.g., aspects of Paq'Uch may be doing this).
- **Indigenous involvement in political decision making has improved in some areas.** Indigenous participation in political life and decision making has improved in recent years within various spheres

of activity, including: civil society organizations; formal negotiation spaces with government; and local level political activity (this seems to be the case in areas where international support has been targeted).

- **Political will.** Lack of political will on the part of government dramatically limits potential impact when support is directed toward government counterparts (e.g., CONTIERRA, FONTIERRA, Ministry of Education regarding bilingual education).
- **Lack of clarity regarding land policies and land agencies.** The impact of support to land issues in general—and especially when directed toward government land agencies—has been severally limited by various factors including: lack of clear government land policies; a lack of clarity regarding relevant institutional mandates, policies and strategies; and a lack of inter-institutional coordination (CONTIERRA; FONTIERRA).

4.0 Conclusions

Although much of the information presented in the previous sections reflect findings of this assessment, the following points represent the principal conclusions, *per se*.

Approach Used in Targeting Indigenous Peoples

Support regarding indigenous peoples has been extremely wide-ranging under the SpO (and outside the SpO in some cases), covering areas such as education, indigenous customary law, indigenous youth leadership and job skills training, constitutional reforms, law and policy reforms, racism and discrimination, land titling, infrastructure development, land conflict resolution, financial credit and human rights. This has been done through numerous projects, programs and initiatives, some of which have addressed indigenous concerns as transversal themes, and others that have framed these as ‘stand alone’ priorities. Overall, impact on indigenous peoples has been achieved by targeting them in three different ways:

- By targeting key geographic areas where they are a majority population (e.g., the Highlands);
- By targeting indigenous individuals (e.g., EDUMAYA); and
- By targeting indigenous organizations (e.g., INCIDENCIA).

Overall Impact on Indigenous Peoples

The nature and scale of impact regarding indigenous peoples varies between the projects and programs reviewed. All initiatives achieved individual/community-level impacts. INCIDENCIA and the Civil Society Program have achieved significant institutional-level impacts, other important system-level impacts and have the potential to achieve further impacts at a higher level. EDUMAYA has laid a solid foundation that could achieve significant institutional and system-level impacts, although this would require certain ongoing support and, in certain aspects, political will on the part of government would be important. Support related to land conflict resolution (CONTIERRA and AED/Mercy Corps) does not seem to have achieved significant institutional or system-level impacts to date, although it should be possible in this area if the government were to demonstrate political will. Assessing higher-level impacts regarding land titling and infrastructure (FONTIERRA and MAGA) has not been possible within the context of this assessment. The work with indigenous youth leadership (CADI-Joven) has not achieved significant impact at the institutional or system level, and is unlikely to do so. In sum, USAID’s overall impact to date regarding its contribution to alter historic patterns of indigenous participation in public affairs and democratic life in Guatemala has been limited—most of the impact has been at the individual/community level, with relatively limited impact at the institutional level, and limited impact at the higher order systems level. A more sophisticated and nuanced evaluation is beyond the means of this assessment.

Ongoing Need to Target Indigenous Peoples Explicitly

Support for indigenous peoples has often been framed as a ‘peace process issue’ within USAID. This perspective is overly simplistic because it does not fully appreciate that targeted support for indigenous peoples is essential to ensure their effective participation and involvement in the political, social and economic life of the country. Sadly, Guatemala remains an exceptionally divided country with innumerable structural and systemic barriers to indigenous peoples participation in essentially all aspects of life (e.g., education, economic activity, political decision making, justice, etc.). Without appropriate support that continues to prioritize the concerns and needs and indigenous peoples in an explicit and serious way, any progress related to democracy and governance, rule of law or economic growth runs the risk of lacking legitimacy in the eyes of the majority of the country’s population.

Relative Strength of Indigenous Involvement in Different Spheres of Decision Making and Political Life

The involvement of indigenous peoples in decision making and political life is generally strongest in three particular areas:

- Civil society organizations;
- Formal high-level negotiation/dialogue spaces with government; and
- Formal authorities and bodies at the local level where, typically, USAID and other donors have targeted support (e.g., Justice Centers, *Consejos de Desarrollo*).

Indigenous participation in decision making and political life is generally limited (to very limited) within congress, political parties, and government in general.

Areas Where the Indigenous ‘Voice’ is Disproportionately Weak (With Attention to Areas of Future USAID Activity)

Indigenous peoples have a disproportionately weak voice in most areas or sectors of activity in Guatemala, especially when one considers their relatively small level of impact on decision making and public policy. A listing of some areas or sectors that are most relevant to future USAID support includes economic policies, public security, tourism, natural resources, agriculture, land issues, and political processes in general.

5.0 Recommendations

All recommendations flow from information collected and analyzed during the course of this assessment. Due to space limitations, however, a few recommendations flow from information that is not explicitly presented above. Recommendations tend to be ordered in terms of their relative priority.

General Recommendations

1. **The concerns of indigenous peoples should not be framed as a ‘peace process issue’.** Rather, targeted support to indigenous peoples must be framed as an essential aspect of strengthening democracy, justice and economic growth in a country like Guatemala.
2. **Consider the strategic value of framing certain indigenous concerns within a broader framework of inter-culturalism as an element of constructing citizenship.** This approach would likely be

perceived as inclusive to the ladino population and, in turn, would resonate well with the government. This perspective could be particularly useful in guiding USAID's work at the national policy level.

3. **Consider establishing an internal mechanism to ensure indigenous-specific input into senior level programmatic analysis and planning** (e.g., consultative or advisory teams)⁶. Ideally the mechanism could provide cross-sectoral input (e.g., economic growth [EG] and democracy and governance [DG]), although it could also be located at the level of individual strategic objectives (SOs).
4. **In general, try to strengthen existing indigenous organizations and institutions wherever feasible and avoid creating new institutional bodies through project implementation.** Institutional-level impacts and institutional sustainability would be greatly improved as a result. That said, new institutional bodies do have a place where they serve new functions.
5. **Monitoring and evaluation (M&E) should be prioritized to ensure effective measurement of USAID's impact on indigenous peoples is genuinely possible.** Initiatives must be designed accordingly, baseline data is needed and M&E should be carried out on an ongoing basis.⁷ If desired, a more in-depth consultancy could provide a detailed and more accurate analysis of impact on indigenous communities that has been possible in this review (using a combination of qualitative and comparative analysis); such a consultancy could lay the foundation for future M&E plans in this area.
6. **Consider broadening Cognizant Technical Officer (CTO) awareness and sensitivity regarding the special needs and challenges facing indigenous peoples through internal mission training.** One way to achieve this would be to establish a system whereby staff spends a few days living with an indigenous family in a rural area outside major city centers.⁸

Programmatic Recommendations

SO1: More Inclusive and Responsive Democracy Relevant IRs: Strengthened ROL (Indigenous Peoples and Justice)⁹

Transparent Government (Indigenous Peoples and Governance)¹⁰

1. **Support indigenous CSOs through targeted institutional strengthening and capacity building to ensure they can participate more effectively in political life and decision making.** More specifically:

⁶ Input from this kind of body could focus on the strategic and programmatic concerns facing USAID, including the kinds of questions raised in the 'Comments on Peace Thematic Evaluation Draft Reports', dated July 2004: e.g., What is the best way to support indigenous peoples given their perceived political fragmentation?; and Which indigenous CSOs have established expertise and are most successful?

⁷ Please note that M&E has been recommended in the companion reports as well, and any new initiatives in this regard should be done in an integrated and coordinated manner.

⁸ This could be similar in some ways to a very scaled down version of the World Bank's Grassroots Immersion Program (GRIP).

⁹ To minimize duplication, any recommendations that would appear in this section have been incorporated into the recommendations of the Justice Report (i.e., 'Access to and Effectiveness of the Justice System and Other Mechanisms for Conflict Resolution').

¹⁰ These recommendations complement the more detailed recommendations presented in the 'stand alone' report regarding local government issues ('Decentralization, Local Government Strengthening and Participation at the Local Level'), and should be read in conjunction with those.

- At the national level, support indigenous CSOs on key public policy issues of national importance (e.g., economic issues, racism and discrimination, etc.). This could include supporting involvement in processes such as high-level dialogue/negotiation with government; national development councils for coordination and planning of public policy implementation; and any other initiatives where specific public policies are developed (e.g., within a National Strategic Steering Committee on decentralization policy, as proposed in the thematic report on local government).
 - At the local level, support indigenous involvement through existing bodies and authorities such as the *Consejos de Desarrollo*, Justice Centers, etc. This would require targeted support to indigenous CSOs to ensure they develop and strengthen the specific skills and knowledge required to participate effectively in these kinds of local processes/mechanisms.
2. **Support initiatives that promote the construction of citizenship as an inclusive and inter-culturally grounded concept.** In part, this could include anti-discrimination efforts.¹¹
 3. **Support the *Procurador de los Derechos Humanos* (PDH) to promote and protect vulnerable groups including indigenous peoples (and women).**
 4. **Support electoral and political party legislative reform to improve indigenous peoples access to the electoral process** (e.g., appropriate geographic coverage of services, information/education in indigenous languages, relevant reforms to the political party system). Support establishment of permanent programs for democratic education.

Economic Freedom (Indigenous Peoples and Economic Growth)

1. **Consider establishing some kind of indigenous consultative/advisory group regarding each economic sector that will be prioritized by USAID in the coming years** (e.g., tourism, forestry products/green markets, artisan, non-traditional agricultural products). This is very important to ensure activities and projects are designed and implemented in ways that promote active indigenous involvement in economic activities. Otherwise, indigenous peoples could be unintentionally left behind as economic opportunities translate into economic growth.
2. **While land issues have both DG and EG dimensions, there is strategic value in recognizing the EG aspect.** Without greater clarity regarding tenure security and land rights, the potential for economic development is dramatically constrained. If the government is deemed to have the political will to address land issues, a detailed assessment should be initiated to recommend a range of strategically targeted potential programmatic interventions (e.g., law and policy, roles/mandates of state institutions, roles of civil society actors, conflict resolution, titling, credit, capacity building, technical support, etc.). While not indigenous-specific, certain interventions could significantly benefit indigenous peoples.
3. **Support targeted policy and other interventions to facilitate indigenous peoples participation in cultural and natural resource management** (e.g., regarding forestry activities, environmental protection and national park/protected areas protection).¹²

¹¹ For example, the anti-discrimination work that CIRMA (*Centro de Investigaciones Regionales de Mesoamerica*) is heading seems like an important example of this. It should be noted, however, that it is too early to assess the impact of CIRMA's work in this area.

¹² These are important issues relevant to many indigenous peoples in Guatemala, although these matters were not reviewed in the course of this assessment.

- 4. Promote relevant vocational skills training for youth (not necessarily indigenous-specific).** This must be linked to post-training support to help individuals find employment or create their own small businesses (e.g., micro-financing, relevant technical support, etc.).¹³

Investing in People (Indigenous People and Health/Education)

- 1. Support the CNEPU-Maya in clarifying its potential long-term role in Guatemala.** The generation of EDUMAYA graduates represents a unique resource with enormous long-term potential that could have social, economic and political impact at the highest level. Avoid the temptation to encourage the CNEPU-Maya and its associated regional organizations into becoming ‘just another’ NGO or project implementer. That said, individual EDUMAYA graduates could provide technical expertise or implement activities in areas relevant to their particular specialization.
- 2. Consider targeted scholarships in areas such as health, law and bilingual translation.** Law studies are particularly suited to promoting a new generation of more politically sophisticated indigenous leaders. Inevitably, other subject areas will also warrant support. While recognizing financial limitations, consider what elements of the EDUMAYA approach may have relevance to a new set of scholarships.

New Crosscutting Funding Mechanism

Although indigenous youth and participation may be priority themes under the new crosscutting funding mechanism that is being developed, care must be taken to ensure this does not result in indigenous support being framed as ‘ongoing support to peace process activities.’ As mentioned above, substantial specific attention should be directed toward the needs and concerns of indigenous peoples as a general strategy to ensure democracy, justice and economic growth are legitimate in the eyes of the majority of the country’s population.

¹³ Demand for this was very evident in discussions with youth through the course of this assessment.

ANNEXES

ANNEX A. List of Persons Interviewed Relevant to the Indigenous Theme

NAME	POSITION	ORGANIZATION
Aguilar, Mariel	Director	Intrapaz / CONTIERRA
Aguilar, Carla	Manager, Civil Society Program	USAID/Guatemala
Alvarado Cahuec, Ely Gamaliel	EDUMAYA Graduate, Member of CNEPU and Member of a CNEPU Regional Association	National Council for Professional Mayan University Students (CNEPU), and the Saqb'aalam Association
Amani, Todd	Director, Office of Democratic Initiatives	USAID/Guatemala
Anders, Glenn	Mission Director	USAID/Guatemala
Aragon, Mario	Specialist, Agricultural Project Development	USAID/Guatemala
Argueta, Irma Yolanda	Consultant, Indigenous Peoples and Gender Division	World Bank/Guatemala
Baquiax, Modesto	Representante	Asociación Achin Ixim
Barwick, Peter	Official, Political Advisory Section	MINUGUA
Cahuec del Valle, Eleuterio	Specialist in Development and Projects, Office of Health and Education	USAID/Guatemala
Can, Isabel	Indigenous Sector Representative, Departmental Development Council	El Quiche
Chen Lem, Leonardo	Youth Participant and Member of a Local Youth Action Corps	CADI-Youth Action Corps, San Cristobal, Alta Verapaz
Choj, Domingo	EDUMAYA Graduate, Member of CNEPU and Member of a CNEPU Regional Association	National Council for Professional Mayan University Students (CNEPU), and the Saqb'aalam Association
Cu Cab, Carlos Humberto	EDUMAYA Graduate, Member of CNEPU and President of a CNEPU Regional Association	National Council for Professional Mayan University Students (CNEPU), and the Saqb'aalam Association
De Leon, Juan Antonio	Member	Mesa de Resolucion de Conflictos de Alta Verapaz
Diaz Makepeace de Mejia, Glenda	Director	CADI-Youth, Partners of the Americas
Duflon, Wende	Former Alliance, Job Development and Marketing Coordinator	CADI-Youth, Partners of the Americas
Ferrigno, Victor	Coordinator	Legislative Reform Commission
Fry, Kathy	Senior Program Officer for Latin America	Mercy Corps
Giracca, Anabella	Director General	EDUMAYA Project, Rafael Landivar University
Gricel Otzoy, Rosana	Youth Participant and Member of a Local Youth Action Corps	CADI-Youth Action Corps, San Juan Cololapo, Chimaltenango
Hernandez C., Joaquin	Facilitator, Fundacion Riboberta Menchu	San Martin Jilotepeque, Chimaltenango
Hernandez Mendosa, Virginia	Youth Participant and Member of a Local Youth Action Corps	CADI-Youth Action Corps, San Juan de Laguna, Solola
Ical Choc, Ana Rutilia	EDUMAYA Graduate, Member of CNEPU and Member of a CNEPU Regional Association	National Council for Professional Mayan University Students (CNEPU), and the Saqb'aalam Association

NAME	POSITION	ORGANIZATION
Jucub Quej, Veronica Dominga	Youth Participant and Member of a Local Youth Action Corps	CADI-Youth Action Corps, Parula, Alta Verapaz
Kennedy-Iraheta, Deborah	Deputy Mission Director	USAID/Guatemala
Méndez, Leopoldo	Representante	Centro Maya Sacbé
Menendez, Roberto	Former Associate Director	OEA/PROPAZ Program in Guatemala, Organization of the American States
Morales Alvarado, Sergio	Procurador de los Derechos Humanos	Procuraduría de los Derechos Humanos
Line, Milburn	Director	Human Rights and Reconciliation Program, Creative Associates International, Inc.
Ortega, Herbert	Coordinator of Training in Alternative Dispute Resolution (and Former Trainer to the Mesa de Resolucion de Conflictos de Alta Verapaz)	OEA/PROPAZ Program in Guatemala, Organization of the American States
Ortiz de Chuta, Lourdes F.	Director of Leadership and the Local Youth Corps	CADI-Youth, Partners of the Americas
Padilla, Guillermo	Expert on Indigenous Customary Law and Program Director	UNDP-funded program
Pop, Alvaro	Project Coordinator, Why are we the Way we Are?	Center for Regional Investigations on Mesoamerica (CIRMA)
Reisman, Lainie	Former Peace Coordinator	USAID/Guatemala
Richards, Julie	Team Leader, Education Strategic Objective	USAID/Guatemala
Ruter, Brian	Chief, Income and Natural Resources Office	USAID/Guatemala
Salazar de Sole, Lucia	Specialist in Program Development, Programs and Development Office	USAID/Guatemala
Serech, Nery	Representative	Defensoría Indígena
Sibaja, Harold	Director	Civil Society Program, Creative Associates International Inc.
Soberanis, Catalina	Oficial, Area Combate a la Discriminacion y Fortalecimiento del Congreso	Civil Society Program, Creative Associates International, Inc.
Tambriz, Alfredo	Youth Participant and Member of a Local Youth Action Corps	CADI-Youth Action Corps, Nahuala, Solola
Thompson, Carrie	Director, Office of Development and Program Administration	USAID/Guatemala and Central American Programs
Tuyuc de Curruchiche, María	Coordinator, Chimaltenango Justice Center	Programa de Justicia de USAID
Yrigoyen Fajardo, Raquel	Consultant, Author of ASDI Report on Justice Sector	International Institute on Law and Society
Van Pelt, Sharon	Sub-Director, Office of Democratic Initiatives	USAID/Guatemala

ANNEX B. Methodology and Detailed Review of Project Impacts

The methodology used is followed by a project-by-project review of the most relevant impacts and outputs of USAID support regarding indigenous communities. The impacts are presented under the following subject areas: indigenous education; indigenous youth leadership; indigenous civil society organizations; resolution of land conflicts; and land titles and infrastructure. Under each subject area, three distinct levels of impact and output are highlighted:

- Individual/community level,
- Institutional level, and
- System level.

Methodology

The methodology used to assess impact in this thematic area is based on rapid field appraisal techniques that have been applied in broad strokes. This is a function of time limitations, the breadth of the activities under review and the fact that systematic monitoring and evaluation does not seem to have been done regarding some of the activities in question. The methodology has involved reviewing relevant USAID Cooperative Agreements and related Amendments, relevant Annual Reports regarding certain activities, and external project evaluations that were provided by USAID. In addition, over forty-five interviews were conducted specifically on indigenous issues with key Cognizant Technical Officers and senior USAID mission staff, Chiefs of Party and other project implementation staff, project beneficiaries, and knowledgeable individuals and experts in relevant subject areas from other international agencies and from Guatemalan society. Additional information was also derived from more than seventy other interviews conducted during the course of this assessment regarding the three other thematic areas under review. Information and expertise from the direct experience of the Consulting Team – both from within Guatemala and from other international contexts - have also been factored into this assessment.

Indigenous Education (EDUMAYA)

Individual/Community Level

- Graduates of university scholarship program have been trained and accredited in a range of subject areas including bilingual intercultural education, social work and interpretation. Almost 1000 graduates to date (mostly Mayan), with an impressive graduation rate estimated at 67%. Graduates represent extremely positive role models with impacts extending to family level, and with significant potential impact within broader community. Economic impact at individual level remains unclear, although various systemic and structural hurdles limit indigenous access to the job market.
- More than 1200 teachers have been trained through a university-accredited diploma program in intercultural bilingual education, and 675 teachers have been trained in a variety of themes.
- Approximately 380 education promoters trained and certified as bilingual primary school teachers, and approximately 40 as bilingual pre-school teachers.
- 50 adult education technicians are participating in a university-accredited bilingual literacy diploma program.

Institutional Level

- Formation of the National Council for Professional Mayan University Students (CNEPU-Maya) - along with four regional associations (in Alta Verapaz, Quetzaltenango, Huehuetenango and Guatemala City) - represents an institutional structure with significant potential impact in areas such as continuing professional development, networking opportunities, lobbying power and social support. These are new

institutions, however, and their mandates are yet to be fully defined. Their longer-term potential, therefore, remains unclear.

- 393 libraries have been opened with more than 120 publications ('titulos') and over 19,000 books.

System Level

- Approximately 500 communities are believed to be applying innovating educational models, although the full details of this impact have not been assessed.
- A methodology of bilingual education has been developed and applied, as have materials for bilingual / intercultural education. This represents a significant normative development with significant potential system level impacts, if it could be applied more broadly in the country. Impacts in this area seem limited by a lack of political will on the part of the Ministry of Education. Attempts at impact on public policy in this subject area also seem limited by lack of significant political will.
- EDUMAYA graduates – on an individual basis - will very likely have some kind of long-term impact on national level issues related to social, cultural, political and economic spheres of life. The likelihood and extent of this impact could be increased dramatically, however, through appropriately targeted institutional support to the CNEPU-Maya.

Indigenous Youth Leadership (CADI-Joven)

Individual/Community Level

- Over 525 youth have been trained in a mix of leadership, life and employment skills through participation primary in leadership 'training camps'. This seems to be the most significant impact achieved by this project.
- Youth beneficiaries strongly emphasized the broad relevance and value to most youth in the country, of the employment/vocational skills aspects of the training.

Institutional Level

- Approximately 15 '*Cuerpos de Accion Local*' (CALs) have been established as an institutional framework to provide a multiplier affect regarding the impact of the individuals once they return to their communities after having received their leadership training. The CALs are not institutionally linked to any sustainable local organizational structure (either indigenous or non-indigenous), and are therefore unlikely to survive for very long beyond the duration of the project.
- Although not formally reviewed, the institutional linkages currently being discussed with private sector actors in order to provide follow-on employment opportunities may not be very strong in providing relevant job opportunities. There is a sense that this was being done as a relatively last minute activity within the project.
- No significant institutional impact is evident regarding indigenous organizations.

System Level

- No significant system level impact seems to have been achieved by the project.
- The general methodology used targets 'youth at risk', and is not specifically designed to develop indigenous leadership, *per se*. While relevant in some ways, the overall impact of developing 'indigenous youth leadership' could have been increased through, for example, a methodology that involved: closer coordination with indigenous organizations/leaders; and curricular content more specific to the challenges, strengths and context of Guatemalan indigenous peoples.

Indigenous Civil Society Organizations (INCIDENCIA and Civil Society Program)

Various activities within INCIDENCIA and the Civil Society Program are considered under this heading including support to the Paq'Uch Coalition, the Commission for Constitutional Reform (within

COPMAGUA) and various projects with the *Defensoria Maya*. Overall, these two programs are said to have supported approximately seventy indigenous civil society organizations over recent years.

Individual/Community Level

- Although not reviewed in any detail, individual and community level benefits clearly resulted from these different projects. In some cases, skills and knowledge were developed regarding indigenous customary law (*Defensoria Maya*), negotiating with government (Commission for Constitutional Reform) and achieving national level political impact on important issues of public policy (Paq'Uch).

Institutional Level

- Individual indigenous civil society organizations strengthened their internal knowledge, skills and capacity in important areas relevant to indigenous peoples (e.g., *Defensoria Maya* in customary indigenous law; COPMAGUA in negotiations with government).
- New institutional spaces were developed in order to further public policy issues relevant to indigenous peoples. In the case of Paq'Uch, for example, a Presidential Commission Against Racism and Discrimination was established, as was the '*Ente de Consulta de los Pueblos Indigenas*'. It is too early to determine the impact of these new bodies. Importantly, however, the new '*Ente de Consulta*' is perceived as being in competition with the '*Consejo de Pueblos Indigenas*', an institutional space established through United Nations support. In this regard, some observers suggested Paq'Uch may have some negative institutional impacts by promoting some division in the national indigenous leadership. If true, the sustainability of the '*Ente de Consulta*' could be affected by this kind of dynamic.
- Paq'Uch is designed to support indigenous participation in *Consejos de Desarrollo* in two departments (Chimaltenango and Quiche). This is a very interesting and important goal, although this assessment cannot comment on the nature of the impact achieved.

System Level

- Apparently, much of the indigenous content of the constitutional reforms that appeared on the Consulta Popular was a product of the support provided to the Commission for Constitutional Reform. The impact is significant, and would have been much more so, if the constitutional changes had been approved.
- Apparently, many justice operators were sensitized and educated regarding customary indigenous law as a result of the work of *Defensoria Maya*. While this would represent a fairly significant impact if correct, this assessment has not been able to evaluate the matter in sufficient detail.
- Paq'Uch was intended to target legal and policy reforms at the national level. One of these initiatives has targeted reforms to the '*Organismo Judicial*' to recognize indigenous customary law. The reforms proposed are beyond the scope of the project's original intent, and beyond what the government is likely to accept. As a long-term negotiation strategy, however, the project has supported high quality research regarding international standards and experiences that underpin what could become a starting position regarding further negotiations in this area. Although a separately supported project, a policy on racism and discrimination against indigenous peoples is being drafted by an NGO called CEIDEC for revision by the Presidential Commission established through Paq'Uch; it remains unclear how much impact this initiative may have.

Resolution of Land Conflicts (CONTIERRA, AED/Mercy Corps)

Individual/Community Level

- Tensions regarding a number of land conflicts have been better managed or mitigated and, perhaps, various conflicts have been finally resolved as a result of support to CONTIERRA and AED/Mercy Corps. In this regard, many individuals, families and communities have benefited from USAID

support, although the scope and depth of the impact cannot be determined in detail based on this assessment.

- AED/Mercy Corps is allegedly defining land conflicts as ‘resolved’ when illegal activities related to the conflict are ceased (i.e., when ‘medidas de hecho’ are ceased, such as land invasions), rather than when the underlying conflict is actually resolved, *per se*. A closer analysis could determine this issue with certainty and, if true, help in clarifying future goals related to conflict resolution/management.

Institutional Level

- Impact of support to CONTIERRA did not reach the institutional level or beyond in any significant way, due to a lack of political will on the part of the government, a weak policy environment, limited inter-institutional coordination and a lack of an internal institutional strategy.
- Although not investigated in detail, comments were made to suggest greater institutional coordination is needed between AED/ Mercy Corps and an important local multi-sectoral roundtable that plays a central role in managing land conflicts in Alta Verapaz (i.e., the *Mesa de Resolucion de Conflictos de Tierra de Alta Verapaz*). This relationship must be strong if positive and sustainable impacts on local conflict resolution capacities are to be achieved.

System Level

- To date, support in this area has not achieved significant system level impacts. If government will in this area were to exist, however, careful project design could achieve this.

Land Titles and Infrastructure (FONTIERRA, MAGA)

Individual/Community Level

- Approximately 2100 community titles have been granted with USAID support, benefiting an estimated 100,000 or more indigenous families. In addition, some positive impact for family and community beneficiaries has resulted from targeting infrastructure development (i.e., road construction) to geographic areas where various titles have been granted; the infrastructure support was done through MAGA. The socio-economic impact of this titling and related support remains unclear, however, and is supposed to be the subject of a more detailed evaluation in September 2004.

Institutional and System Levels

- Assessing any institutional or system level impacts has not been possible through this review, although this information would be very helpful. As a general rule, the socio-economic impact of land titling and regularization increases dramatically when follow-up support is also provided in the form of technical, financial and/or infrastructure activities.

ANNEX C. Key Reference Materials

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Jones, Susanne. 2000. *Of Centaurs and Doves: Guatemala's Peace Process*. Boulder, CO: Westview Press.



Report submitted to the United States Agency for International Development

**Thematic Impact Assessment
USAID/Guatemala Peace Program**

**Thematic Area Number Four:
Support to Victims of the Armed
Conflict and Reconciliation**

Under the Analytical Indefinite Quantity Contract (IQC),
Contract No. AEP-I-00-99-00041-00, Task Order No. 825

September 2004

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Table of Contents

ACRONYMS AND ABBREVIATIONS.....	ii
1.0 BACKGROUND.....	1
2.0 IMPACTS.....	1
2.1 INDIVIDUAL/COMMUNITY-LEVEL IMPACTS.....	1
2.2 INSTITUTIONAL-LEVEL IMPACTS.....	3
2.3 SYSTEM-LEVEL IMPACTS.....	3
3.0 FACTORS INFLUENCING IMPACTS.....	4
3.1 INTERNAL FACTORS.....	4
3.2 EXTERNAL FACTORS.....	5
4.0 CONCLUSIONS.....	5
5.0 RECOMMENDATIONS.....	6
ANNEX A. LIST OF PERSONS INTERVIEWED RELEVANT TO VICTIMS/ RECONCILIATION	
ANNEX B. DETAILED REVIEW OF PROJECT IMPACTS	
ANNEX C. PROJECT OUTPUTS	
ANNEX D. SUPPORTING INFORMATION	
ANNEX E. EXTERNAL FACTORS AFFECTING IMPACT	
ANNEX F. DONOR COORDINATION	



Acronyms and Abbreviations

ADR	Alternative Dispute Resolution
CAI	Creative Associates, Inc.
CICIACS	Commission for the Investigation of Illegal Groups and Clandestine Security Apparatus
CONAVIGUA	National Coordinator of Guatemalan Widows
COP	Chief of Party
COPREDEH	Presidential Human Rights Commission
CRD	Center for Reception of Complaints
CSO	Civil Society Organization
CTO	Cognizant Technical Officer
DG	Democracy and Governance
DIGAP	<i>Dignificación y Apoyo Psicosocial a Víctimas del Conflicto Armado Interno</i>
EG	Economic Growth
FRG	<i>Frente Republicano Guatemalteco</i>
GAM	Mutual Support Group
GANAN	<i>Gran Alianza Nacional</i> (Grand National Alliance)
HCC	Historical Clarification Commission
HRRP	Human Rights and Reconciliation Program
IOM	International Organization for Migration
MINUGUA	United Nations Verification Mission in Guatemala
MNDH	<i>Movimiento Nacional de Derechos Humanos</i>
MP	<i>Ministerio Público</i>
NGO	Non Governmental Organization
OIM	International Migration Organization
OJ	Judicial Organism
OMI	Orlando Sipam
PAC	Guatemalan Civil Patrol
PDH	<i>Procuraduría de Derechos Humanos</i> (Human Rights Procurator's Office)
PNC	<i>Policía Nacional Civil</i>
PNR	National Reconciliation Program
SEPAZ	<i>Secretaría de la Paz de la Presidencia de la República</i>
SO	Strategic Objective
SpO	Special Peace Objective
ROL	Rule of Law
UNDP	United Nations Development Programme
USAC	<i>Universidad de San Carlos</i>
USAID	United States Agency for International Development

1.0 Background

USAID assistance has been provided under the Special Peace Objective (SpO) in the area of support to victims of the armed conflict, human rights and reconciliation as a means of pursuing fulfillment of some key objectives of the Peace Accords and the implementation of the recommendations of the Historical Clarification Commission (HCC). The program of assistance, which began in 1997, was directed towards three general areas: post-conflict reconciliation; conflict prevention and resolution; and civil society advocacy.

This report is based upon documents and other materials provided by USAID and project implementers and interviews with those individuals as well as with direct beneficiaries and independent parties nationally and in the departments of El Quiché and Chimaltenango. Relatively little systematic outcome data was available, and the investigative period was limited. This means that comments primarily reflect the perceptions of actors involved in the implementation process. The report focuses on three projects¹: **The Special Development Fund**, in particular the provision of housing for indigenous widows (1997-2000), implemented by the International Migration Organization (OIM); the **Human Rights and Reconciliation Program**, implemented by Creative Associates Inc. (2001-2004); and support (in coordination with the Dutch Government) to the UNDP project ‘**Support to Demobilization and Incorporation and National Reconciliation**’ (1999-2004, UNDP Project No. GUA/96.018).

2.0 Impacts

The more significant impacts that have resulted from USAID support are organized into three distinct levels: individual/community, institutional, and system. For the sake of brevity, this discussion consolidates the impacts regarding all projects reviewed. Annex B provides a more detailed project-by-project overview of impacts, and Annex C presents certain important specific project outputs.

2.1 Individual/Community-Level Impacts

- **Increased community-level political participation.** Important impacts resulting from human rights and reconciliation work has been an increase in community level participation in both formal and informal political spaces. This has been driven by a mix of forces related to project implementation (e.g., training, increased access to political spaces, increased knowledge and skills, and greater self-confidence). This participation is evident at the community level, through greater engagement in formal political processes with municipal authorities and, in some cases, extended to participation around issues of democratic accountability during the 2003 national elections. Indeed, it appears that the most important gains in human rights and reconciliation came out of the generation of ‘political culture,’ particularly at the local level; these changes are manifest in attitudinal shifts and the beginnings of changes in local norms and practices.
- **Closer community-level relations between civil society and state authorities.** Various forces have influenced closer relations at the local level between civil society and state authorities. In part, this is a result of the interactions associated with project implementation. For example, the exhumations process often provided communities where massacres took place with their first positive experience with local authorities (e.g., OJ, PNC and MP), and returnee widows associated with housing projects became directly engaged in political processes at the community and municipal levels. USAID initiatives have

¹ The chronological scope of this report (which subsequently determined its thematic focus) was decided after direct consultation with USAID consultant Lainie Reisman, who suggested emphasis be on the period 1999-2004, due to limited time in the field and USAID stated interest.

helped promote closer and more productive ties between these two sets of actors in target communities. Additionally, rights education is leading to greater recognition that local authorities can be held to account thereby strengthening the legitimacy of local government. Victims groups have begun to operationalize and exercise their rights more actively, broadening their political participation locally and, in doing so, often forging closer and more productive ties with state authorities at the local level.

- **Increased knowledge about human rights, the armed conflict, alternative dispute resolution and related social issues.** Through training initiatives and dissemination of information related to the HCC, citizens have greater understanding of the nature of their rights within the context of the armed conflict and related social issues. HRRP, in conjunction with funds through the Special Development Fund and *Dignificación y Apoyo Psicosocial a Víctimas del Conflicto Armado Interno* (DIGAP), has had a crucial impact by teaching victims (including indigenous peoples and returnees) about their rights. This has, in turn, generated greater demand for rights education and contributed generally to an emerging ‘rights culture’ that appears to be present in beneficiary communities. The demobilization project has increased the knowledge of the promoters (including indigenous women) about mental health issues and the armed conflict. Victims groups have identified USAID supported training and resources to address human rights issues and conflict prevention and resolution as the most important assistance received.
- **Community-level reconciliation.** USAID support has helped to begin the process of reconciliation and address the consequences and legacy of the armed conflict at the local level, through its support for exhumations and the accompanying socio-political, legal and cultural processes. Increased self-esteem and trust between victims and perpetrators of human rights abuses have resulted from reconciliation initiatives. Exhumations and mental health work further strengthened social capital within victim and returnee communities, although the long-term impact is unclear given continuing poverty and social exclusion.
- **Local level norms and practices regarding rights and conflict resolution.** Changes at the local level have been manifest in attitudinal shifts and the beginnings of change in local norms and practices at the community level, in particular with regard to the exercise of rights and practices aimed at preventing and resolving conflicts. For example, Centers for Reception of Complaints (CRDs) strengthened the process to institute broader access to justice through local alternative dispute resolution and raised citizens’ understanding of public security issues. The beginnings of normative change are apparent in target communities, as promoters demonstrate the relevance of legal frameworks and, where possible, facilitate the use of community justice mechanisms in conflict prevention and resolution.
- **Communities that received support vs. those that did not.** It is important to note that those communities where massacres occurred that have benefited from USAID support appear to have experienced greater impact from those who did not receive assistance. However, the effects are complex and subject to contradictory external and internal processes. Certain sectors (‘victims’) in recipient communities may display a growing awareness of ‘rights’ and a will to exercise them, which in itself may well reopen past scars and exacerbate historical animosities.
- **Community-level economic spin-offs.** Housing projects funded by the Social Development Fund generated local small business ventures such as building-block manufacturers in El Quiché.
- **Uniting families with ‘lost children’.** There have been sporadic successes in uniting families through the National Commission for Search for Lost Children.

2.2 Institutional-Level Impacts

- **Institutional mechanisms for reparations established.** USAID support for the National Reconciliation Program (PNR) was one of the key factors influencing its eventual establishment by Presidential Decree. An institutional mechanism for reparations therefore exists and the reparations process is accordingly legitimized as a national state policy. Unfortunately, the PNR is not protected under a legal framework and it is thus vulnerable to the vagaries of Presidential support/goodwill. Additionally, USAID provided support in establishing local level Reparations Committees. These efforts to institutionalize reparations have been much appreciated by interviewees in rural areas, many whom believed the most significant contribution of USAID assistance had been in seeking to ensure that their suffering be recognized by society both locally and at the national level.
- **Civil society organizations involvement in conflict resolution.** USAID has achieved institutional level impact by supporting civil society organizations that have become involved in public security issues through local use of alternative dispute resolution (ADR) techniques. Centers for the Reception of Complaints (CRDs) were supported through the counterpart organization The Mutual Support Group in four rural departments, and CRDs have been active in applying ADR locally. As mentioned above, these types of practices have contributed to the prevention of conflict in communities affected by the armed conflict and have also helped facilitate communications between CSOs and local state authorities (e.g., PDH, MP and PNC).
- **Increased capacity and legitimacy of PDH.** Increased knowledge of human rights issues coupled with new skills related to the use of participatory methodologies benefited PDH educators, although it has not been possible to assess the real nature and scale of this impact. This was done through HRRP. Additionally, coordination between the MNDH and the PDH influenced selecting Sergio Morales as the Human Rights Ombudsman, thereby strengthening the PDH's legitimacy and putting the organization in a position in which modernization and institutional development seem very possible.
- **Strengthening of CSOs.** Numerous CSO leaders have been trained through HRRP, thereby strengthening their organizations ability to respond to local needs.
- **A new university program at USAC.** Through USAID support, a new Masters Degree in Social Psychology and Political Violence was established at USAC.
- **Established a mental health network.** The National Network of Mental Health Organizations has been developed, strengthening links between relevant organizations.
- **Formation of CICIACS coalition.** The Movimiento Nacional de Derechos Humanos (MNDH) developed a national plan for action around issues of human rights violations, corruption, and organized crime that led to formation of the CICIACS coalition.

2.3 System-Level Impacts

- **Legal framework for reconciliation issues.** Three new draft laws related to reconciliation are, at the time of writing, under discussion, although they have not been passed. It therefore remains unclear whether system level impact will be achieved in this regard. It is worth mentioning, however, that the President of the Congressional Human Rights Commission is contemplating the Commission's possible support to propose these laws to Congress.

- **National-level reconciliation.** Reconciliation at the national level has very limited impact regarding relations between victims of the armed conflict, perpetrators of violence and other social sectors less directly affected by the conflict. In part, this is because the perpetrators of violence as well as other social sectors have not been willing to engage in meaningful dialogue with victims' groups or to seek to profoundly understand the underlying reasons, nature and consequences of the armed conflict. It should be highlighted, however, that for justifiable reasons, USAID assistance has generally not focused on a broad range of social sectors (including perpetrators) and has been of limited scope thus contributing to limited impact.²
- **National-level norms and practices regarding human rights and reconciliation.** Overall, there has been limited impact on national level norms and practices regarding human rights and reconciliation. Interviews clarified that the the political culture of state institutions has changed only to a minimal degree, with the exception of the PDH. The reason for this limited overall impact is partly due to a lack of will on the part of political actors and the military, as well as the relative disinterest of other social actors in these issues, rather than as a direct result of the scope or direction of USAID's support in these areas. It should be mentioned that the inability of human rights organizations to adapt to the changing socio-political context and to present unified demands and initiatives has also contributed to the State's intransigence in this regard.
- **Use of forensic evidence.** USAID support through the exhumations work has made a significant impact on the profile, legitimacy and significance of using forensic evidence in legal cases, thus challenging the normative historical reluctance of justice operators to make use of this. This has contributed to the debate regarding the need for a National Institute of Forensic Science and for development of a professional Criminal Investigation Unit within the justice system.
- **CICIACS coalition is unconstitutional.** Systemic level changes have not been realized because Congress has withheld support for the CICIACS coalition, and the Constitutional Court has pronounced it unconstitutional.

3.0 Factors Influencing Impacts

3.1 Internal Factors

- **CAI project design.** The objectives and activity of HRRP were oriented primarily toward the community level, which resulted in significant impacts at the local level. Moreover, a built-in Monitoring and Evaluation procedure ensured that HRRP was continually scrutinized by external evaluators, themselves represented by local level actors in the field. CAI appears to have responded to the analyses in political opportunities proposed by counterpart representatives at the local level, and been flexible in responding to external evaluations. However, initial weakness in rigorous selection of counterpart organizations by CAI led, on at least two occasions, to difficulties with local projects and their eventual closure.
- **Need for mechanisms to strengthen organizational collaboration.** Despite serious attempts at generating coordination between a broad range of civil society organizations at local and national level by both CAI and DIGAP, divisions and organizational differences prevailed in many cases. While coordination has been more evident at the local level, collaboration has been less effectual at the national level. In order to reduce these difficulties, as part of their design the said projects may, from

² There have been a few exceptions to this pattern, such as mental health workshops carried out in rural communities that involveld both victims and perpetrators of the violence of the conflict.

the outset, have called for the inclusion of mechanisms of broad consultation, such as jointly written reports and activities.

- **Need for broader understanding of reconciliation.** Both CAI and DIGAP have focused their activity and objectives strongly towards working with victims of the internal armed conflict. There exists a clear moral, political and programmatic justification in doing this. However, lack of prior commitment to working with broader sections of Guatemalan society on the theme of reconciliation has contributed to the weakness in impact of both projects on perpetrators of the violence, as well as those sectors seemingly unaffected by the conflict. As a result, advances in the process of ‘reconciliation’ brought about by the project are not obvious.

3.2 External Factors

A brief set of comments regarding the current and historical context related to external factors is provided. Annex E provides a more detailed discussion of these issues.

- **Present context.** Initial suppositions indicated that the threat to the human rights situation during the *Frente Republicano Guatemalteco* (FRG) administration (2000–2004) would decline significantly with the new *Gran Alianza Nacional* (GANA) government. While GANA’s policies and discourse do not, as yet and in general, reflect the anti-human rights and anti-democratic practices prevalent under the FRG, it is considered that the initial optimism of the international community in regards to human rights issues not be overestimated.
- **Historical context.** The human rights situation gravely deteriorated during the political administration of the FRG, presenting the following serious challenges to work in human rights protection and democratic consolidation: a) refusal of the FRG government to engage seriously with human rights issues; b) political violence at local and national levels; c) the remobilization of the civil patrols (PAC); d) and violence and intimidation during the 2003 elections.

4.0 Conclusions

The following comments are closely tied to the analysis of impacts above, although they are mostly couched in the context of the expectations and unmet needs of the target beneficiaries.

Representatives of victims groups indicated that their greatest expectations of the Peace Accords included: (1) historical re-vindication in the areas of poverty, ethnic discrimination, impunity/justice issues and reparations, and justice for the violence suffered during the internal armed conflict; (2) greater inclusion in the national agenda; and (3) urgent treatment of poverty. Comments of indigenous beneficiaries (men, women and returnee widows) in El Quiché and Chimaltenango coincided closely with CSO leaders interviewed in rural and urban areas. Beneficiaries of USAID support distinguished between this assistance and their continuing invisibility to Guatemalan state authorities, particularly in cases where victims had not received productive projects or attained justice for past crimes. Victims groups believed that their expectations had only partially been met, therefore, and that resulting change was most evident with regard to generating political space for action at the local level, including a closer relationship between civil society and state authorities.

Above all, interviewees in rural areas believed that the most significant contribution of USAID assistance had been in seeking to ensure that their suffering be recognized by society both locally, and at the national level. In this regard, exhumations, popular education projects and efforts to institutionalize reparations were considerably appreciated. Beneficiaries underlined that poverty, discrimination, a lack of broad

understanding and recognition of events during the armed conflict and the ineffectiveness of and corruption within the state authorities remain key obstacles to development and the capacity to wield political impact. This is clearly the case in those communities that have not been fortunate enough to benefit from long-term donor projects. In this regard, it is important to emphasize that those communities where massacres occurred and who benefited from USAID support are discernible from those that were not recipients of such assistance. However, the effects are complex and subject to contradictory external and internal processes. Certain sectors ('victims') in recipient communities may display a growing awareness of 'rights' and a will to exercise them, which in itself may well reopen past scars and exacerbate historical animosities. For this reason, as victims' expectations are raised, it is critical that processes are followed through appropriately with mental health, infrastructure and socio-political support, as the local balance of power remains fragile and past wounds are still healing. As many interviewees commented, the PAC remobilization, in a matter of months, severely damaged USAID-supported healing processes that taken years to create.

Intra-familial violence and the exclusion of indigenous women were also identified as grave unmet social problems. Importantly, beneficiary groups (such as PDH Educators) identified USAID-supported provision of training and resources to address human rights issues and conflict prevention and resolution as the most important assistance received.

5.0 Recommendations

Relevant IR: Ruling Justly: More Responsive and Transparent Governance

Strengthened Rule of Law

1. **Support efforts by CSOs to secure state commitment to ensure prosecutions in emblematic cases for human rights violations committed during the armed conflict.** This may involve collaborative efforts between the judiciary, the public prosecutor, the PDH and relevant CSOs to develop indicators as well as monitoring and evaluation mechanisms in key areas of justice administration. These efforts could be pursued through the National Justice Commission and/or the *Instancia Coordinadora de Justicia*.
2. **Support governmental and civil society efforts to combat corruption, illegal activity and human rights violations linked to organized crime and parallel powers** (e.g., the CICIACS or other similar anti-corruption initiatives).
3. **Consider supporting the PDH to promote its involvement in Justice Centers**, with particular regard to: a) strengthening alternative dispute resolution mechanisms; b) ensuring consistent monitoring and evaluation within Justice Centers; and c) providing staff with training in human rights (particularly with regard to issues of access to justice and due process). Given USAID's evident success in providing assistance to CSO's for the creation of CRD's (specifically, the work of GAM in Huehuetenango and El Quiché), it is suggested that USAID consider supporting programs that integrate these formal justice mechanisms and ongoing CSO activity.

Greater Transparency/Accountability of Governments

Consider supporting the PDH to promote its involvement in Rural and Urban Development Councils, with particular regard to: a) providing and/or orienting training to local authorities in human rights and citizenship rights issues; b) providing and/or orienting training to local authorities concerning the norms and practices of alternative dispute resolution mechanisms; and c) providing and/or orienting training to local authorities in conflict prevention and resolution.

Investing in People: Healthier, Better Educated People

Increased and Improved Social Sector Investments and Transparency

Consider supporting development of a network of health promoters to treat the problem of intra-familial violence and violence against women. This could be done through the provision of technical assistance and training to state health services in rural areas, particularly those meeting expenditure targets. For example, create a pilot project in the department of El Quiché where the problems of violence against women and intra-familial violence have been signalled as high priorities.

Increased and Improved Basic Education Opportunities

Support provision of technical assistance to local authorities in order to strengthen school curriculum and instruction based upon citizenship rights, values and norms, including specific components related to interculturalism and conflict prevention and resolution. Assistance could focus on youth as a key group tasked with the generation and promotion of citizenship values.³

Improved Integrated Management of Child and Reproductive Health

Support the appropriate state authorities (e.g., the Ministry of Health) **to strengthen the network of health promoters in rural areas** (particularly indigenous women promoters) through the provision of technical assistance and training in child and reproductive health, with special emphasis on relevant cultural dimensions/concerns. Here it is critical to take into account ILO Treaty 169 to ensure consultation with indigenous and women's organizations in developing and implementing reproductive health policies that pertain to indigenous peoples. USAID might consider supporting the development of an inter-institutional consultation and policy-making body that coordinates between indigenous organizations working on (reproductive) health, the Ministry of Health and existing networks of practitioners.

New Crosscutting Funding Mechanism

Consider the strategic relevance of identifying human rights as a specific theme under the new crosscutting funding mechanism. Possible projects might include:

- Technical assistance to the Congressional Human Rights Commission concerning the development of the *Ley de Resarcimiento*, *Ley Nacional de Exhumaciones* and the *Ley Nacional de Salud Mental*. This assistance would take advantage of an evident political opportunity and suggest the potential for high-level systemic impact due to the demonstrated political will of the actors immediately involved and USAID's expertise in the area, enhancing USAID's comparative advantage.
- Technical assistance to the National Reconciliation Program concerning the procedures and issues involved during the process of the granting and conferring reparations to victims of the armed conflict. Support might also contemplate the inclusion of a project component that looks to other experiences of reparations processes of comparative relevance (e.g., the reparations experience in Chile).
- Support for educational and reconciliation programs in human and citizenship rights and issues such as violence against women. This would be, in part, based upon the HCC recommendations and oriented towards perpetrators of the violence during the armed conflict and other social sectors. Work would seek to address the lack of concrete progress achieved thus far in 'reconciliation' between the groups

³ Note that the educational material developed out of the 'El Trapiche' radio show may be useful in doing this.

mentioned and aim to treat the specific question of the PAC as, such as it is, a destabilizing element in democratic consolidation.

- Support civil society organizations that have worked over many years primarily in the area of human rights, to adapt their focus and strategies to the country's changing socio-political context (e.g., to focus on citizenship rights). This could be coordinated perhaps through the PDH. A further area of interest might be to engage yet further with the issue of present violence and its links to past human rights violations.
- Technical assistance to the Presidential Human Rights Commission (COPREDEH) providing training and guidance to ensure it can fulfill its institutional mandate of providing human rights orientation to governmental institutions.



ANNEXES

Annex A. List of Persons Interviewed Relevant To Victims/Reconciliation

NAME	POSITION	ORGANIZATION
Aguilar, Doris	Educadora	PDH, Santa Cruz del Quiché
Altolaquirre Larraondo, Marta	Viceministra de Relaciones Exteriores	Ministerio de Relaciones Exteriores
Argueta, Lucas	Coordinator, Justice Project, Ministerio Público (MP), El Quiché	MP
Delgado Duarte, Antonio	Justice Program	Fundación Myrna Mack
Ellich, Cristina	Head of Program for Dignification of the Victims of the Armed Conflict	PNUD
Fión, Ramón Antonio	Director Ejecutivo	Programa Nacional de Resarcimiento
Fuentes Soria, Juan Alfonso		Ex-President, COPREDEH
Gish, Debora and Manzano, María Elena Paz	External Evaluators, Human Rights and Reconciliation Project	Gish, Paz y Asociados
Grundy, Joanna	Central America Team	Amnesty International
Hurtado, Laura	Socióloga	FIPA/USAID – Fortalecimiento Institucional en Políticas Ambientales
LaRué, Frank	President	COPREDEH
Line, Milburn	Director	USAID Program of Human Rights and Reconciliation
López, Fernando	Director	Legal Department (DEJURE), Centro para la Acción Legal en Derechos Humanos (CALDH)
Mack, Helen	Directora	Fundación Myrna Mack
Manzano, Flor de María	Coordinadora	Asociación Utz K'aslemal Salud Mental Comunitaria
Mendez Tián, Manuel	Coordinador CRD Quiché	Grupo de Apoyo Mutuo
Morales Alvarado, Sergio Fernando	Procurador de los Derechos Humanos	Procuraduría de los Derechos Humanos
Morales Chitic, Luara Felciana	Voluntaria Nacional	MINUGUA, Santa Cruz de Quiché
Navarro, Susanna		Equipo de Estudios Comunitarios Acción Psicosocial (ECAP)
Paiz, Leonel	Director	Fundación de Antropología Forense
Pérez, María	Representative	Foro de la Mujer, El Quiché
Pivara Leiva, Sergio	Asesor en Políticas y Gerente del Programa de Derechos Humanos y Reconciliación	USAID/Guatemala
Polanco, Mario	Director	Grupo de Apoyo Mutuo
Pop, Alvaro	Presidente	CIRMA
Raymundo, Diego	Coordinador	Asociación Utz K'aslemal Salud Mental Comunitaria
Rodenas, Nery	Director Ejecutivo	Oficina de Derechos Humanos del Arzobispado de Guatemala
Searing, (Sister) Virginia	Junta Directiva	Asociación Utz K'aslemal Salud Mental Comunitaria
Sipán Chirito, Orlando	Project Officer	Organización Internacional de Migraciones
Soto, Juan Francisco	Investigador	DEJURE, CALDH

NAME	POSITION	ORGANIZATION
Soy Tol, María	Coordinadora	Programa de Justicia, Centro de Justicia, Santa Cruz del Quiché
Strasser, Judith	Volunteer, Mental Health Area	GTZ
Svensden, Cristin		Instituto de Ciencias Compartivas Penales
Ventura, Diego	Presidente	Asociación Maya de Desarrollo Integral de Guatemala (ASMADIGUA)
Us Laynez, Guadalupe	Facilitadora	PDH, Santa Cruz del Quiché
Valle Soto, Carlos Leonel		Investigador Independiente
Zacaría, Andrés	VNU Punto Focal de Seguridad	PNUD- DIGAP

Annex B. Detailed Review of Project Impacts

For each of the projects, three distinct levels of impact are highlighted: a) individual /community level; b) institutional level; and c) system level.

The Special Development Fund

The International Migration Organization (OIM) implemented a crucial element of the USAID Special Development Fund by supporting victims of the armed conflict through the provision of housing and other projects to returnee widows and their families, in particular in El Quiché and Chimaltenango departments.

Overall Impact

- **Increased community level political participation and organizational strengthening.** A crucial corollary impact of housing projects to returnee widows was greater community level organization (mostly in local committees) in the pursuit of basic provisions (e.g., water and electricity) and supervisory committees. As a result, returnee widows became more directly engaged in formal political processes with municipal authorities. This led to greater a perception of legitimacy in the authorities when they responded positively to demands (such as requests for water systems and septic tanks). In this way, returnee widows began to successfully articulate their needs through collective organization. The importance of this process must be emphasized: returnee widows benefited not only from infrastructure projects but from organizing in ways they perceived as ‘legitimate’ at the community level, they were able to confront many of the fears and taboos of the armed conflict and lay the ground for broader political participation. In some cases, mobilization around local needs extended to engagement with the formal political process (in particular, around issues of democratic accountability during the 2003 national elections [see Annex D, supporting information]).
- **Related economic diversification and community level training.** Housing projects generated local sustainable small business ventures, such as the development of building-block manufacturers in some beneficiary communities in El Quiché. In some cases, according to interviewees, the corollary effect of community housing projects was the gradual formation of networks of trained construction workers initially contracted as apprentices.

Human Rights and Reconciliation Program

- LLR1: Citizens mobilized to protect their human rights
- LLR2: Advocacy and dissemination efforts carried out for children ‘lost’ during the war
- LLR3: Information about internal war disseminated and remembrance activities
- LLR4: Coordination promoted among human rights groups

Individual/Community Level

- **Rights knowledge and application.** Citizens have gained more knowledge of their human rights and understand better their relevance and applicability, which, in turn, has generated widespread **demand for rights education** as a result of training programs. In combination with other initiatives, USAID assistance has thus contributed to generating a ‘rights culture,’ most discernibly within beneficiary communities. Structural poverty and historical discrimination mean this is by no means irreversible, and follow-up should be considered to ensure the potential for sustainability.
- **Knowledge of the armed conflict.** Dissemination of the HCC has, in target areas, meant that citizens have more knowledge of the internal armed conflict and its impact. A notable project component was

the radio show, ‘El Trapiche’.⁴ According to implementers, schools in Santa Cruz del Quiché have informally incorporated the materials from the show in their education curricula due to its impact upon listeners. This information was corroborated by PDH Educators and Facilitators who commented on the phone-ins after each show, when *ladino* and indigenous residents discussed the issues addressed and how they identified with the characters and their experiences.

- **PDH capacity.** PDH Educators commented that they had begun to incorporate increased knowledge of human rights issues and skills of participatory methodologies into their workshops (to *ladino* and indigenous students and parents). While they suggested that it was difficult to assess the initial impact of what they had learnt, they felt armed with more effective popular education instruments. However, continued staff shortages and time restrictions had impeded broader project success (see Annex D).

Institutional Level

- **Access to justice.** Using the Centers for Reception of Complaints (CRDs), promoters engaged in conflict mediation and resolution through local offices established by the human rights organization Mutual Support Group (GAM). Interviews with beneficiaries and implementers brought to light the significant impact that the offices had made in providing alternative mechanisms in conflict prevention and resolution and coordinating between civil society organizations and local state authorities (particularly the PDH, MP and PNC). Moreover, CRDs have begun to act as mediators between the state and civil society in cases involving local authorities’ lack of compliance with their official responsibilities (see Annex D).
- **Organizational strengthening.** Civil society organizations were strengthened through training received, particularly that of local leaders. As a result, they are better able to evaluate, analyze and respond to local needs. HRRP also supported the mobilization of local human rights organizations and contributed to building a national human rights network. However, inter-organizational tensions and lack of meaningful cooperation and shared vision limited impact, particularly at the national level.
- **Institutional capacity.** Effectiveness of the PDH in carrying out participatory methodologies was heightened, and this knowledge and skill set was utilized with civil society target beneficiaries and, to a lesser degree, passed to other PDH staff.
- **Reconciliation and ‘lost’ children.** USAID assistance regarding **child victims** of the internal armed conflict has had sporadic impact, above all showing success in uniting families through National Commission for the Search for Lost Children. However, the legislation called for by the Commission has, as yet, by no means been institutionalized and the issue remains isolated from the national agenda of the government, political parties, and, to a degree, of the human rights movement. Impact in this domain, therefore, has been minimal: the issue is inaccessible given the role the military played in ‘forced adoption’ during the conflict and given the continuingly intransigent attitude of Guatemalan society to social problems relating to children and adolescents.
- **Reparations.** USAID capital assisted in the establishment of Reparations Committees at the local level, supporting the implementation of the reparations process.

System Level

⁴ While the two main components of the HCC, exhumations and reparations, remain on the political agenda of both CSOs and the present government, there is a decreasing tendency to address other important elements of the HCC and, in particular, to follow through with human rights education about the internal armed conflict. Given the important results of the ‘El Trapiche’ radio show amongst both indigenous and *ladino* populations, continued initiatives throughout the country aimed at dissemination of the HCC are encouraged. Due to the inherent problems in the justice system and continued exclusion of indigenous people, initiatives focused upon discrimination, impunity and justice issues are seen as salient.

- **Representing the PDH.** Coordination between the MNDH and the PDH and the successful proposal of Sergio Morales by the MNDH as candidate for Human Rights Ombudsman, strengthened the PDH's legitimacy and representativity and signaled a potential space for civil society-state collaboration in this area: this has been echoed at the local level.
- **Combating organized crime and corruption.** The MNDH developed a national plan for action around issues of human rights violations, corruption, and organized crime based in coordination between organizations at the national level and leading to the formation of the Commission for the Investigation of Illegal Groups and Clandestine Security Apparatuses (CICIACS) coalition. While the GANA government and the international community have supported CICIACS, it has faced serious opposition within Guatemala. Notably, Congress has consistently withheld support for the Commission and in August 2004 the Constitutional Court pronounced that CICIACS was unconstitutional. USAID assistance to national CSOs has been key in their trying to anticipate and confront such obstacles (e.g., in supporting forums at national and local level). However, the prevalence of conservative interests in Congress, a divided civil society characterized by a culture of fear and impunity and the unchallengeable decision of a politicized Constitutional Court posed too greater obstacles to effective USAID programming.
- **Reparations.** Establishment of the PNR through Presidential decree provided an institutional mechanism for reparations and legitimized the reparations process as a national state-level policy. HRRP project focus on the need for reparations within the framework of the HCC recommendations, and the initial seed capital provided by USAID laid important foundations for this. USAID-supported dialogue had partially influenced the agenda of CSOs in this regard, according to implementers. However, the PNR Executive Committee made clear that the later suspension of USAID capital had proved a severe setback and was seen as a major obstacle to further success, and that follow-up USAID support was crucial if they were to capitalize on previous USAID efforts.
- **Proposals for new laws.** Debate concerning the formulation of *Ley de Resarcimiento*, *Ley Nacional de Exhumaciones* and *Ley Nacional de Salud Mental* has, as yet, been of limited systemic impact. This is of concern: follow-up should be seriously considered.
- **Access to justice.** CRDs strengthened the process to institute broader access to justice through alternative mechanisms of dispute resolution at local level and raised citizens' capacity and understanding of public security issues. The beginnings of normative change are apparent in target communities as promoters demonstrate the relevance of legal frameworks and, where possible, facilitate utilization of community justice mechanisms in conflict prevention and resolution. As communities of victims (including former displaced peoples) gradually accept legal frameworks and understand and exercise their rights, so local authorities are gaining increased legitimacy.
- **Social capacity.** Increased social capital at community level, greater knowledge and exercise of citizens' rights and subsequent closer engagement with local authorities has led to increased legitimacy of state institutions and more civil society capacity to participate in and hold state institutions to account.
- **'Exercise' of rights.** Rights education and the subsequent exercise and practice by citizens of their rights has begun to generate normative changes at community level, as citizens' knowledge of their entitlement to their rights began to forge an 'irreversible' path. Those specifically trained in education projects became the main individuals leading demands for the accountability of local state authorities and their compliance with their commitments.
- **Legitimacy.** Rights education has meant that it is becoming evident to citizens and local communities that through the exercise of their citizenship rights they are legitimately able to hold local authorities to account and thus oblige them to comply with commitments. This process, in turn, has strengthened the legitimacy of local government, leading to a noted increase in demand for rights education, according to beneficiaries (PDH staff) interviewed in El Quiché and national project implementers.

Support to Demobilization and Incorporation and National Reconciliation

- LLR1: Dignify the victims of the armed conflict through anthropological investigations
- LLR2: Facilitate psychosocial recuperation to victims and communities affected by the armed conflict
- LLR3: Facilitate anthropological investigations by providing legal support

Individual/Community Level

- **Social capital.** Community processes of reconciliation were supported through mental health workshops where victims and perpetrators of the violence of the armed conflict began to talk about their experiences, resulting in an increase in self-esteem and trust between individuals, according to beneficiaries and implementers. While, in many cases, exhumations and mental health work strengthened social capital within victim and returnee communities, it is unclear whether this is sustainable given continuing poverty and social exclusion. While USAID has also assisted decentralization programs, supporting the effort to redistribute power at the municipal level, the balance of power is fragile and structural inequality a severe disincentive to long-term stability and the generation of equitable social relations and social capital.
- **Knowledge of social issues/armed conflict.** Promoters, including indigenous women, gained training and knowledge of mental health issues and the armed conflict, allowing them to treat social issues and conflicts in a more effective, locally-oriented framework.
- **Improved civil society/state relations.** Some communities where exhumations were carried out gained a first positive experience with their local authorities, including the Judicial Organism (OJ), PNC and MP, despite the serious obstacles initially faced by CSOs. This process demonstrates a significant shift in the relationship between local state authorities and organized groups of victims. The foundation has been laid for victims to become stakeholders in their communities, although continued work should be considered **with both victims and perpetrators** if USAID is to capitalize on these advances. Beneficiaries in El Quiché, and to a lesser degree, implementers stated that, in some cases, once exhumations had finished, they were left feeling vulnerable and isolated, particularly once mental health programs came to an end (see Annex D).

Institutional Level

- **Organizational networks.** The National Network of Mental Health Organizations has been developed, strengthening links between organizations involved in the aforementioned process. The work of mental health teams has also contributed directly to the development of the National Mental Health Program. However, historical divisions have continued to impede broad organizational coordination.
- **Inclusion and capacity building of marginalized populations.** Participation of women and indigenous people at the local level in CSOs involved in the exhumations process has increased and, in turn, broadened the range of local social actors. Marginalized groups have thus over time engaged in political activity, linking with national CSOs (GAM and CONAVIGUA), particularly during the 2003 elections.
- **Academic training.** The new Masters Degree in Social Psychology and Political Violence at the University of San Carlos supported by USAID has contributed to the training of promoters in community mental health, and to the successful development of a Diploma in Community Mental Health. The latter was done through inter-institutional coordination with other donors and the Network of Mental Health Organizations.

System Level

- **Utilization of forensic evidence.** USAID support has made a significant impact on the profile, legitimacy and significance of using forensic evidence in legal cases, thus challenging the normative historical reluctance of justice operators to make use of such evidence. The activity of USAID-assisted forensic anthropologists has also contributed to the debate concerning the need for a National Institute of Forensic Science and for a professional and fully resourced Criminal Investigations Unit in the MP.
- **Impunity debate.** Exhumations have become a key component of the debate concerning impunity and justice both for human rights violations carried out during the armed conflict, and for present crimes. However, between 2001 and 2004, organizations and teams involved in carrying out exhumations and mental health work at local and national level, as well as the community members themselves, were subject to systematic threats and harassment. While these threats suggest the effectiveness of these projects in challenging continued impunity, the extraordinary lack of success in investigating the threats highlights the weakness in the policing and judicial systems, and suggests the need for broader USAID educational work and political support for the program.
- **Mental health treatment.** The work of USAID-assisted mental health teams has contributed to the debate concerning the need to broaden health issues and state policy to include direct treatment of mental health problems throughout society.
- **Legal frameworks.** While debate has been generated regarding laws relating specifically to reconciliation, the *Ley de Resarcimiento*, *Ley Nacional de Exhumaciones* and *Ley Nacional de Salud Mental* have shown very little progress; no adequate legal framework has therefore yet been established for reconciliation issues. Possible support from the Congressional Human Rights Commission for these laws may demonstrate an important political opportunity.
- **Access to justice.** Potential access to justice for communities of victims in legal cases has resulted from forensic investigations and exhumations, and the subsequent reports handed over to the state authorities. Citizens have allegedly understood the broader concept of ‘rights entitlement’ as a result (see Annex D).
- **Social capital.** Increased engagement between local communities and state authorities has generated social capital and, in cases where authorities demonstrated goodwill, partially alleviated the severe lack of trust in and credibility of state institutions in the perceptions of victims.

Annex C. Project Outputs

- **Rights knowledge and application.** Through HRRP, over 80 civil society representatives have been trained to work with local authorities in the prevention and resolution of conflict and human rights violations (spanning 83 communities and 5 departments). Through training of teachers methodology, this has led to over 6,000 direct beneficiaries.
- **Knowledge of the internal armed conflict.** El Trapiche was broadcast in 5 departments in the western highlands and subsequently has been informally used as educational material for the curriculum in 33 schools in El Quiché and Huehuetenango. Over 42,000 people have been the beneficiaries of this project.
- **PDH Capacity.** All 50 Educators from the regional and central offices of the Human Rights Ombudsman (PDH) have improved knowledge and skills of human rights and participatory methodologies due to a series of four trainings received.
- **Access to justice.** Centers for Reception of Complaints (CRDs) were established in three target departments in the western highlands, leading to complaints being filed with local promoters. There were approximately 166 cases of joint state-civil society collaboration; 44 cases involving human rights issues were resolved, while a further 103 were resolved through indigenous mediation methodologies.
- **Organizational Strengthening.** The Human Rights and Reconciliation Program (HRRP) assisted in the mobilization of local human rights organizations in 20 out of 22 departments as part of the National Human Rights Movement (MNDH), which included local organizations and representatives of national human rights, campesino, indigenous and women's movements.
- **Reconciliation and 'lost' children.** National Commission for the Search for Disappeared Children documented over 1,000 cases and reunited more than 75 families since 2001, as well as proposing a legal framework to Congress, which has, as yet, not notably advanced.
- **Exhumations and inhumations** (January 2001–December 2003). 180 exhumations were carried out, 1390 skeletons found and 190 reports presented to the Public Prosecutors Office.
- **Treatment in mental health.** A range of mental health teams treated over 11,000 individuals in 156 communities, including both victims and perpetrators.

Annex D. Supporting Information

- **Returnee Widows.** According to Orlando Sipam (OMI), an emblematic case is how the Special Development Fund housing project affected political organization amongst returnee widows (direct beneficiaries) linked with the National Coordinator of Guatemalan Widows (CONAVIGUA) organization in Comalapa, Chimaltenango. Starting from scratch, returnee widows formed local committees during the implementation phase of USAID's project and gradually begun to present broader demands to their local authorities, despite the prevailing fear to organize politically in the aftermath of the armed conflict. However, as local state authorities began to address the widows' demands, so social capital was slowly rebuilt between victims of the conflict and the state. Despite the remobilization of ex-civil patrollers demanding compensation for their 'services' during the internal armed conflict (a phenomenon which direct beneficiaries and implementers alike recognized as having a profoundly negative effect on USAID's assistance programs) the widows began to engage in political activity in the run-up to the 2003 elections. In particular, they formed groups that sought to educate communities about the armed conflict and the role that members of present-day political parties had then played. After the role that the FRG played in the events of July 23-24 ('*jueves negro*'), with the inscription of Ríos Montt as Presidential Candidate and despite the widespread fear of violence propagated by the FRG, the widows campaigned in their municipalities (in some cases successfully) for a 'no' vote against the FRG.
- **PDH Capacity.** Educators from the PDH office of Santa Cruz del Quiché were beneficiaries of the same training undergone nationally by all PDH Educators in human rights knowledge and participatory methodology in popular education. Doris Alguilar reflected that her experience had been above all positive, giving her new instruments which she had subsequently incorporated in workshops. Teaching students and parents to recognize and diagnose problems had been a key success according to her, as well as ensuring that beneficiaries of the workshops knew of the existing legal and political instruments that could be utilized in seeking to resolve social problems. She was able to evaluate these changes because, as a result of the mentioned trainings, she had decided to work with the same communities and social sectors each month for a period of 6 months and, notably, had begun to see a change in attitude and increasing demand amongst those attending. It was also noteworthy, both according to herself and to Guadalupe Us Laynez (PDH Facilitator, El Quiché), that those attending PDH workshops had begun to demonstrate a strong commitment, over time, to improve their personal situation and that of their communities. The development of a Strategic Plan for Human Rights Education, supported through the HRRP, had meant that the PDH and CSOs in Santa Cruz had begun to coordinate work, despite minimal attendance at the initial workshop in Antigua. However, it must be noted that, according to Alguilar, limited funds and follow-up had meant that the institutional sustainability of USAID impact had been restricted: improved knowledge and skills had remained principally in the hands of the Educators.
- **Access to justice.** Centers for Reception of Complaints (CRDs) were established in three target departments in the western highlands, leading to complaints being filed with local promoters. Impact has been significant, and a number of emblematic cases merit detailing. In the *aldea* of Las Trampas (El Quiché), CRD promoters (including interviewee Manuel Méndez) were called in to prevent the lynching of 4 individuals. These individuals had been involved in the theft of musical instruments from the local Evangelical church, were subsequently captured by a crowd of residents and doused with petrol. Méndez traveled from the departmental capital accompanied by the PDH representative and members of the PNC. While the promoter entered the village to engage with the crowd, representatives of the state authorities waited outside the *aldea* at his request, so as not to further agitate an already angry mob. He proceeded to dialogue with the crowd concerning the legal, social and moral nature of the crime committed by the captives (robbery) and that of the crime about to be committed by the crowd (homicide), citing articles from the Constitution. Gradually the crowd was persuaded not to carry out the lynching, with the village elders and the community deciding to subject the captives to

customary Mayan law. To date, all involved have stated their satisfaction with the resolution and the individuals have not re-offended. A second incident involved promoters in their community seeking to hold an elected Mayor accountable for pre-election promises on which he had reneged. Promoters and the local CRD representative worked over a period of three months operationalizing the Guatemalan Constitution, calling on the Mayor's superiors to pressure compliance on the potable water project agreement he had previously signed. The Mayor finally complied with his duty and the relationship between the community and the authorities has since improved considerably.

Note: CDRs have acted independently and as mediators between civil society and the state, using the ethnic group's language and staff trusted by the said communities. They have also sought to teach techniques for identifying conflict and appropriate resolution methods. Without follow-up funding, the CRDs are not, as yet, sustainable. USAID might consider creating and supporting mechanisms through which such initiatives may be sustainable, for example through integrating with Justice Centers or coordination with the PDH. Furthermore, it is not clear that the terms 'conflict' and 'resolution' are understood uniformly. There are, moreover, no official bodies to regulate and oversee the wide spectrum of institutions/organizations involved in alternative conflict resolution, perhaps another reason for considering integrating such initiatives into formalized frameworks.

- **Exhumations/Mental Health.** While the number of exhumations and inhumations carried out with USAID support is impressive, certain concerns were raised by mental health teams interviewed in both Santa Cruz del Quiché and Guatemala City, which were echoed by members of the FAFG and political analysts within Guatemala and in international human rights organizations (including the Central America Team at Amnesty International). These concerns were that: a) funding was disproportionate between the exhumation teams and the CSOs involved in mental health work; and b) the exhumations were sometimes carried out with insufficient emphasis on the accompanying community processes and what would happen when the processes were finished. Clearly, exhumation projects bring measurable, attainable and visible objectives and products, while mental health project results are less obvious, particularly to donors. It is the consideration of the team that whilst exhumations are a crucial element of reconciliation processes and important in strengthening the justice system, the accompanying processes are of equal importance and should always play a central role in the exhumation decision-making process. Moreover, marginalized populations can be left even more vulnerable to local political and repressive forces after an exhumation, if an integral approach is not taken.

Annex E. External Factors Affecting Impact

Present Context under GANA

Violent crime has not declined since January 2004, despite heavy-handed security measures and alarmist rhetoric by the government, the press and a range of CSOs. Homicides remain at an acutely concerning level, in particular those of young women. Between June and August 2004 there was an escalating wave of intimidation towards civil society organizations working on violence against women, land issues and international legal cases in which the Guatemalan state has accepted responsibility for human rights violations (e.g., the Plan de Sanchez case). The increase in combined military and police operations (*Fuerzas Combinadas*) which directly contravenes the Peace Accords, the current lack of an integral security policy and the lack of will by the state, political parties and civil society to engage with the root causes of violent crime, does not bode well for long-term and effective citizen security measures. Furthermore, while GANA has made several key appointments to government of well-known human rights activists (including Frank LaRue and Rigoberta Menchú), the possible scope of their contribution is not yet clear. For example, it is widely known that Frank LaRue, present President of COPREDEH, has been criticized within the government for his policy of accepting responsibility for past state-sponsored human rights violations. He has been subject to Congressional questioning and the breadth of his support within the government is unclear. Furthermore, despite overtures to the contrary, there appears to be reluctance within the government to take serious steps to institutionalize the UN High Commissioner for Human Rights Office.

Historical Context

- **Refusal of the FRG government to engage seriously with human rights issues.** Progress in the peace process suffered serious setbacks during the FRG government, in particular with regard to commitments to human rights promotion and protection. Furthermore, behavior of and declarations by the Executive and by FRG officials both nationally and at the community level (e.g., in El Quiché department in 2002) served to de-legitimize and, on several occasions, endanger the work of human rights defenders, justice operators and journalist. State institutions and the military were no exception to this pattern, and the reticence of the military to engage with in serious process of professionalization and reform further jeopardized national reconciliation.
- **Political violence.** Those who defended human rights or who opposed the FRG's political strategy and policies, that is, the human rights movement, justice operators and journalists, suffered an increasing wave of harassment and attacks, in both the capital city and rural Guatemala.
- **Remobilization of the civil patrols (PAC).** By far the most serious constraint upon the work of HRRP and DIGAP, according to a wide range of analysts and political activists in Guatemalan society, resulted from the FRG's support of payment to the PAC for their services during the armed conflict. The remobilization of the PAC reopened wounds and brought back fear and historical divisions in communities affected by the armed conflict, including in those communities where human rights work supported by USAID had begun to sow the seeds for community reconciliation between victims and perpetrators.
- **2003 elections.** The impact of Efraín Ríos Montt's candidacy for President during the elections of 2003 at national and local level was a key factor in aggravating levels of intimidation and violence and threatening human rights work prior to the first round of elections in November. Interrelatedly, tactics by political parties, particularly by the FRG, played on fear, community conflicts and division, as means of securing political support. However, the courageous work by human rights defenders, national electoral observers and the Church in many areas of Guatemala limited the impact of unethical political practices. Furthermore, individuals who had directly benefited from HRRP programs allegedly organized in certain communities to counter corruption, intimidation and negative campaigning.

- **Political parties and lack of representation.** The weak relationship between civil society and political society in Guatemala has meant that human rights organizations have not been able to demonstrably influence political parties with regard to political policies and a national agenda founded upon human rights protection. Partly as a result, candidates in 2003 made few commitments to human rights issues. Political society still remains largely impervious to the impact of human rights organizations, whose primary sphere of influence remains in the generation of political culture within civil society. However, work by civil society organizations and the PDH to strengthen organizations' capacity to wield influence in policy formulation is beginning to be developed.

Annex F. Donor Coordination

Many international agencies support activities in these areas, and they often assist the same civil society organizations. For example, UNDP and USAID programs are being targeted towards CALDH, FAFG, organizations working in mental health and the Mack Foundation. Similarly, GTZ channels support mental health organizations and is, at present, supporting work to disseminate recommendations of the HCC. Donor coordination is therefore very important. As things stand, however, little assistance seems to be directed toward the following important areas: 1) training local authorities in human rights issues; 2) providing technical assistance to the Congressional Human Rights Commission and COPREDEH; and 3) carrying out broad programs aimed at addressing the issue of reconciliation within a wide-ranging target population. Moreover, the PNR is apparently not receiving assistance from international donors, and will not be doing so in the near future. Since this assessment has not carried out donor analysis, USAID will definitely need to collect more information along these lines. Recent information indicates the Swedish Government may support a long-term justice program that will direct some assistance toward alternative dispute resolution.