



International Peacebuilding Alliance  
Alliance internationale pour la consolidation de la paix  
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**Strategic Evaluation (2003-2008) and Prospective Analysis (2009-2013)  
of the Forum of Social Organisations Specialized in the Field of Security (FOSS)  
and of the support received from the International Peacebuilding Alliance (Interpeace)**

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## Acronyms and Abbreviations

AAM	Mayan Lawyers Association Asociación de Abogados Mayas
AFPC	Accord for the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society Acuerdo de Fortalecimiento del Poder Civil y función del Ejército en una Sociedad Democrática
ANASEJU-GUA	National Accord for the Advance of Security and Justice Acuerdo Nacional para el Avance de la Seguridad y la Justicia en Guatemala
ASIES	Research and Social Studies Association Asociación de Investigación y Estudios Sociales
AVANCSO	Association for Social Sciences Advancement in Guatemala Asociación para el Avance de las Ciencias Sociales en Guatemala
BMZ	German Federal Republic External Cooperation Ministry Ministerio de Cooperación Externa de la República Federal Alemana
CALDH	Center for Legal Action in Human Rights Centro para Acción Legal en Derechos Humanos
CACIF	Coordinating Committee of Agricultural, Trading, Industrial and Financial Associations Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras
CAS	Security Advisory Council Consejo Asesor de Seguridad
CCJ	Central American Justice Court Corte Centroamericana de Justicia
CdR	Congress of the Republic Congreso de la República
CEESC	Center for Strategic and Security Studies for Central America Centro de Estudios Estratégicos y de Seguridad para Centro América
CEG	Studies Center of Guatemala Centro de Estudios de Guatemala
CI	International Community Comunidad Internacional
CICIG	International Commission Against Impunity in Guatemala Comisión Internacional Contra la Impunidad en Guatemala
CIEN	National Economic Research Center Centro de Investigaciones Económicas Nacionales
CNAP	National Council of Peace Accords Consejo Nacional de los Acuerdos de Paz
CNS	National Security Council Consejo Nacional de Seguridad
CNSAFJ	National Commission for Monitoring and Supporting the Strengthening of Justice Comisión Nacional para el Seguimiento y Apoyo al Fortalecimiento de la Justicia
COCODES	Community Councils for Development Consejos Comunitarios de Desarrollo
CODEDES	Departmental Councils for Development Consejos Departamentales de Desarrollo
COMUDES	Municipal Councils for Development Consejos Municipales de Desarrollo
CONFECOOP	Confederation of Guatemalan Cooperatives Confederación de Cooperativas de Guatemala
CONJUVE	National Youth Council Consejo Nacional de la Juventud
CONRED	National Coordination for Disaster Reduction Coordinadora Nacional para la Reducción de Desastres
CP-CAS	CAS Preparatory Commission Comisión Preparatoria del CAS
CSJ	Supreme Court of Justice Corte Suprema de Justicia

DIGICI	Directorate for Civil Intelligence Dirección de Inteligencia Civil
ECP-USAC	School of Political Science of the San Carlos University of Guatemala Escuela de Ciencia Política de la USAC
EMBUSA	United States of America Embassy Embajada de los Estados Unidos de América
FADS	Parents and Friends Against Delinquency and Kidnapping Familiares y Amigos contra la Delincuencia y el Secuestro
FCO	Foreign and Commonwealth Affairs Office Oficina del Reino Unido de Gran Bretaña e Irlanda del Norte para Asuntos Extranjeros y la Commonwealth
FLACSO	Latin American Faculty of Social Sciences Facultad Latinoamericana de Ciencias Sociales
FMM	Myrna Mack Foundation Fundación Myrna Mack
FONGI	International NGOs Fund Fondo de ONGs Internacionales
FOSS	Forum of Social Organisations Specialised in the Field of Security Foro de Organizaciones Sociales Especializadas en Temas de Seguridad
FPP	Permanent Forum of Political Parties Foro Permanente de Partidos
FUNDAECO	Foundation for Ecological Development and Conservation Fundación para el Ecodesarrollo y la Conservación
G-13	International Cooperation with Guatemala Donor Group Grupo de Donantes y Cooperantes Internacionales con Guatemala
GIIS	Geneva Graduate Institute of International Studies Instituto Ginebrés de Postgrado en Estudios Internacionales
ICCPG	Institute of Comparative Studies in Penal Sciences of Guatemala Instituto de Estudios Comparados en Ciencias Penales de Guatemala
ICMSJ	Coordinator for the Modernisation of the Justice Sector Instancia Coordinadora para la Modernización del Sector Justicia
IDEM	Democratic Incidence Incidencia Democrática
IDPP	Public Criminal Defense Institute Instituto de la Defensa Pública Penal
IEPADES	Teaching Institute for Sustainable Development Instituto de Enseñanza para el Desarrollo Sostenible
IGEDEP	Guatemalan Institute for Development and Peace Instituto Guatemalteco para el Desarrollo y la Paz
IMASP	Institution for Public Security Monitoring and Support Instancia para el Monitoreo y Apoyo a la Seguridad Pública
INACIF	National Autonomous Institute of Forensic Sciences Instituto Nacional Autónomo de Ciencias Forenses
INCEP	Central American Institute of Political Studies Instituto Centroamericano de Estudios Políticos
INES	National Institute of Strategic Security Studies Instituto Nacional de Estudios Estratégicos en Seguridad
Interpeace	International Peacebuilding Alliance Alianza Internacional para la Consolidación de la Paz
IPES	Political, Economic and Social Studies Institute Instituto de Estudios Políticos, Económicos y Sociales
IRIPAZ	Institute of International Relations and Investigation for Peace Instituto de Relaciones Internacionales y de Investigación para la Paz
LEGIS	Association for Legislative Development and Democracy Asociación para el Desarrollo Legislativo y la Democracia
MCS	Mass Media Medios de Comunicación Social

MDN	National Ministry of Defense Ministerio de la Defensa Nacional
MINGOB	Ministry of Governance, Ministry of Interior Affairs Ministerio de Gobernación
MINFIN	Public Finance Ministry Ministerio de Finanzas Públicas
MINREX	Foreign Affairs Ministry Ministerio de Relaciones Exteriores
MOLOJ	Political Association of Mayan Women “Movement” (Moloj) Asociación Política de Mujeres Mayas “Movimiento”(Moloj)
MP	General Prosecutor Ministerio Público
MPJ	Pro Justice Movement Movimiento Pro-Justicia
OACNUDH	Office of the High Commissioner on Human Rights (UNHCHR) Oficina de la Alta Comisionada de Naciones Unidas para los Derechos Humanos
OAV	Service to Victims Office (in the National Civil Police) Oficina de Atención a la Víctima (de la PNC)
OE	Executive Power, the Executive, the Government Organismo Ejecutivo
OEA	Organisation of American States (OAS) Organización de Estados Americanos
OJ	The Judiciary Organismo Judicial
OL	Legislative Power, Congress of the Republic Organismo Legislativo (Congreso de la República)
OMA	Anguished Mothers Organisation Organización Madres Angustiadas
ONGs	Non Governmental Organisations (NGOs) Organizaciones No Gubernamentales
OSCs	Civill Society Organisations Organizaciones de la Sociedad Civil
OSS	Social Organisations Specialized in the Field of Security Organizaciones Sociales Especializadas en Tems de Seguridad
PAFIC-OEA	Program of Support for the Institutional Capacities of the Guatemalan Congress Programa de Apoyo al Fortalecimiento de la Institucionalidad del Congreso de la República de Guatemala
PAR	Participatory-Action Research Investigación-Acción Participativa (IAP)
PARLACEN	Central American Parliament Parlamento Centroamericano
PDH	Ombudsman of Guatemala, “Human Rights National Attorney” Procurador de Derechos Humanos
PESD	Programme of Democratic Security Studies Programa de Estudios en Seguridad Democrática
PNC	National Civil Police Policía Nacional Civil
PNUD	United Nations Development Programme (UNDP) Programa de las Naciones Unidas para el Desarrollo
POLSEC	Project “Towards a Citizen Security Policy” Proyecto “Hacia una Política de Seguridad Ciudadana”
POLSEDE	Project “Towards a Democratic Security Policy” Proyecto “Hacia una Política de Seguridad para la Democracia”
PROPAZ	Pro Peace Foundation Fundación ProPaz
PSIS	Programme for Strategic and International Security Programa para Estudios Estratégicos y de Seguridad Internacional (del GIIS)

PVDGP	Democratic Values and Political Management Programme (OAS-Guatemala) Programa de Valores Democráticos y Gerencia Política (OEA-Guatemala)
REDAC	Departmental Network for Conflict Resolution Red Departamental de Atención de Conflictos de Huehuetenango
REDGUA	Guatemalan Network for Democratic Security Red Guatemalteca para la Seguridad Democrática
SAAS	Secretary of Administrative and Security Issues Secretaría de Asuntos Administrativos y de Seguridad
SAIA	Anti Narcotics Analysis and Information Service Servicio de Análisis e Información Antinarcoóticos
SAE	Secretary of Strategic Analysis Secretaría de Análisis Estratégico
SEPAZ	Secretary of Peace Secretaría de la Paz
SEDEM	Association for the Study and Promotion of Democratic Security Asociación para el Estudio y Promoción de la Seguridad en Democracia
SEICMSJ	Executive Secretary of the Coordinating Entity for the Modernisation of the Justice Sector Secretaría Ejecutiva de la ICMSJ
SEGEPLAN	Presidential Secretary of Planning and Programming Secretaría de Planificación y Programación de la Presidencia de la República
SGP	General Secretary of the President Secretaría General de la Presidencia de la República
SICA	Central American Integration System Sistema de la Integración Centroamericana
SIE	Secretary of State for Strategic Intelligence Secretaría de Inteligencia Estratégica de Estado
SNS	National Security System Sistema Nacional de Seguridad
ST-CNS	Technical Secretary of National Security Council Secretaría Técnica del Consejo Nacional de Seguridad
SWOT	Strategic Analysis of Strengths, Weaknesses, Opportunities and Threats Análisis Estratégico de Fortalezas, Oportunidades, Amenazas y Debilidades
UDEFEQUA	Protection Unit of Human Rights Defenders of Guatemala (in San Carlos University) Unidad de Protección de Defensores y Defensoras de Derechos Humanos de Guatemala (en la USAC)
UE	European Union (EU) Unión Europea
UNESCO	United Nations Educational, Scientific and Cultural Organisation Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura
UNRISD	United Nations Research Institute for Social Development Instituto de Investigación de las Naciones Unidas para el Desarrollo Social
UNOPS	United Nations Office for Project Services Oficina de Servicios para Proyectos de las Naciones Unidas
URL	Rafael Landívar University of Guatemala Universidad Rafael Landívar de Guatemala
USA	United States of America Estados Unidos de América
USAC	San Carlos University of Guatemala Universidad de San Carlos de Guatemala
USAID	United States Agency for International Development Agencia de los Estados Unidos de América para el Desarrollo Internacional
WOLA	Washington Office on Latin America Oficina de Washington sobre América Latina
WSP	War-Torn Societies Project Proyecto Sociedades Desgarradas por la Guerra

## Introduction

The structural factors that contributed to the 1960-1996 insurgency-counterinsurgency war in Guatemala still remain, twelve years after the signing of the Peace Accords: Economic and political exclusion, lack of social cohesion and a culture of violence. Although these factors are not the only causes for the current situation of violence and crime, they certainly provide a fertile ground. Therefore, for the nation of Guatemala, nothing is more urgent and important today than breaking up the old-and-new structures of the system of violence, impunity and criminality that prevent the people of Guatemala from enjoying a peaceful and secure life, free of fear and want.

In recent years the homicide rates in Guatemala have been even higher than during the civil war. In Guatemala, as elsewhere in the world, the problems of public and private violence and insecurity have a quadruple root: Historical - violence as cultural tradition and personal habit; Economical - the weapons business and the industry of crime; Political – violence and insecurity as technologies of social control; and Psychological - violence and insecurity as public health pathologies.

Nevertheless, the situation is not one of total despair. The National System of Security (SNS), as it was established in the SNS Framework Law (Decree 18-2008), is a big political, legal and institutional step forward, whose implementation is peremptory. And there are persons and social organisations in Guatemala which have the technical capacity and the political experience required to successfully face these challenges of violence, crime and impunity. Among them are the members of the “Forum of Social Organisations Specialized in the Field of Security” (FOSS) which, with the support of Interpeace, aim to strengthen the public institutions of security, within the paradigm of “democratic security”.

The FOSS Project started in September 2003, with thirteen organisations: ASIES, CEG, FLACSO, FADS, FMM, ICCPG, IEPADES, IGEDEP, IDEM, OMA, POLSEC, SEDEM and URL. Nowadays, as Forum, FOSS is made up of eight organisations: ASIES, SEDEM, CEG, FMM, ICCPG, IDEM, IEPADES and ECP-USAC.

The present strategic evaluation aspires to give some inputs to FOSS, Interpeace and the international cooperation community to complete the FOSS transition from being an Interpeace project towards its full structural, programmatic and functional autonomy. It contains an analysis of the national situation, an analysis of the evolution of FOSS from 2003 till now, an assessment of its impact on the institutions and institutionality of the State, and a set of strategic and tactical recommendations to increase the sustainability, effectiveness and efficiency of the Forum in its new phase.

This strategic evaluation confirms significant technical and political achievements by FOSS and therefore also demonstrates that it is possible in Guatemala to confront violence and crime without neglecting human rights and the rule of law. Such statement may seem naïve and even false, if we judge the individual achievements of the members, and the collective achievements of FOSS as Forum, against the backdrop of the indicators for violence, crime and insecurity in Guatemala today. However, this report shows that the statement is defensible. As one of the persons interviewed put it: *“The situation is very bad. But without our organisations and without FOSS, the situation not only would have been worse but would not have any solution at all.”*

The authors want to express their gratitude to all persons interviewed and to all persons that work in the member organisations and collective structures of FOSS and to the Interpeace Office in Guatemala, for their sincere answers, for the opportunity to walk with them for a while, and for sharing with us some of their daily endeavours for democratic security and meaningful peace in Guatemala.

## Chapter 1. Situational Analysis

Twelve years after the signing of the Peace Accords (1996), the “letter” of the agreements (the so called “Peace Agenda”) has been overtaken by the current dynamics and problems of Guatemala, Central America and the world-system. Even though the Peace Accords certainly created political and macroeconomical stability and democratic participation, through the so-called “Institutionality of Peace”, the really important thing nowadays and in the near future is not to guarantee the fulfillment of the “letter” but to find again the “spirit” contained in the “whereas” of the Peace Accords. In fact, it should be recognized that: <sup>1</sup>

“(…) The changes that we have not been able to make in those twenty years, will not be fulfilled tomorrow only because they are in the “pending Peace Agenda”. Starting from the new global, regional and national realities it is possible to renew the Peace and Development Agenda, not from the review of the pending agreements. One cycle has finished.”

“(…) The State is not able to provide justice for all; to combat impunity or to guarantee a minimum of security for people and private property; to improve the quality and to enhance the range of health and education services; to get an increasing proportion of the population out of poverty; to provide the minimum of material and institutional infrastructure required by an economy open to international competition; to contain and manage the overwhelming and anarchic urban growth; to sustain public morality; and to avoid the bankruptcy of its financial and social security systems. Transportation systems, hospitals, schools, customs or prisons are not working. Drug trafficking and delinquency corrupt public life and youth. The natural and cultural environments are deteriorating. It is the paradox of a State that in multiple dimensions is not capable. Some people even speak of ‘Failed State’. One of these dimensions is related with violence. The former counter-insurgent State that exercised brutal force today seems to convert itself in a fragmented State, infiltrated by criminal forces or, in the best case, not able to face the ‘hidden powers’. During the civil war the guerrilla competed with the State for the control of limited territories, sometimes and briefly, with success. The civil population that lived in those territories paid the consequences with high numbers of innocent victims, most of them from aggression by the counter-insurgent State. Instead, the democratic State of today is not able to control all its territory (neither in the interior of the country or in various neighbourhoods of main towns) and the unprotected resident population goes as far as supporting the gangs that exercise a territorial control in their communities and neighborhoods because they offer services that the State is not able to provide.

“(…) The future agenda will be nothing more than a complication of the current agenda. This new State, modern but weak, that doesn’t yet guarantee the citizen security, will be under the growing impact of phenomena that will put human, citizen and environmental security more at risk. (...) It should improve its capacity to collect taxes, not only ordinary non-progressive taxes but including more taxes for environmental services and for the use and wear of public resources and infrastructure. It should improve the collaboration between Government and Society, for example in the field of citizen security, in a country in which police officers are underpaid and their number is three times less than that of private security forces.”

The next paragraphs will offer a more detailed analysis of the insecurity situation and the current increasing violence in Guatemala.

### 1.1. Main Trend: Increasing Violence

The overall trend in what was already a very violent country is towards increased levels of violence, more so today than during the civil war. According to the National Civil Police (*Policía Nacional Civil*, PNC) and the Ombudsman of Guatemala (*Procurador de Derechos Humanos*, PDH), the annual homicide rate increased with 138 % between 1999 (2,655 cases) and December 2008 (6,338 cases), until reaching an cumulative total of 32,000 victims in nine years and a mean annual homicide rate of nearly 50 per

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<sup>1</sup> See CAVALRUSO, FELICIANI y STEIN (2007: 52. 60. 62-63)



100,000.<sup>2</sup> According to UNDP (2007: 9), “... this growth signifies an annual increase since 1999 of more than 12 %, exceeding the annual population growth which is less than 2.6% These figures make Guatemala (officially at peace) one of the most violent countries in the world, in which the human rights of citizens are not yet fully respected”. At the end of 2008, the PNC reported 33,543 crimes, with the following typology:

- 1) Homicides and femicides: 6,338 cases, including the assassination of 135 bus drivers, 722 women and almost 600 children.
- 2) Offences in houses, vehicles and streets: 10,606 cases.
- 3) Kidnapping, extortion and human trafficking, specially of women.
- 4) Violence against children, including robbery, kidnapping (82 cases in 2008, vs. 20 cases in 2004) and assassination (591 cases, 472 of them with guns).
- 5) Long and short guns and ammunitions trafficking.
- 6) Car robbery: 5,766 cases in 2006; 5,543 cases in 2007; and 5,907 cases in 2008.<sup>3</sup>
- 7) Violence amongst youth gangs (“*pandillas*” or “*maras*”).<sup>4</sup>
- 8) Domestic violence (2,053 cases in 2008) and sexual assaults.<sup>5</sup>
- 9) Drug trafficking, illegal trade of chemicals used in producing drugs, money laundering, etc.
- 10) Post-war violence: “social cleansing”, attacks against human rights defenders (180 cases and one assassination in 2008), torture, heinous crimes, etc.

The main current source of larger scale violence at the moment appears to be confrontations between narco-gangs. This is reportedly a result of the “War on Drugs” in Mexico that has driven part of the Mexican operations and gangs in Mexico southwards towards Guatemala. This brings them into confrontation with Guatemala-based operators, while also continuing their internal rivalry. Guatemala has now also become more of a “drug depot” and not just a transit country. The drug gangs are able to outgun not only the Police but also the Army. Guatemala has already reached a situation of an emerging “Parallel State”: organized crime groups have taken over control of entire zones of Guatemalan territory.<sup>6</sup> Local populations are not cooperating in State-led investigations due to fear, but also because they get material benefit from the drug economy.

Current situation is so critical that many persons forecast a possible “colombianization” of Guatemala, that is, a situation in which the State has lost control of its own territory, dominated now by drug gangs, paramilitary underground groups and resistance movements, with possible connection between them, in which many persons participate looking for economic alternatives.

Yet drug-related conflicts are not the only source of violence. Violence against women also continues with a gradually increasing rate of femicides. And for some years now the homicide rates of young men have been very high, affecting mostly those belonging to rivaling “*maras*”. However, while a few such “*maras*” are directly connected to organized crime, most are not. In the end, the problem of “*maras*” is a

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<sup>2</sup> It is important to mention that official statistics does not exactly represent reality (crime underestimation), because: (1) Many victims don't file complaints, fearing revenge by criminals or revictimization by security officers; (2) Security institutions have no offices in all the country or don't man them all the time; (3) Security institutions have no modern systems to collect, store, process and publish data; and (4) Security institutions don't have a culture of providing accounts or true and reliable information to citizens.

<sup>3</sup> The PNC has identified more than 25 car robbery gangs.

<sup>4</sup> According to the National Council of Youth (CONJUVE), between 170 and 250 thousands of the 4 million Guatemalan youth are members of youth gangs (“*maras*”).

<sup>5</sup> According to the MP and the Judiciary, from 2000 to 2007 , 6,025 complaints of rape were filed and there were 3,281 femicides, of which only 2% have been solved.

<sup>6</sup> Off the record the appearance of Mexican and Colombian gangs (“Los Zetas”, Gulf, Sinaloa and Medellin Cartels) is recognised, notably in the departments of Petén, Quiché, Huehuetenango, Alta Verapaz, Zacapa, Chiquimula, Jutiapa, Izabal and San Marcos.

consequence of the social, economical, political and cultural exclusion of young men and women, as the investigations conducted by USAID (2006) and KLIKSBERG (2007) have irrefutably proved:<sup>7</sup>

“ (...) Epidemic criminality of young people is a powerful indicator of the serious problem of social cohesion that the Central American societies have. This problem arises, as we had seen, from their incapacity to guarantee public welfare, filling social gaps and promoting equity. On the other hand, treating this big problem only with “tough on crime” measures only increases it. These measures push already excluded sectors into deeper marginalization and often beyond the ‘point of no-return’. Conventional logic, merely punitive, deepens the deficit of social cohesion in the region. At the same time, it does not give a real solution to the problem (...) Youth delinquency decreases by investing more in education, creating job opportunities for young people and strengthening the family. Besides, a renewed approach needs to be added to the modus operandi of the police: community policing or neighborhood policing that produces strategic collaboration among different sectors of the community in order to prevent and to sanction crime. All this must be complemented with a legal system oriented to reeducation and social rehabilitation, with strategies designed accordingly.”

Equally important in shaping the public perception of insecurity are the killings of bus drivers. While this is typically attributed to extortion rackets or youth gang members (“*mareros*”), one line of analysis interprets the patterns of killings as being organized to create an impression that the government has no control and the country is in a state of anarchy.

## 1.2. Culture of Violence and Impunity

The level of impunity in Guatemala is extremely high. Only 4% of crimes are prosecuted. Only 10% of homicides are investigated and of them, only 2 % result in a sentence.<sup>8</sup> Daily, the mass media reflect and feed back the perception of insecurity, vulnerability and fear that people have. For example, an editorial note of *elPeriódico*, one year ago, read:<sup>9</sup>

“Every day we hear about violent deaths and wounded people as the effect of many bloody incidents that happen all around the country, whose occurrence seems out of control, and that have the population constantly worried. The viciousness of the killing in Guatemala has surpassed the limits of our imagination. Death bodies appeared perforated with bullets, quartered, beheaded or brutally wounded. Also abound brutal settlements of accounts with coup de grâce, assassinations of entire families, attributed to presumed gang vendettas or terror actions, with in addition innocent victims of shootings and crossfire. On the other hand, the forces of law and order are not only impotent in the face of waves of delinquency, but many times they are implicated in criminal acts, as agents or through complicity or concealment. It is an extreme situation, people are afraid of the Police because don’t have confidence. We don’t want to think that the logic of the guns has become the way of conflict resolution in Guatemala because this, inexorably, will take us to a generalized violence that overrides the rule of law, and will condemn us to the law of the jungle or to everybody for himself.”

Ten months later, on 21 January 2009, another editorial of the same newspaper asserted that:<sup>10</sup>

“We Guatemalans are practically living in war because the violence is general. Every day the citizens are under attack of criminals that without doubt control the streets. The most deplorable thing is that a lot of these criminals act with absolute impunity because they are members of gangs related with powerful groups. Like in the worst times of repression, death bodies constantly appear and people are murdered on the streets. The statistics of homicides, rapes, lynchings, people wounded, kidnappings, extorsions and so on, have shockingly increased, and also the robberies of shops, offices and houses. The authorities,

<sup>7</sup> See respectively USAID (2006: 72-74) and KLIKSBERG (2007: 62-63)

<sup>8</sup> See OACNUDH (2009: 3)

<sup>9</sup> See: “Victims of Violence”(“*Víctimas de la violencia*”) Editorial (03/03/08) of *elPeriódico*. Accesible at: <http://www.elperiodico.com.gt/es/20080303/opinion/49579/>

<sup>10</sup> See: “Círculo Vicioso de la Impunidad” (“*Vicious Circle of Impunity*”). Editorial (01/21/09) of *elPeriódico*. Accesible at: <http://www.elperiodico.com.gt/es/20090121/opinion/87407>

surpassed by organized crime and vulgar delinquency, constantly announce that they will take measures or, even worse, try to play down the acute crisis of security that we suffer. However, the population knows that things are not getting better but, on the contrary, getting worse. Later, with deep frustration, we perceive that the authorities cannot solve the problem of insecurity and violence in a democratic context, within the framework of the law. We also perceive that the Judiciary remains dysfunctional. Lack of punishment is a constant and thousands of complaints that day after day reach the Office of the Attorney General (*Ministerio Público*), the PNC (*Policía Nacional Civil*) and the Courts go nowhere. According to recent statistics, only a small part of complaints are investigated and only a small part of these lead to a judicial process. And after that the number of cases sentenced is irrelevant with respect to the prevailing impunity in Guatemala. Doubtless, the environment of insecurity and fear in which we live is affecting negatively the economical and social life of the country. Moral decay and unease takes hold of people. Without security and justice, Guatemala will not have peace and prosperity. Therefore, we insist, all the efforts must be concentrated on obtaining those two main goals. All the rest is subordinate to this mission of uppermost importance.”

In their next day edition (22/01/09), the same newspaper began a campaign of civic awareness and affirmation against violence, impunity and crime. Here follows this vibrant manifesto:<sup>11</sup>

“In Guatemala we must be mourning. Our flag, once upon a time a patriotic meaningful symbol, must be rescued and lowered to half mast in order to reflect, with dignity, the true feelings of this people that has reached its limit of tolerance, faced with crime and with the incapacity and mediocrity of those who manage the nation’s affairs. We believe that there is not one Guatemalan citizen that doesn’t feel anger and frustration due to the thousands of unpunished murders committed in 2008 and in these first weeks of 2009. In the name of the victims, *el Periódico* begins today another civic campaign, beginning with the proclamation of the very foundations that give sense to our existence, as persons: life, freedom and our right to happiness. We want to increase awareness of the conditions of fear that powerful gangs – organised and fostered (through action or omission) by the mid-level and high-level authorities of the State – have imposed on us, not allowing us to live, freely and responsibly, and to be free. Your wife or husband, your child and all the people in the country want to live and to be free to have a chance of happiness. These are the supreme values with which we have been created. In 1821, the founding fathers of our Nation got some level of freedom with the Independence that each September 15 we celebrate. It is up to us, now, citizens aware of our rights and duties, grounded in the Constitution of our Republic, not to remain seated and enslaved by fear but to yell a new cry of liberation: Lets free ourselves from violence! It is time for action. For acting, indeed, with the intelligence that apparently our rulers don’t have, and with resolute determination, clear ideas and unbreakable perseverance. We cannot allow that our tears and the blood of so many martyrs remain sterile. Let’s rescue our freedom to live and to pursue our happiness. Strength and courage, Guatemala!”

Obviously, the ineffectiveness of the judicial system, the lack of investigative capacities in the Office of the Attorney General (*Ministerio Público*) and the pressures of parallel powers and organized crime on the agents for justice are the main factors promoting impunity and equally criminal actions of self-defense (linchings, illegal executions, “social cleansing”, etc.) Reciprocally, impunity reinforces these factors, making an almost unbreakable vicious circle. Regarding the current situation of impunity in Guatemala, the Myrna Mack Foundation (FMM), a member organisation of FOSS, on occasion of the visit (02/18-22/2008) of Mrs. Hina Jilani, Special Representative of the UN Secretary General on the situation of Human Rights Defenders, issued a report stating that law enforcement is virtually non-existent and the resulting impunity represents a massive violation of human rights:<sup>12</sup>

1. Guatemala is going through a deep crisis of increasing violence and crime that has caused in the last five years more than 25.7 thousand fatalities, i.e. a mean mortality rate of 41.8 per 100,000. Those figures place the country as one of the most violent in Latin America.

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<sup>11</sup> See: “Let’s Free Ourselves from Violence!” (“¡Liberémonos de la violencia!”) Editorial (01/22/09) of *el Periódico*. Accesible at: <http://www.elperiodico.com.gt/es/20090122/opinion/87583>

<sup>12</sup> See FMM (2008)

2. With this situation and with diminished institutions, due to the incapacity and corruption of many officers, the system of justice in Guatemala has become a source of impunity. It is failing to fulfill its fundamental functions, denies access to justice and multiplies repressive and unjust models.
3. The common factor of many assassinations is the impunity that perpetrators enjoy. Deficiencies in investigation, prosecution and penal sentence; corruption, inefficiency and technical incompetence; lack of control and supervision of officers; lack of political will for improving the institutional performance. All of this inevitably produce a near inexistent law enforcement.
4. This impunity represents a massive violation of human rights. Systematic impunity allows the commission of crimes against individuals, property and civil liberties. It eliminates for victims and their families any possibility of healing, and allows crimes to be repeated to the detriment of others.
5. Impunity destroys those institutions which function is to guarantee the human rights stablishment. It creates another kind of stablishments in which human person loses dignity and value, because different economical or political interests of the State, power structures or particular groups prevail. In this context, Political Constitution of the Republic, national laws and instruments of international law lose their relevance in daily life.
6. Impunity mechanisms that are operative today are the same that were used in the past for blocking the investigations of human rights violations. The current politization of justice administration strengthen them, and violence is used like and effective instrument for destroying, or trying to destroy, judicial processes. Then, the institutions not only don't make justice for past but don't make justice for the present crimes that affect the population, produced by recent criminal phaenomena like corruption, ordinary deliquency, organized crime, youth gangs and clandestine forces wich create violence with political effects.
7. Besides, it is also important to remark that impunity also operates in situations of lack of economical and social rights. For instance, social injustice, power abuse, poverty multiplier factors, labour precariousness, lack of access to basic services, are situations in which the justice administration doesn't want to enter.
8. It is also remarkable the violence and subsequent impunity suffered for those persons that take some social or political action against powerful groups. For instance, indigenous, farmer or trade union leaders, journalists, political oppositors, justice operators, human rights defenders, transitional justice organisations, social or anthropological investigators of the civil war, current violence and other phaenomena.
9. Although there are no more a systematic policy similar to the one existent along the civil war, there are undeniable responsibility of the State in the current situation of impunity and insecurity. The State has the duty of protect the personal rights to life, freedom and security, and must assure the effectiveness and efficiency of justice institutions to protect all citizens from actions that violate their basic rights.
10. However, the weakness and ineffectiveness of the institutions, particullarly in the field of security and justice, create spaces of arbitrariness wich are utilized by criminal structures that operate, inside and outside the State, linked to powerful groups. To this end, they utilize political pressure, corruption and impunity as means for reaching reach their ends, barring over the machinery of impunity for protecting themselves and those who pay them.
11. In consequence, there are enough examples and elements for imputing to the State national and international political responsibility, not only in the actions committed by its officers but also in the actions committed by criminal perpetrators. It is public and ostensible that the State shows itself ineffective for preventing violence and criminality. And does not show actual will for investigating, law enforcing, prosecuting and punishing crimes, following the principles of the due process of law.
12. One example of this is the poor performance of the General Prosecutor, whit scarce concrete results in justice for victims. A monitoring study conducted in seven offices, between 2005 and 2007 (...) demostrated that more than 90% expedients of crimes against life were trapped in the everlasting phase of investigation and were dismissed, closed or filed, after none, one or two diligences.
13. Each action of arbitrary dismissing, closing or filing expedients, or each indictment not processed, is a new offence to the victim and to all the citizens. Specially because, in the majority of expedients, these forms of conclusion don't have legal justification and because the high impact cases are treated with negligence, whitout consideration to the life of human beings and to the suffering of their relatives.
14. As a final result, it is stablished one impunity mechanism in addition to another bottlenecks that affect the justice administration, as for instance: abuse of State secret privileges; misuse of appeals for legal protection or unconstitutionality; corruption; and violence against justice operators, among others.

The previous diagnosis has been confirmed by FMM one year later, on occasion of the visit (01/26-30/2009) of Mr. Leandro Despouy, UN Special Rapporteur on the Independence of Judges and Lawyers:<sup>13</sup>

“Rapporteur Despouy finds Guatemala engulfed by impunity, which covers all kind of crimes especially attacks against life and the physical integrity of men and women, corruption and organized crime. Equally unpunished are the so called ‘petty crimes’ (*delitos bagatela*), that hit the people in the streets and public transportation day after day, given that the ineffectiveness of the system is almost absolute. (...) Impunity is not new. It is one of the factors that characterize the history of the country, for decades, due to the incapacity of the institutions, infiltrated by different groups of power and used to favour some and to oppress others. The attempts at changing all of this have remained unsuccessful.”

### 1.3. Weakness of the State in Management of Democratic Security

In Guatemala, the State is indeed a weak State. Not surprisingly, “insecurity” was a major topic in the electoral campaign of 2007, so one would expect successive governments to be open to initiatives to strengthen the State’s ability to regain control. That weakness is the result of a confluence of multiple factors, among them:

- 1) Low tax revenue and continued opposition of the private sector against increasing the tax base. As a result, policies and programmes run into implementation difficulties because budgets are not allocated to their implementation or are too low.
- 2) Disarticulation of the institutions, poor institutional design and lack of collaboration between them.
- 3) A political party system that is highly volatile and lacks substantive vision. Indeed, political parties are instruments not for the pursuit of substantive visions but are instruments to bring certain groups of people to power. It is not surprisingly then that politicians (and members of Congress) easily can and do switch party or go independent (“*tránsfugas*”) and that parties emerge and disappear with frightening rapidity. Political parties therefore are more the instruments for elite groups rivaling for power, than platforms with a strong social basis. Since 1986, there have been no less than 65 political parties in Guatemala, with the oldest now having 19 years, but the average life span no more than 3.5 years.<sup>14</sup> The regulation of political parties financing is also deficient, with clear indications that drug-related money has entered party and electoral financing, especially at local level.
- 4) Lack of qualified personnel in the right place. Such volatile political system encourages leaders to rely on “friends” which is not the strongest guarantee to have the best people in the right position. When a new government comes in, the occupants of many posts are changed, diminishing the depth of “institutionalisation” of the State apparatus as well as leading to lack of continuity in policies and programmes. There is no Law of Public Service that reverts this situation and promotes an institutional career and the formation, promotion and retention of technical specialized personnel.
- 5) Wastage of resources. Though financial and resources are limited, they are not necessarily used in the most efficient manner. The result is that in parts of the territory the presence of the State and its service delivery are minimal at best.
- 6) Increasing levels and new forms of corruption in public and private institutions.
- 7) Inability of the State to counter the violence and protect its citizens. Prevention of crime and violence is largely neglected. Given that a majority of femicides are linked to domestic conflicts, if women could solicit effective preventive action from the authorities, a number of these murders would not occur. There should be more indirect preventive measures through more investment in education, job creation and the fostering of social cohesion and family cohesion (in many cases,

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<sup>13</sup> See FMM (2009: 1)

<sup>14</sup> See ASIES (2008)

domestic violence creates dysfunctional families that do not transmit fundamental values and principles).

- 8) The State has lost control over its own prison system, where incarcerated criminals are known to be the organizers of networks of extortion and kidnapping. Assassinations within prisons also happen regularly, be it as a result of rivalry between different gangs but also to silence potential witnesses. The State needs to regain control of its own prisons.
- 9) Real or apparent inability of the police and justice operators to carry out competent criminal investigations, the intimidation or even murder of witnesses and the possible intimidation or corruption of judges, all contribute to extremely low rates of conviction (2-3%) in the limited number of cases that make it to trial at all.
- 10) Inadequacy of the security forces. The Guatemalan police force is some 19,000 strong but of these only 14,000 are active and of these at any given time perhaps 7,000 are deployed. That leaves a ratio of police/population which, compared with other countries, is very low, and implies no police presence in many places much of the time.<sup>15</sup> To increase the presence and the strength of the security forces, there are now “combined forces” of police and military. Rather than strengthening the Police, which typically has the responsibility for internal security, the political choices have been to increase the Army from some 15,000 to some 25,000 persons, reverting the trend initiated in 2004, when 11,700 of 27,210 soldiers were discharged and the Army budget was diminished by 25 %
- 11) There are strong allegations that ex-military and even active military may actually be working with and for the drug-gangs, putting their expertise from the counter-insurgency years to use, to help such gangs take control over local territories (and the population living there) In addition, there are strong allegations that members of the security forces are also involved in other crimes, or carry out extra-judicial killing, often of socially undesirable members of the “*maras*”.
- 12) Privatisation of security. If the Police and Army together are some 44,000 strong (25,000 soldiers + 19,000 polices), the number of private security guards employed by more than 200 private security companies (of which more than 70 don't have legal authorization of MINGOB) is estimated at 110,000 or about 2.5 times the number of the public sector. Simultaneously are reappearing “self-defense civil groups”, a phenomenon of serious concern if one considers the brutality of such “civil defense forces” during the civil war, which of course is very much part of the lived experience of the current generation.
- 13) Lack of a National Policy of Security, an Anti-Criminal Policy and Sectoral Policies of Prevention that contribute to continuity of programmes and plans, overcoming the continuous changes of personnel and the casuistic and transitional decisions.

It should therefore not come as a surprise that public trust in the State is very low, which expresses itself again in different ways. One such expression is the “opting out” into “parallel societies”. This is a long-standing strategy of many indigenous communities to protect themselves from the racist colonizers but also means that certain such communities have been able to maintain a level of social cohesion with very low levels of internal violence. But youth gangs can also be considered a form of “parallel society”, offering an identity, status and income that are denied to youth in regular society. Another expression however is the recourse to mob violence, lynching and mob justice there where the Police and Judiciary are seen as ineffective.

It has also been suggested that there are currently interest-groups in society that are creating a climate of distrust in Government in general and in Congress in particular, possibly leading to an institutional crisis

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<sup>15</sup> As a matter of fact, between May 2002 and April 2007, police forces were reduced from 20,300 to 18,500 (of which 10% are clerk officials). These figures are less than the international standard, established by the United Nations, of 286 police personnel per 100,000 people, for developed countries; 350 per 100,000 for developing countries; and 170 per 100,000, for poor countries. The calculation for Guatemala is  $(350 / 100,000) \times 12,000,000 = 42,000$  police forces needed for the country.

as happened in 1993. In part of the written media Congress in particular is under continuous attack as inept and corrupt. The de-legitimising of Congress would also imply the delegitimation of the laws it has passed. And an analysis of the pattern of killings of bus drivers has led some to believe that this is not just a question of extortion rackets or “*mareros*” but that there are deeper political motives behind, to create a public feeling of a state of anarchy that the Government is unable to control.

It is not an exaggeration to say that the real power in Guatemala rests not with the State but with the “parallel powers” that remain uncontrolled and beyond the reach of the rule of law.<sup>16</sup> In this regard, WOLA (2007: 7) categorically stated that:

“(…) Much of the rising violence has been attributed to illegal armed groups or clandestine security organisations that emerged during the war years, and today use bribery, intimidation and violence to protect their political and financial interests. These groups thrive on the profits gained from contraband, corruption, and other forms of organized crime and from their increasing involvement in drug trafficking. They develop or buy political influence, and they infiltrate the State apparatus to build a shield of impunity.”

Also UNDP (2007: 10) considers that:

“(…) In Guatemala, the State has a serious institutional weakness to confront this problem. There are clandestine groups operating violently, according to the interests of networks of powerful individuals which become wealthy with illegal activities like smuggling, kidnapping and trafficking persons, weapons, ammunitions and drugs. These networks come from the political economy of civil war and are linked with powerful sectors of society. The high levels of impunity and the weakness of the public institutions responsible for justice and security are encouraged by networks of criminal action through corruption and coercion.”

Similarly, BRISCOE (2008: 10-11), has affirmed that:

“(…) Recent analyses of the evolution of Guatemala’s criminal networks (as in El Salvador) indicate that their origins are indeed to be found in the extra-legal and emergency powers afforded by counterinsurgency operations during the civil war. The EMP (*Estado Mayor Presidencial*), the Military Intelligence’s G-2 and the Police’s Department of Criminal Investigations (DIC) together organized the military regime’s most brutal acts of repression in a context of total impunity. By the late 1980s, their attention was turning increasingly to the pursuit of organized crime, with service personnel getting involved in illegal activities such as car theft, kidnapping and narco-trafficking. As in Pakistan, the military also used their wartime access to State power and to the economic elite to acquire a licit business empire, including the State electricity and telecommunications monopolies, the national airline, and a national TV channel. The first serious attempt to root out illicit networks connected to the military establishment began in 1996, with the dismissal of 27 officers – including leading generals – linked to a smuggling network allegedly headed by Alfredo Moreno Molina. But a slackening of official interest in dismantling these networks, compounded by the victory of a right-wing populist candidate in the presidential elections in 1999, curtailed the political and judicial offensive against military-influenced organized crime. Instead, the years since then have witnessed a sharp increase in Guatemala’s murder rate, a collapse of the judicial system, and a fragmentation of organized crime into various cartels that appear to be competing for political influence and for criminal turf. Several of these groups appear to be rooted in the camaraderie of retired military officers (*La Cofradía* and *El Sindicato*, for example), though it also seems probable that the country’s police and politically-dominant business elite have an increasing presence in organized crime. Examination of individual cases certainly suggests that many of these rackets are opportunistic ventures, bringing together criminal entrepreneurs and crucial State and security officials according to circumstance. Furthermore, experts maintain that these groups have created different operational branches for dealing with political

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<sup>16</sup> For a study of the phenomenon of “*hidden powers*” in Guatemala see PEACOCK (2003) and the press note PORRAS (2007), in which Gustavo Porras C. presents some keys to understand the problem. A first approximation to “*parallel powers*” is provided in MENOCAL (2007), in a report of a Forum on “Hidden Powers: Who Governs in Guatemala?”, carried out (05/02/07) in the USAC Central Auditorium; and in the press note AGUILERA (2007), by expert Gabriel Aguilera Peralta.

allies and the Judiciary, handling acts of violence, and laundering the proceeds. In terms of Guatemala's governance, the results of this criminal entrenchment in the State have been the perpetuation of fragile, corrupted and under-funded public institutions, which in turn are unable or unwilling to mount any serious response to organized criminal networks. The recently elected president, Álvaro Colom appears determined to sever the links of these cartels with State authority – and fully backs the CICIG – but his plans are destined at some stage to clash with his need for support from his and other political parties in Congress (where 43 percent of deputies changed sides in the last legislature), from key state agencies, and from important local powerbrokers”.

What to do against these “parallel powers” which are evolving into “parallel states”? Future scenarios predicted by BRISCOE (16-17) are almost hopeless:

“Propitious conditions for the creation and consolidation of parallel states can be found in countries with historically weak States marked by the existence of one strong institution (usually the military), where globalization has increased the range of licit and illicit commercial opportunities (...) The case studies of Pakistan and Guatemala offer the finest examples of contorted State dynamics, while also posing serious questions over the suitability of the international community's prescriptions for fragile States in such cases. Enhancing the security sectors of these countries is no guarantee of improved civilian protection, as Guatemala's failed police reform of the 1990s and recent military aid to Pakistan illustrate. Implementing the basic procedures of democracy, though laudable in itself, is no sure way to dismantle the powers of parallel state organisations, which thrive under conditions of low intensity democracy (...) Greater trade openness and institutional capacity-building, meanwhile, may both be captured by corporate or criminal interests operating within the State. Instead, the international community's principal target in any effort to dismantle these structures should lie in undermining the feasibility and continuity of the key transmission mechanism of parallel states: regular transactions between political leaders and clandestine organisations, mediated by the constant threat of violence and sabotage by the latter. In dealing with countries marked by predatory parallel states, policy-makers and aid donors should consider policies that strengthen alternatives to dependence on these organized groups, which could be enhanced through a mix of legal persecution of transnational criminal networks and their legitimate business partners, selective multilateral interventions in national policing and judicial systems, and targeted aid to alternative vehicles of public support (political parties, civil society organisations, neglected state agencies) (...) In saying this, it must be recognized that any effort to broker a change in those clandestine structures that are, following the argument of this paper, among the very pedestals of the State, is sure to face possibly insurmountable difficulties. On the other hand, money, arms and an international blind eye – all in the name of a narrow, security-based policy – are certain to deepen the shadowy realms of the State, and entrench the very problems that have caused such international alarm.”

There is evidently a need to strengthen the State. There are however different models of a “strong State”: One such model favours an authoritarian and repressive approach to “insecurity”. This definitely has sympathy in sectors of society and, given the high levels of insecurity, resonates well with a major segment of public opinion. A firm hand or iron fist (“*mano dura*”) approach however threatens the democratic gains made since the Peace Accords of 1996, which brought a formal end to 36 years of civil war, and may open the door for a return of the military in power. The alternative is a stronger State that pursues security within the framework of democratic security, i.e. putting the security of its citizens first, keeping the security forces under political control and seeking to regain the monopoly on the use of power within the parameters of a democracy, respect for human rights and the rule of law.

A more in-depth analysis would consider the actors, interests and attitudes in a variety of sectors of society. The following are just some tentative notes:

- 1) *Private Sector*: Financially very strong and therefore influential. Continues to be thinking about its own interests – if these are not threatened then they don't show much concern for the public good. For Guatemala to be able to reverse the trend of increasing violence and reconstruct a more viable State and society, engagement of the private sector however is essential. Who can do this and how?



- 2) *Press*: The media and particularly the written press are seen as very powerful through their capacity to shape public opinion. Part of the written press is seen as bearing an important responsibility in turning insecurity into the current national obsession by both sensationalizing it while also being apologists for violence. Part of the written press, seen as connected to particular interest groups, is also held responsible for a discrediting of the State in general and of Congress in particular.
- 3) *Trade Unions*: They are a potential socio-political force. Several exist. It is said to be dangerous however to be a trade union activist and especially to try and mobilize and coalesce a more coherent trade union movement. Such people are at real risk of being targeted.
- 4) *Churches*: The Catholic Church has much prestige, but there are also the influential Evangelical Churches, active in helping young gang members (“*mareros*”) get out through conversion, the only way of leaving the gang and staying alive. Catholic Church Social Action also work at grass root level trying to eradicate conflictivity and violence.
- 5) *Public Opinion*: Generally perceived as being very open to manipulation. The media are said to have created the huge public concern around security with some also fuelling distrust of the State. Public opinion is seen as in favour of authoritarian and repressive approaches. The real picture is probably more nuanced and “public opinion” would need to be unpacked. It is obvious however that transformative work in Guatemalan society needs to seek to influence public opinion too.

#### 1.4. Strategic Needs of Guatemala regarding Democratic Security

The situation in Guatemala presents one of a fragmented State and a fragmented Society. There is a long historical pattern of violence and exclusion that has been reinforced by thirty six years of civil war and not really reversed by the Peace Accords of 1996. Guatemala remains a deeply unequal and violent society, with “parallel powers” and drug-related violence currently expanding rapidly and drug-money adding to the corruption and further hollowing-out the already weak State from within. The situation has reached crisis point with Guatemalans talking about a real risk of the “colombianisation” of their country. Certain interest groups definitely would like to see a return to the authoritarian State and the level of perceived insecurity creates a public opinion receptive to such. The task of trying to reverse this negative trend is further complicated by the fact that violence is said to be deeply embedded in Guatemalan history and mental disposition.

It is of course a Society shaped by “conquest” in which the indigenous populations (over half of the present population) were often violently subjugated. Guatemalans themselves refer to their society as deeply “racist”, “class-ist” and “machista”. The degree of socio-inequality in Guatemala is very high (current Gini index is 0.551, the worst of Central America and one of the five worst in the world) and thirty-six years of civil war did not change this. The lack of employment opportunities has led many Guatemalans to seek a livelihood in the USA. While remittances are a major component of the economy and a major “social safety net” for many families, the absence of one or both parents has contributed to dysfunctional families that do not transmit fundamental values and principles. Lack of educational and employment opportunities leave youth vulnerable to recruitment by smaller or larger criminal groups.

In short, violence is a deeply embedded means of dealing with conflict of any kind and at any level. One of the persons interviewed declared: “... *in Guatemala, all our society is psychologically sick*”, and this statement agrees with the diagnostic made by professionals in psychology and sociology of violence, like, for example, doctor Marco Antonio Garavito, director of the Guatemalan Mental Health Coalition, and doctor Raúl de la Horra, who has explained that:<sup>17</sup>

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<sup>17</sup> See: *Perceptions of Violence in Guatemala (Percepciones de la Violencia en Guatemala)*, INCEP, 1999; *Political Violence and Social Inhibition (Violencia Política e Inhibición Social)*, Magna Terra Editors, second edition 2005; and the article “Frustration: Social Violence Trigger”? (“Frustración: ¿Fuente de violencia social?”), en *Violences in Guatemala (Las Violencias en Guatemala)*, FLACSO/UNESCO, 2005. See DE LA HORRA (2006: 5)

“... Violence (and death, as extreme expression of that violence) surpasses the phenomenon of statistics and body counting (i.e., the physical dimension of death). Violence and death, in a particular society, are related with the view of life and worldviews of their people. Violence, as says Garavito, ‘is more than bullets, punches and screams’, and the main damage that it causes lies in the personal and subjective realm. The final implicit goal of violence is to hit and to destroy the subjectivity (emotions, will power) of the other person, neglecting her/his basic rights and development capacity, for the benefit of our own interests and needs. It is true that violence not only exists in and through the other, but also in our own action or omission in front of violent events. Therefore we shouldn’t consider ourselves as beyond or at the margin of violence, because it will always affect us and one way or another we contribute to its reproduction. We contribute to it if we show ourselves intolerant and unable to resolve conflicts in a more rational and reasonable manner, we contribute to it with our unfounded interpretations and projections about the behaviour of the others. And also with our exaltation of hierarchies and authorities, with our ceremonial and rigid manners, with our submission, our reverence for rules that value appearances more than being and making. From here to hitting our neighbour or shooting the gun because of some disagreement, the distance could be measured in measures of alcohol consumed and the context that we find ourselves in.”

Interestingly, while sometimes Guatemalans reject the continued characterization of their situation as “post-conflict”, arguing that the challenge is rather that of a “fragile democracy”, in other instances they will point to consequences of the civil war that linger on. The war itself in which civilians often were the targets, not only created diverse centers of power but also a brutalized society. Weapons are widespread also among the population. Many ex-combatants, demobilized after the Peace Accords, have not been really reintegrated and therefore get involved into illicit activities. The failure to prosecute those who committed heinous crimes during the civil war left a legacy of impunity that is only extending itself with regard to new forms of crime. (“*The Oligarchy and the Army are the father and mother of the impunity*”, said one person) In addition, the failure to embed a proper historical memory of the civil war means that the new generation is not aware of it, which increases the risk that Guatemalan society repeats the same errors and horrors.

If the situational analysis in part 1.3 is relatively appropriate, then we would argue that there is an obvious need to strengthen the State in Guatemala. Yet even a strengthened State cannot face up to all the problems and challenges of the society. Wider sectoral and societal mobilization must happen to reverse the destructive trend. This requires inter-sectoral collaboration. The private sector may be a strategic sector that needs to be involved. The press, or at least part of the press, may be another strategic sector given its influence on (a part of) public opinion. Societal mobilization means some form of social movement, which need not per se be “social protest” movements. A prerequisite for social movements is a certain degree of social cohesion, which at the moment appears to be low in many parts of society. A programme that seeks to facilitate a more constructive interaction between State and Society therefore also needs to be building forms of social cohesion or identify and build on those that still exist. This inevitably also implies working not just within policy-circles or only at the level of the capital city, but wider engagement of sectors and populations throughout the national territory (and even potentially in the Guatemalan diaspora).

Addressing the wider dynamics may also require a wider framework within which to conceptualise “security”. The FOSS and Interpeace work so far has focused on the role of the State in providing security and on the promotion of the paradigm of democratic security, as opposed to a more authoritarian and state-centered security paradigm. A broader societal perspective would possibly require a focus on the wider phenomenon of violence – where the State is not necessarily the first actor having the primary responsibility (as in domestic violence and in individual disposition towards violent behaviour) – and/or on “human security” which brings into the picture the provision of social services, economic opportunities, livelihood security, etc. Given the regional dimensions of migration (and people trafficking) and the drug-trade, and the regional scope of the US-backed strategy as outlined in “Plan Mérida”, tackling the problems and challenges of Guatemalan society may also require a regional approach.

### **1.4.1. Needs of the Congress**

People elected to Congress do not necessarily have knowledge and experience of Congressional procedures, drafting of legislation and other “competencies” required (political knowledge, technical proficiency, etc). Wherefrom the relevance of the ongoing work of an organisation like LEGIS, which provides support specifically in the field of the “technical competencies” required from parliamentarians. It is highly remarkable that nine Congressional Commissions that have been receiving support from FOSS at a substantive level confirm they want this support to continue. The parliamentarians and their advisors interviewed also suggested that similar substantive support (other than what falls within the thematic sphere of FOSS) is required for other Commissions (e.g. Commission of Labor).

A major challenge for Congress however seems to be protecting or recovering its perceived integrity and effectiveness in the face of negative press and resulting public opinion, after the “loss” of 82.8 millions of Quetzales in 2007, and the questionable provision of millions to NGOs and to paper manufacturers linked to parliamentarians, in 2008. In fact, Congress needs to open itself to social audit and develop a communication strategy that can allow a reciprocal exchange of information and views with the public, across the country. It presently already has a highly informative website, <http://www.congreso.org.gt>, well designed and well managed. (It also seems to potentially have at its disposition a TV station or at least a TV channel, though this is not active.) But while a majority of Guatemalans have no access to the Internet and to TV, those that access the written press do! Beyond that, the most wide reaching medium is probably the radio, which of course requires a different format and language to communicate to the wider public.

### **1.4.2. Needs of the Government**

Having good laws is an essential and necessary building block to address the challenges, but not a sufficient one. All analyses seem to converge in that the next critical element is implementation, and in implementation the role of the Executive and of the Judiciary are highly problematic in Guatemala. The implementation difficulties are partially related to the structural weakness and fragmentation of the State and weaknesses in public sector personnel and partially to intimidation, corruption and infiltration of the State by criminal elements. That affects the central and the local authorities, though not necessarily in the same manner.

Our informants have suggested a number of types and areas of support that the Executive could use. Strategic alliances between international cooperation, civil society and state institutions will help provide more continuity in institutional processes, in the face of changes in personnel in the State institutions. Thematic dialogue spaces where state and non-State actors meet (e.g. on human rights, on women rights, etc.) are valuable in themselves also if they are not consensus-oriented processes. Civil society can use these to be constructively critical and provocative.

Civil society can also provide solid technical support to Executive institutions, as it does to Congress. This may require that civil society actors further strengthen their own technical-thematic capacities. Civil society can help to facilitate the connections and collaboration that are required between State entities, such as the security actors (MINGOB, MDN) and the Judiciary. Collaboration between institutions does not happen because there is a law or administrative order that requires it. It needs the building of relationships and trust and collaborative attitudes. Civil society also should pay attention to the process of developing the administrative regulations (“*reglamentos*”) for public institutions, especially in the Executive. Bad regulations, inconsistent with the “spirit” and “intent” of the law, may impede the implementation of a good law.

The Executive would benefit from a mapping and analysis of the local variations in violence and organized crime, for example by an “observatory of violence” and/or early warning system. There are currently national statistics but not broken down per sub-region within Guatemala although it is well known that the nature and intensity of violence varies considerably. That needs to be mapped and the variations studied for their causal and contributing factors. It could be interesting to review and to adapt the experience of the Citizen Institute of Insecurity Studies, in Mexico (*Instituto Ciudadano de Estudios sobre la Inseguridad*, ICESI), a joint venture of academic and private institutions.<sup>18</sup> Also useful could be an annual study of the security situation, as expressed in a certain number of statistics, and of the perceptions of security (similar, for instance, to the corruption index by Transparency International which is a perception study) The perceptions can be contrasted with the factual data from the statistics.

There is at the moment no reliable feedback mechanism that compares the reality on the ground with the policy and programme intentions of the State at national level. Civil society could play a very important role here, especially if it can provide solidly grounded feedback (e.g. something like an “Observatory of the Implementation of the Law on Access to Information”). That would help the authorities identify what works and what doesn’t and perhaps why, where there remain important gaps, etc. so that they can become more effective. This too would probably require a stronger link with local actors. This would also be of benefit to Congress in carrying out its role of supervising and holding to account the Executive.

The issue of regional cooperation in Central America lies with the Ministry of External Relations (MINREX). Although there are regional structures for Central America in the field of justice and security (such as a Regional Congress, the PARLACEN, and a Regional Court, the CCJ), there is in fact very little effective collaboration and integration between the Central American countries in fields other than the economy. If civil society organisations could develop regional networks they could provide an added stimulus and support to the respective authorities to start collaborating more on specific agendas in security, for example for developing the Regional Agenda of Justice and Security, established in 2007 but then postponed to give priority to the “Plan Mérida”, imposed by the USA and not in line with the paradigm of democratic security developed by the Central American countries.

At the current moment, it is necessary to support the implementation of the very recently agreed “National Accord for the Advance of Security and Justice” (*Acuerdo Nacional para el Avance de la Seguridad y la Justicia en Guatemala*, ANASEJU-GUA), established by the highest authorities of the three powers of the State, the implementation of which has been given to the Technical Secretary of the National Council of Security (CT-SNS). The short term (3 months) measures of ANASEJU-GUA which are responsibilities of the Executive are the following:<sup>19</sup>

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<sup>18</sup> ICESI is a Mexican organisation specialized in statistical information on crime. It produces the National Enquires of Insecurity (ENSI) It is made up of the Autonomous National University of Mexico (UNAM), The Institute for Technical and Higher Studies of Monterrey (ITESM), the Coordinating Council of Enterprises (CCE), the “Este País” Foundation and the Employers Confederation of the Mexican Republic (Coparmex). See information at the website: [http://www.icesi.org.mx/icesi/icesi\\_organizacion.asp](http://www.icesi.org.mx/icesi/icesi_organizacion.asp)

<sup>19</sup> See ANASEJU-GUA (2009: Annex 1) These actions were established in December 2008, when the Agreement was sponsored and led by the Vicepresident of the Republic. It is highly probable that it will be modified.

Main Activities	Responsibles
1. Defining methodology, actors and critical path to formulate the Anti-Crime Policy of Guatemala	MINGOB, OJ, INACIF, IDPP, CNS, MP
2. Reviewing and updating the protocols of sectoral coordination between MP, PNC and INACIF in crime scene and criminal investigation	MP, MINGOB, INACIF
3. Improving communication and coordination between MP, MINGOB and IDPP in legal assistance to victims (schedules, directories, basic information)	MP, MINGOB, IDPP, OAV-PNC
4. Hiring technical assistance to formulate the National Plan of Security	MINGOB
5. Beginning the instalation of technology for telephone spying, according to Decree 21-2006, Law against Organized Crime	MP, MINGOB
6. Technical Assistance for implementing the Law about Femicide and Others Forms of Violence against Women	SEICMSJ, IDFPF
7. Establishing budget lines in the budgets of the institutions of Executive and Judiciary and of the SEICMSJ, to enable international financial support	OE (MINFIN), OL
8. Approving Loan 1905/OC-GU0177 from the Interamerican Development Bank to the Programme for Promoting Law Enforcement in Guatemala	OL, OE
9. Identifying international cooperation for witness protection	MP, MINGOB, OE
10. Elaboration of protocols for technical and scientific criminal investigation	MP, MINGOB, INACIF
11. Designing a public campaign for crime prevention	All institutions
12. Technical assistance for defining transparency indicators in security and justice sectors	SEICMSJ, MINGOB, IC
13. Reforming the Injunction of Legal Protection Law ( <i>Ley de Amparo</i> ) <sup>20</sup>	OL, OE
14. Designing a sectorial strategy for the sensibilization of justice personnel on human rights and freedoms	All institutions
15. Planning training and specialization in criminal investigation	MP, MINGOB, INACIF
16. Creating the Special Unit of Investigation in MINGOB	MINGOB
17. Assigning 30 millions of Quetzals to the Special Unit of Investigation, within the framework of CICIG.	OL, MINFIN
18. Defining mechanisms for the investigation of relevant cases	MP, MINGOB, OJ
19. Approving the Organic Regulations of the PNC	MINGOB, SGP
20. Developing a system for monitoring, controlling and evaluating the investigative personnel	MINGOB
21. Defining a system of registry and control of weapons and ammunitions of the security forces	MINGOB
22. Installing signal blockers for cell phones in the perimeter of all the prison facilities in Guatemala	MINGOB.
23. Promoting the legislative agenda against impunity	OE, OL
24. Elaborating a proposal for the institutional strengthening of the ICMSJ and its Executive Secretary	SEICMSJ, MINFIN

Recently (28 Jan.2009), the Guatemalan Ombudsman (*Procurador de los Derechos Humanos*), the Metropolitan Archbishop, the Evangelical Alliance and the President of the University of San Carlos of Guatemala (USAC) have presented to the Executive and to the international community the “Strategy Proposal for Building the National Agenda of Security”,<sup>21</sup> which contains the following elements, convergent with the action lines of the ANASEJUGUA:

1. Formulation and implementation of the National Policy of Security foreseen by the Framework Law of the National System of Security (SNS), including plans for its implementation in areas with higher levels of violence and crime.
2. Creation of the Ministry of Public Security, instead of the existent Ministry of Governance (MINGOB)

<sup>20</sup> [Translation Note: We have translated “*Ley de Amparo*” with the perhaps unorthodox neologism “Injunction of Legal Protection Law” because there is not one term for the concept of “*amparo*” in british or american law traditions. In the german tradition, the equivalent concept is *Verfassungsbeschwerde*. In Central America, the writ of “*amparo*” has four different forms: (1) Appeal of individual liberty (habeas corpus); (2) Appeal against laws (challenge to unconstitutional laws and regulations); (3) Appeal of decisions on constitutional grounds (“*recurso de casación*”); and (4) Administrative Appeal. The verb “*amparar*” means to protect, to give shelter, to take in.]

<sup>21</sup> Accesible at: <http://www.prensalibre.com.gt/pl/2009/enero/29/291886.html>

3. Regeneration of the PNC, through a national commission that will design a proposal that should include a plan of territorial deployment for the officers graduating from the Police Academy, which will gradually replace the personnel affected by the clean-up of the PNC.
4. Clean up of the PNC, evaluation of its personnel and creation of educational programs that will include stronger knowledge of and practical respect for human rights.
5. Greater transparency of the Police, including a register that will identify all personnel and the inventory of ballistic marks of firearms used by the security forces.
6. Creation of one special unit of criminal investigation.
7. Development of Laws of Public Security, including the fast-track approval of the Law of Firearms and Ammunitions and the Law on Private Companies of Security.
8. Implementation of one annual disarmament plan, aimed to reduce the quantity of firearms among the population.
9. Strengthening the prevention, eradication and control of crime, domestic violence and “social cleansing”.
10. Creation of the new Prison and Penal System, cleaned up and dignified, which will guarantee the professionalisation of prison personnel.
11. Strengthening the justice administration, creating the programme for witness protection and for eradicating corruption in the Judiciary.
12. Development of a Communication and Participation Strategy in Security Issues, so that the population is and remains informed about citizen participation and social communication in security issues.

### 1.4.3. Needs of the Judiciary

In the justice administration, the Judiciary needs longer-term supported referred to earlier, but will also benefit from support for the implementation of the following short term measures, specified in the ANASEJU-GUA:<sup>22</sup>

Instance	Short Term Measures (up to 30 days)
<b>General Inspection of Courts &amp; Public Relations Department of the Judiciary</b>	<ol style="list-style-type: none"> <li>1. Designing mechanisms for the supervision of 24h Open Courts (with rotating judges)</li> <li>2. Supporting the design of a public campaign for crime prevention</li> <li>3. Supporting the sectoral strategy for sensibilization of justice personnel on human rights and freedoms</li> <li>4. Making feasibility study for moving court cases related to organized crime to the Courts of the capital city</li> <li>5. Monitoring and supporting the technical assistance for reviewing the Code of Criminal Procedure (<i>Código Procesal Penal</i>, CPP)</li> <li>6. Monitoring and supporting the technical assistance for implementing the Law about Femicide and Others Forms of Violence against Women</li> <li>7. Monitoring follow up to hiring of technical assistance to define transparency indicators in security and justice sectors</li> </ol>
<b>Public Criminal Defense Institute</b> <i>(Instituto de la Defensa Pública Penal, IDPP)</i>	<ol style="list-style-type: none"> <li>1. Designing mechanisms for the supervision of 24h Open Courts (with rotating judges)</li> <li>2. Improving communication and coordination between MP, MINGOB and IDPP around legal assistance to victims (schedules, directories, basic information)</li> <li>3. Supporting the sectoral strategy for sensibilization of justice personnel on human rights and freedoms</li> <li>4. Elaborating the Operational Sectoral Plan 2009</li> <li>5. Elaborating a proposal of institutional strengthening of the ICMSJ and its Executive Secretary</li> </ol>
<b>General Prosecutor</b> <i>(Ministerio Público, MP)</i>	<ol style="list-style-type: none"> <li>1. Designing mechanisms for the supervision of 24h Open Courts (with rotating judges)</li> <li>2. Reviewing and updating the protocols of sectoral coordination between MP, NC and INACIF in crime scene and criminal investigation</li> <li>3. Improving communication and coordination between MP, MINGOB and IDPP around legal assistance to victims (schedules, directories, basic information)</li> <li>4. Installation of technology for telephone spying, according to Decree 21-2006, Law against Organized Crime</li> <li>5. Identifying international cooperation for witness protection</li> <li>6. Elaboration of protocols for technical and scientific criminal investigation</li> <li>7. Supporting the design of a public campaign for crime prevention</li> <li>8. Supporting the sectoral strategy for sensibilization of justice personnel on human rights and freedoms</li> </ol>

<sup>22</sup> See ANASEJUGUA (2009: Annex 2) It is highly probable that it will be modified.

On the other hand, the report ASIES (2008: 135-161) contains sixty eight recommendations addressed to nine institutions of the national system of justice and security. Given that the ASIES conducted study was validated by experts of FMM and IDEM (three members of FOSS), those recommendations could be considered as options for work by FOSS with the institutions of the justice sector.

#### **1.4.4. Needs of Municipalities and Local Needs**

The democratic security needs of municipalities and local authorities are not yet well investigated and identified. There definitely is an overall problem of lack of reliable and verifiable statistical information, at local level. Therefore, its urgent that the Guatemalan civil society organisations specialized in security (OSS), resolutely extend the scope of their interventions to reach the municipalities and communities at local level, taking up again one line of action scarcely explored at the end of POLSEC.<sup>23</sup> There are “security commissions”, at departmental, municipal and local levels, inside the COMUDES and CODEDES, that are platforms for collaborative work between State and Civil Society. It’s true that local civil society can have an authoritarian discourse and follow an illegal course of action (as a matter of fact some local security committees, watch groups or community associations are really armed groups that capture and even kill alleged criminals) but could be open to new frameworks and perspectives. Capital-city based civil society can provide the channels and interface for local civil society and national state authorities. A possibly useful instrument may be the local radiostations (*radios comunitarias*).<sup>24</sup>

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<sup>23</sup> See MUNICOTZ (2006 a) and MUNICOTZ (2006 b)

<sup>24</sup> There is much experience in this field in Guatemala and within the Interpeace context there are new but relevant experiences in Burundi and Guinea-Bissau. See: [http://www.interpeace.org/index.php?option=com\\_content&task=view&id=67&Itemid=154](http://www.interpeace.org/index.php?option=com_content&task=view&id=67&Itemid=154)



## Chapter 2. Performance Analysis of FOSS (2003-2008)

The Forum of Social Organisations Specialized in the Field of Security (FOSS) has its roots in the Project “Towards a Democratic Security Policy 1999-2003” (*Hacia una Política de Seguridad para la Democracia*, POLSEDE). This broad first project, developed as a participatory-action research (PAR) exercise, was intended to facilitate the transformation of the State security framework. The POLSEDE project was a joint venture of Latin American Faculty of Social Sciences (*Facultad Latinoamericana de Ciencias Sociales*, FLACSO), the United Nations Development Programme (UNDP), the Guatemalan Institute for Development and Peace (*Instituto Guatemalteco para el Desarrollo y la Paz*, IGEDEP) and WSP International,<sup>25</sup> Interpeace’s predecessor, in reply to the stagnation of the Army reform that had been agreed in the Peace Accord related to the “Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society” (*Acuerdo de Fortalecimiento del Poder Civil y Función del Ejército en una Sociedad Democrática*, AFPC). The POLSEDE Project was the first intersectorial exercise of dialogue on security and defense carried out after the signing of Peace Accords.<sup>26</sup>

In POLSEDE participated five governmental institutions: MINGOB, MDN, SAAS, SAE y SEPAZ; sixteen academic institutions and NGOs: ASIES, AVANCSO, CIEN, FLACSO, FMM, INCEP, IEPADES, IPES, IRIPAZ, CALDH, SEDEM, ICCPG, CEG, Facultad de Ciencias Políticas y Sociales de la URL, Escuela de Ciencias Políticas de la USAC y Centro de Estudios Globales y Regionales de la USAC; and ten distinguished persons.<sup>27</sup> The first phase of POLSEDE’s inquiry, from April to September 1999, became organised in five working groups (and a subgroup): G1 (Conceptual Framework), G2 (Security Concept and Agenda), G3 (Military Doctrine), G4 (Democratic Controls), SG4 (Civil Intelligence) and G5 (Military Function).<sup>28</sup>

POLSEDE in turn sparked four initiatives: The Project “Towards a Citizen Security Policy” (*Hacia una Política de Seguridad Ciudadana*, POLSEC), the Guatemalan Network for Democratic Security (*Red Guatemalteca para la Seguridad Democrática*, REDGUA),<sup>29</sup> the Negotiation Process for Establishing a Security Advisory Council (*Consejo Asesor de Seguridad*, CAS) and the project here under review, i.e. “Strengthening of the Competencies of Social Organisations in the field of Security” (*Fortalecimiento de*

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<sup>25</sup> WSP International, was created as an organisation in 2000 following a pilot-project (1994-99) initiated by the United Nations Research Institute for Social Development (UNRISD) and the Programme for Strategic and International Security (PSIS) of the Geneva Graduate Institute of International Studies (GIIS).

<sup>26</sup> See Chapter 2, “Opportunities and Stagnations: The Civil-Military Relations Context at the beginning of Project POLSEDE” of the book ARÉVALO (2005: 25-45), which offers a complete description and analysis of the relations between Society, State and Armed Forces in that moment.

<sup>27</sup> Julio Balconi, Gabriel Aguilera Peralta, Guillermo Pacheco, Héctor Alejandro Gramajo, Mauricio López Bonilla, Mario Mérida, Héctor Rosada-Granados, Humberto Preti, Álvaro Pop and Otto Pérez Molina.

<sup>28</sup> See ARÉVALO (2005: 66-69). Fortunately, the twelve documents generated by POLSEDE are still accessible (March 2009), in Spanish, at: [http://www.polsec.org/documentacion\\_polsede.html](http://www.polsec.org/documentacion_polsede.html) ; and, in english, at: [http://www.Interpeace.org/pdfs/Publications\\_\(Pdf\)/Past\\_publications/Toward\\_a\\_security\\_policy\\_for\\_democracy/](http://www.Interpeace.org/pdfs/Publications_(Pdf)/Past_publications/Toward_a_security_policy_for_democracy/). The titles of documents are: G1 (“Conceptual Framework Foundation for the Consideration of the Military Question”; “Society, the State and the Armed Forces in Guatemala at the beginning of the 21st Century”); G2 (“The Concept of Security and the Security Agenda”); G3 (“Military Doctrine; Its Essence and Considerations for the Orientation of a New Doctrine”); G4 (“Contributions to the Study of State Intelligence in Guatemala I”; “General Criteria for the Reform of the Guatemalan Intelligence System II”; “Guatemala: Intelligence System Foundations III”; “Organic Structure and the Intelligence System Career in Guatemala IV”; “Democratic Intelligence Systems Controls in Guatemala V”; “The Security System in Guatemala: Notes on Reform VI”); SG4 (“Subsystem of Civil Intelligence of the Interior Ministry”); and G5 (“The Function of the Army in a Democratic Society”)

<sup>29</sup> REDGUA is made up of State institutions, civil society organisations and notable persons. It was triggered by the POLSEDE project and its objectives are the promotion of POLSEDE recommendations and establishing democratic security frameworks in Guatemala through proposal generating dialogue between the different stakeholders, production of analysis and investigations in this field and capacity development of specialised human resources.



*Organizaciones Sociales en Temas de Seguridad*) –that is, the FOSS project. In all these initiatives persons and organisations participate that were involved in the original POLSEDE Project.

POLSEC project, carried out from 2002 to 2004, was a research and intersectorial dialogue platform for designing the citizen security policy, within the framework of democracy and the rule of law. Its main objectives were: (1) To contribute to formulating the citizen security policy with civil society, government and politicians; (2) To continue the work carried out in the field of citizen security; (3) To promote the participation and responsibility of different actors and institutions in the field; and (4) To lobby Congress in order to get laws based on the concepts and agreements generated by POLSEDE.

POLSEC was conducted by Carlos Ramiro Martínez Alvarado and Iván Estuardo García Santiago, with Héctor Rosada-Granados as research coordinator. The POLSEC Board was made up of the National Commission for Monitoring and Supporting the Strengthening of Justice (*Comisión Nacional de Seguimiento y Apoyo al Fortalecimiento de la Justicia*, CNSAFJ), FLACSO Guatemala, UNDP and the social organisation called Security in Democracy (*Seguridad en Democracia*, SEDEM).

State institutions involved in POLSEC were: MINGOB (PNC, Penitentiary System, General Directorate of Migration), Congress of the Republic (Commission on Government), the Judiciary (OJ), Public Criminal Defense (IDPP), General Prosecutor (MP), Secretary of Peace (SEPAZ), the Ombudsman Office (PDH) and the National Commission CNSAFJ. POLSEC generated the participation of 70-80 persons in three working groups: Institutionalising Citizen Security, Preventive Security and Human Rights, and Criminal Investigation. Many of them still work professionally in security and defense state institutions and NGOs. The principal documents produced by POLSEC were:<sup>30</sup> *Aproximaciones a una Política de Seguridad Ciudadana*, *Institucionalising Democratic Security (Institucionalidad de la Seguridad Democrática)*, *Security and the Justice Administration System (Seguridad y Sistema de Administración de Justicia)*, and *Human Rights, Criminal Investigation and Gender (Derechos Humanos, Investigación Criminal y Género)*.

There is strong evidence that the collective work undertaken in POLSEDE-FOSS and POLSEDE-POLSEC, and the interaction POLSEC-FOSS, has been a central axis in the building of the political and institutional structures of the new Guatemalan security and defense schemes, based on the spirit of the Peace Accords. For a joint assessment of impact of POLSEDE, POLSEC and FOSS, the report of GIUPPONI can be consulted (2006). Highly significant is his conclusion about the results, influence and “cumulative impact” of these three synergic projects:<sup>31</sup>

“ (...) There are two levels on which POLSEDE, POLSEC and FOSS respectively but also cumulatively have had and continue to have a real impact: the first relates to the specific achievements of the projects themselves; the second relates to the fulfillment of the Peace Accords, notably the AFPC. The first important success of POLSEDE took place during its preparatory stages, by getting the agreement of the more “orthodox” group of officials in the Ministry of National Defense to participate in a debate on issues of state security in the project’s dialogue groups, a feat that required substantive skills of persuasion and political ability. Paradoxically, this was made possible by creating a space for knowledge-based but informal reflection and non-binding debate and dialogue. This represented a key achievement for democratic society, effectively removing a stumbling block that had been difficult to overcome up to that point: the military’s resistance to treat these issues outside its own domain. (...) One retired officer interviewed for this report, affirmed that the process through which those involved in the project began opening up to others –specifically between military and civilians, among whom were ex guerrilla combatants– not only promoted an atmosphere of understanding that was generally reflected in the final results of the project, but also symbolized the possibility of reconciliation in the country. (...) Over the years it has become evident that the Guatemalan capacities –in different sectors of the state and society– to take on the issues of security in a constructive and effective manner has improved significantly. The positive

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<sup>30</sup> These documents still remain (March 2009) accesible at website: <http://www.polsec.org/estudios.html>

<sup>31</sup> See GIUPPONI (2006: 15-16)

experience of collaboration among sectors that up until then had been confrontational with one another permitted a constructive process based on trust that not only made the work within the projects possible, but also allowed the emergence of additional and complementary initiatives for dialogue and consensus. One example of these are the Defense Policy Groups (*Mesas de Política de Defensa*) convened by the Ministry of Defense under the auspices of the UNDP. (...) The Program of Democratic Security Studies (PESD) developed under FOSS and implemented with the participation of several universities, research centers and specialized NGO's in turn has resulted in a series of concrete policy proposals that express the level of technical command the organisations have reached in these issues. Simultaneous efforts to promote collaboration between civil society and political parties in the Congress also resulted, in early 2004, in an agreement between civil society organisations and Congressional authorities, to establish a formal "Liaison Office" that supports the work of the congressional committees dealing with security issues. A second level of impact of the projects relates to the fulfillment of the commitments established in the AFPC. Direct impacts can be seen where final recommendations formulated and agreed upon through the projects, have had a direct influence on specific legal and institutional reforms, or on the development of new social and political processes undertaking security sector reform tasks. One example of this would be the translation – in an ongoing participatory manner– of recommendations on intelligence reform that had been generated in the POLSEDE process, into a "Draft Framework Law on Intelligence". A second example is the eventual creation, in 2004, of the Security Advisory Council (CAS) in the President's office. This is a formal platform for civil society to officially advise the President regarding the development of public security policies. It institutionalises civil society's oversight role and acts as a civilian counter-balance against military domination of state security institutions. Agreed in the AFPC, its implementation till then had been stalled by distrust, lack of political will and lack of technical expertise within civil society organisations to serve as advisors on such issues."

## **2.1. Institutional Profile of FOSS**

The following description of the FOSS institutional profile proposes a periodification in three phases of institutional development: 2003-2005, 2006-2007, and 2008-ongoing. The report FOSS (2008 f), on the other hand, offers a detailed description of FOSS institutional history periodified in four stages: I (2003-2005), II (2006), III (2007) and IV (2008-ongoing). The periodification in three phases highlights the FOSS organisational development: from a multidonor project, associated with IGEDEP (first phase), to a partnership with *Interpeace* (second phase), and to a "forum" of social organisations with organisational autonomy tending to financial autonomy (third phase).

### **2.1.1. First Phase (2003-2005) of FOSS**

The first phase of Project FOSS ran from 09/05/2003 to 12/31/2004, with the following donors: USAID, Interpeace (WSP-International) and the UK Foreign and Commonwealth Affairs Office (FCO), that started in March 2004 but extended beyond the first phase, to December 2007.

The FOSS development objective was strengthening the capacities of civil society organisations regarding their ability to interact with the state, through deepening their technical knowledge regarding security, defense and civil-military relationship topics, and developing work of research, advocacy, lobbying, social audit and technical assistance. From the very beginning FOSS was conceived as a contribution to the reform process of the security and defense institutions, within the framework of democratic governance and democratic security.

In this phase, the FOSS project pursued two major strands of work: (1) The Program of Democratic Security Studies (*Programa de Estudios en Seguridad Democrática*, PESD), within the framework of IGEDEP, involving all civil society organisations specialised in security (OSS) and (2) A support program for creating the Security Advisory Council (CAS), a key obligation in the Peace Accords, that had not been implemented so far. This related to two strategic objectives (1) To strengthen the OSS insight into the concept of democratic security and its practical translation and to create a collaborative social space for developing their capacities and activities in the areas of research, advocacy, lobbying,

social audit and technical assistance; and (2) To support the creation of another collaborative space, within the State, where the OSS would be able to make specific recommendations to the state authorities about democratic security issues.

In this first phase FOSS was made up of thirteen organisations: ASIES, CEG, FLACSO, FADS, FMM, ICCPG, IDEM, IEPADES, IGEDEP, OMA, POLSEC, SEDEM and URL. The Coordinating Commission of the programme of studies (PESD) was made up of a representative of each one of the participating organisations and of the FOSS Coordinator at that time, Héctor Rosada-Granados (from 01/10/2003 to 30/06/2005). The PESD Coordinating Commission functions were: (1) Formulating the Strategic Plan; (2) Establishing the procedures and criteria for application and approval of projects to be financed through the FOSS project; and (3) Receiving and evaluating the project proposals, submitted by organisations participants; then ordering IGEDEP to deliver the financing, or requesting changes before new evaluation, or not recommending the financing.<sup>32</sup>

Regarding the creation of CAS, the main goals achieved were:<sup>33</sup> (1) Agreement between the social organisations and the Executive about the mechanism of consultation with fifteen sectors in order to create the Preparatory Commission of the CAS. That Commission would then design the CAS structural and functional profile; (2) Facilitation of the process of selection and installation of Preparatory Commission members; (3) Contribution to CAS implementation by Governmental Agreement (*Acuerdo Gubernativo* AG 115-2004, 03/16/2004) based on the WSP-FOSS proposal; and (4) Creation, in March 2004, of the Liaison Office with Congress, to work especially with the Commissions of Government, Defense, and Legislation & Constitutional Issues.

As a matter of fact, one Cooperation Agreement was signed (08/31/2004) by FOSS and the Congress. In this respect, TAGER (2005: 307-308) already four years ago made the following assessment, that is confirmed by the present evaluation:

“...One of the most important results obtained in FOSS is the creation of this Office, because through it the civil society organisations facilitate different support and cooperation efforts aimed towards the fulfillment of the Peace Accord spirit in security issues. Civil Society has presented to the Congress of Republic a list of 16 pending laws about security issues derived from Peace Accords. The Congress Support Office (...) has achieved significant advances in the construction of trustworthy relations with parliamentarians. (...) It is remarkable, an unusual event in Guatemala, that civil society groups sign a cooperation agreement with the Congress. The construction of this relationship, and the dynamics involved, has caused the positioning of FOSS as technical reference in security issues, and also its consolidation as a space for interaction and negotiation within the Congress. Besides, the FOSS institutions have taken advantage of that space, and the direct communications for coordinating workshops and the practical arrangements for them are being channelled by the Support Office.”

### **2.1.2. Second Phase (2006-2007) of FOSS**

In the second phase, organisations members decided to change the organisational structure of PESD, and FOSS itself, in two main ways. First, IGEDEP would not have any more decision power on projects. And, secondly, without further budget for projects, they configured FOSS as a platform of joint action for promoting the security sector reform, with support and coordination provided by Interpeace. FOSS coordinators in this phase were Francisco Jiménez Irungraray (from 07/01/2006 to 12/31/2006) and Gabriel Aguilera Peralta (from 05/01/2007 to 04/25/2008).

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<sup>32</sup> Of 12 projects submitted 10 were approved for 7 member organisations (5 of them never got any financing), as it is reported by FOSS (2008 f: 9-11, 15-16). According to some persons interviewed, this third function of the PESD Coordination Commission created tension and discord between the organisations, due to a behaviour perceived to have been not always objective and respectful by IGEDEP.

<sup>33</sup> See FOSS (2008 f: 16-17)

FOSS overall strategy in this phase was to strengthen the spaces of convergence of State institutions and social organisations to promote the security sector reform, within the paradigm of democratic security. The development objective was defined in this way: “To reach the structuration of doctrinal, conceptual, institutional and operational components of the National System of Security (SNS), ensuring the interinstitutional coordination needed for reform process continuity, among them the Intelligence System construction and the elaboration of the National Agenda for Security.” Therefore, FOSS work was organised around two components: (1) Promotion of spaces for inter-institutional collaboration; and (2) Work with the Congress of Republic. The main goals achieved, after the fulfillment of a intensive agenda, were the following ones:

- 1) Participation in the writing, discussion and approval of 14 very important security laws.<sup>34</sup>
- 2) Organisation of 13 seminars for different Congressional Commissions.<sup>35</sup>
- 3) Participation in the formulation of security sector reform public policies.
- 4) Support to the Peace Secretariat (*Secretaría de la Paz*, SEPAZ) for handling the participation and dialogue process to define the SNS. Formulation and presentation to the President of a concrete proposal for creating the SNS.
- 6) Support to the creation of civil institutional presence in security and law enforcement: DIGICI, INACIF, International Commission Against Impunity (CICIG) and SNS.
- 7) Consolidation of channels of communication between OSS and Congress.
- 8) Presentations of the “Comparative Atlas of Defense in Latin America” (*Atlas Comparativo de la Defensa en América Latina*) to political parties, mass-media, governmental institutions, FOSS members, NGOs and international cooperation agencies.
- 9) Creation of a permanent space with international agencies for analysing security and justice issues. Strengthening of FOSS organisations’ capacities in advocacy and lobbying.
- 11) Monitoring and lobbying the Congress for driving the SNS Framework Law.
- 12) Writing the document “Strategic Actions for Implementation of National System of Security within the Framework of Democratic Security in Guatemala”.
- 13) Strengthening the dialogue and coordination between State and Civil society for driving policies and laws of democratic security.
- 14) Capacity development in democratic security for academic institutions and political parties.

Evaluating these achievements, the FOSS report (2008 f: 43-44) considers that:

“The main achievement obtained in 2007, after a huge effort of FOSS, was the agreement (08/01/2007) between the Congress of Republic and the United Nations Organisation for establishing the International Commission Against Impunity (CICIG) But also were obtained, with FOSS participation, positive opinions for important bills on security and justice, in the National Defense Commission, Extraordinary Commission on the Country Vision Plan, Extraordinary Commission on Justice Sector Reform, Foreign Affairs Commission, Legislation & Constitutional Issues Commission, Commission of Women and

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<sup>34</sup> Decree 35-2007 that creates the International Commission Against Impunity (CICIG); General Direction of Intelligence (DIGICI) Law; Law against Organized Crime; National Autonomous Institute of Forensic Sciences (INACIF) Law; Organic Law of Penitentiary System; Approval of Facultative Protocol of the Agreement Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments; National System of Security Framework Law; Reforms to Injunction of Legal Protection Law (*Ley de Amparo*); Reform to Criminal Code (in Sexual Crimes issues); Law on Private Security Services Providers; Intelligence Law; Approval of Rome Statute of the International Criminal Court; Firearms and Ammunitions Law; and Access to Information Law. See Annex 2.

<sup>35</sup> International Seminars: Reforms to Security Sector; Seminar Approach to a National Security Agenda; Course in Democratic Security; Course in Hemispheric Security; Seminar Actualization in International Economy and Trade; Introductory Course in Democratic Security; Workshop Formulation and Monitoring Technical Cooperation Projects; International Seminar: SNS, Key Components for Security Sector Reform; Seminar SNS: Perspectives on Implementation; Presentation of Atlas of Defense; Dialogue Meetings with Political Parties; Course about Framework Treaty of Democratic Security; and National Seminar on Security Sector Reform.

Commission of Minors and the Family. (...) Some impacts of FOSS in 2007 were: creation of civil institutional presence (with five laws) for security and justice; creation of interaction and discussion spaces between State and Civil Society on security and justice issues; to tackle security themes with a civil and specialised perspective; and the change of perspective in the Congress towards civil society.”

### 2.1.3. Third Phase of FOSS (2008-ongoing)

In the current phase, FOSS is made up of eight organisations: the Association for Investigation and Social Research (*Asociación de Investigación y Estudios Sociales, ASIES*), the Association for the Study and Promotion of Democratic Security (*Asociación para el Estudio y Promoción de la Seguridad Democrática, SEDEM*), Center for Studies of Guatemala (*Centro de Estudios de Guatemala, CEG*), Myrna Mack Foundation (FMM), Democratic Incidence (*Incidencia Democrática, IDEM*), Teaching Institute for Sustainable Development (*Instituto de Enseñanza para el Desarrollo Sostenible, IEPADES*), Institute of Comparative Studies in Penal Sciences of Guatemala (*Instituto de Estudios Comparados en Ciencias Penales de Guatemala, ICCPG*) and School of Political Science of the San Carlos University of Guatemala (*Escuela de Ciencia Política de la Universidad de San Carlos de Guatemala, ECP-USAC*).

In May 2008, Carmen Ortiz Estrada and Juan Ramón Ruiz were recruited for the post of, respectively, FOSS Coordinator and Congress Liaison Officer. It was the first time that FOSS proposed a shortlist of three candidates for the post of Coordinator. In June 2008, as a symbol of institutional growth, FOSS member organisations decided to change their name, keeping the same acronym “FOSS”, from Project for the “Strengthening of the Competencies of Social Organisations in the field of Security” to “Forum of Social Organisations Specialised in the Field of Security”.

In July 2008, FOSS organisations, now as Forum, carried out a strategic planning exercise for the period 2009-2013, that allowed them to define explicitly, for the first time, FOSS’ identification of the key problem, its mission and vision, as follows:<sup>36</sup>

**Main Problem:** Structural weakness of the institutions of the Guatemalan State responsible for implementing democratic security.

**Forum Mission:** To contribute to the strengthening of the institutions of the Guatemalan State responsible for implementing democratic security, in order to achieve a welfare state for the people, combining advocacy, lobbying and sensibilisation efforts with technical proposals presented to the relevant institutions.

**Forum Vision:** A National State committed to the paradigm of democratic security and that recognises FOSS as an important stakeholder in that field.

After the strategic planning, the Operational Plan 2008-2009 was formulated, with objectives, indicators, activities, responsibilities and schedules.<sup>37</sup> On the basis of this, the FOSS Coordinator makes monthly workplans, adjusting the activities according to the volatile political and institutional dynamics of the country, which is analysed every two months in FOSS meetings.

From 07/02/2008 to 01/07/ 2009, Francisco J. Jiménez Irungaray, formerly a FOSS coordinator, was Minister of Governance (*Gobernación*). After that he was appointed by President Colom to take charge of Technical Secretariat of the new National Security Council (CNS), which is the institution that coordinates the implementation of the National System of Security (SNS). According to the SNS Framework Law (03/11/08), the CNS is made up of the President of the Republic, the Ministries of Governance, Foreign Affairs and Defense, the Secretary for State Intelligence and the General Attorney.

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<sup>36</sup> See AZURDIA (2008 a: 5-6)

<sup>37</sup> See AZURDIA (2008 b)

The presence of Jiménez in the CNS is an excellent opportunity for FOSS to cooperate with the implementation of SNS.

The main achievements obtained by FOSS in this third phase of its evolution have been:<sup>38</sup>

- 1) Contribution to the approval of SNS Framework Law by Legislative Decree 18-2008.
- 2) Formulation of one project for supporting SNS implementation along 2009.<sup>39</sup>
- 3) Formulation of Strategic Plan 2009-2013 and Operational Plan 2008-2009.
- 4) Technical analysis of “Plan Mérida” and its implications for Central America.
- 5) Technical assistance to the National Council for the Peace Accords (*Consejo Nacional de los Acuerdos de Paz*, CNAP), regarding the Law of Firearms and Ammunitions, the Framework Law of SNS, the Law of Access to Information and the Organic Law of National Civil Police (PNC).
- 6) Participation in the process initiated by CNAP for electing the members of the Security Advisory Council (CAS), in which were elected three persons that work at three FOSS organisations (IEPADES, FMM and ICCPG).
- 7) The Liaison Office worked with 9 Congress Commissions.
- 8) Contribution to discussion, approval, reapproval or reform of 10 Bills and/or Laws.
- 9) Collaboration with the Executive, the Judiciary and agencies of international cooperation.
- 10) Effective, efficient and respectful performance of the Coordination role.

In the strategic planning exercise, on July 2008, five areas of work were defined for the period 2009-2013, with following objectives, lines of action and expected results:<sup>40</sup>

FOSS Strategic Plan (2009-2013)			
Areas of Work	Objectives	Lines of Action	Expected Results
<b>(1) Influence in the Congress of Republic</b>	Promoting a legislative agenda in line with democratic security	SNS implementation	- SNS implemented with enough resourcefulness - International cooperation agreed
		Monitoring Legislative Agenda	- Progress in the security and justice legislative agenda, according to Peace Accords
		Technical Support and Technical Opinion	
		Sensibilization, Lobbying and Social Audit	- FOSS-Congress relationship enhanced and strengthened
<b>(2) Influence in the Executive</b>	Promoting the Democratic Security Policy of Guatemala	Democratic Controls	- Citizens can access private information compiled by security and intelligence services - SNS authorities sensitized on public accounting - Procedures of selection, education and inspection of SNS officials designed and presented for approval
		SNS implementation	- Technical proposals debated (in FOSS) and presented to authorities
		FOSS-CAS relationship	- Communication channel established - CAS consolidated as space of interaction Government-Civil Society
		Work with International Community (IC)	- IC involved in democratic security issues - Support to CICIG mandate
<b>(3) Justice related with Security</b>	Supporting the efficiency and coordination, with democratic controls, of the National System of Justice (SNJ)	Democratic controls	- Citizens can access private information compiled by security and intelligence services - SNS authorities sensitised on public accounting
		Alternative justice services	- More efficiency and effectiveness in justice administration
		SNJ-Civil Society relationship	- Lobbying SNJ - FOSS positioned in SNJ
		Interinstitutional and regional coordination against violence and impunity	- Indicators of insecurity show decline - Citizen perception of security improved
<b>(4)</b>	Reaching FOSS	Permanent internal capacity development	- FOSS technical and political capacities strengthened

<sup>38</sup> See FOSS (2008 f: 54-57)

<sup>39</sup> See FOSS (2008 d)

<sup>40</sup> See AZURDIA (2008 a: 36-40)

<b>Strengthening of FOSS</b>	sustainability	Exchange of experiences	- FOSS capacities extended
		Getting new national and international strategic allies.	- Rapprochement to international community - Thematic alliances and financial support agreed
<b>(5) Coordination of FOSS</b>	Facilitating the FOSS mission achievement	FOSS coordination and facilitation	- effective Technical and Political Council meetings - effective coordination procedures - Operational Annual Plan formulated and fulfilled - FOSS coordinated and strengthened
		Internal and external personal relations	- Adequate management of disagreements - Harmonious interpersonal relations
		Fundraising	- Formulation of joint projects and presented to international agencies
		Modernization and application of internal regulations	- Internal regulations modernized and applied - Internal and external information and communication strengthened

## 2.2. FOSS Structure and Functions

Next follows a description of FOSS’ organisational development process from its initial condition of Project to its current condition of Forum of OSS.<sup>41</sup>

### 2.2.1. Organisational Development

FOSS’ organisational development is an emblematic case of progressive ownership, not yet fully achieved, of an international cooperation programme by the national organisations involved. It has been a continuous process, with ups and downs, of creation and/or strengthening of endogenous capacities that has been successful not by chance but because of the long term vision of its promoters. This fact has been recognised and analysed by persons interviewed for this evaluation, confirming the findings of previous strategic evaluations, for example the one carried out in September 2006:<sup>42</sup>

“(…) When FOSS began, we met together based on a common need. Many of us didn’t have any experience in these issues and our specific knowledge was scarce. The WSP representative [Bernardo Arévalo de León] was considered one of the most knowledgeable experts in democratic security in Guatemala, and he was able to coordinate the efforts of our non specialized organisations and looked for international financing that was found and channelled to our work.”

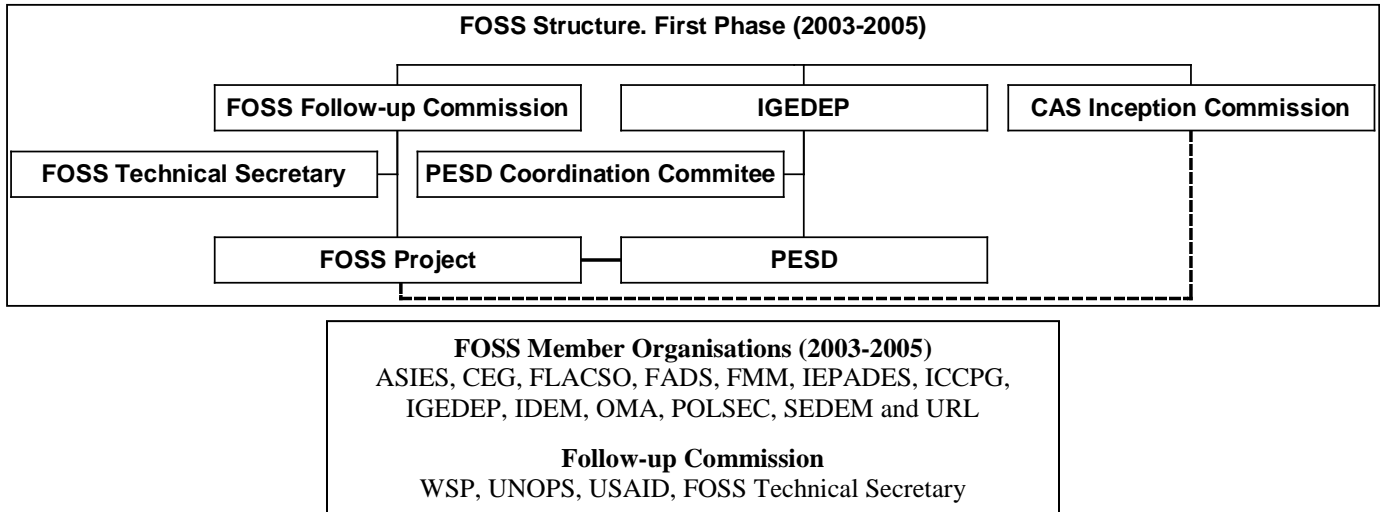
Indeed, FOSS has been a school, perhaps unique in Central America, not only of democratic security theory and praxis but also a school of organisational development, for individual member organisations and for FOSS itself, as second tier platform for interaction and joint action. This statement could sound excessive, but can be corroborated if one lists the individuals that have been and continue to be leaders and/or officials of State institutions and social or civil society organisations in Guatemala since the Peace Accords signing. As a matter of fact, almost all of them had been and continue to be involved, one way or another, with the dynamics POLSEDE-POLSEC-FOSS (1999-2009).

The next graph shows the FOSS structure in its first phase (2003-2005).<sup>43</sup>

<sup>41</sup> Obviously it is not appropriate to delve here in the details of the process, as it would be the case if we were pursuing the full analytical record – “systematization” (“sistematización”), in Latin American Spanish – of the FOSS experience.

<sup>42</sup> See FELICIANI (2006: 10). Brackets added.

<sup>43</sup> See FOSS (2008 f: 14)



In this phase, FOSS’ organisation was very complex and the FOSS identity was relatively hidden in one of its components: the programme PESD. This fact is apparent even in the name of the structures. FOSS had only a “technical secretary” but PESD had a full “coordination committee” (made up of one representative of IGEDEP’s Board,<sup>44</sup> one representative of each member organisation, and the FOSS technical secretary). The FOSS to PESD reduction generated organisational dysfunctionalities and had negative impact on the harmony of member organisations. In fact, the FOSS “principal authority” was a dual authority: PESD Coordination Committee, on one side, and the IGEDEP Board on the other side. However, in theory, IGEDEP was one of the FOSS beneficiary institutions. Disagreements and tensions increased and, finally, the structure collapsed:<sup>45</sup>

“The project development, in its first stage, focused on what was defined by the logical framework in the project document approved by donors. The first development objective was to establish the Guatemalan Institute for Development and Peace (IGEDEP) as a collaborative space for civil society, for the strengthening of the technical capacities and institutional solidity of those institutions specialised in security themes or wishing to do so. Such objective seemed to be achieved in the first moment, because IGEDEP was one of the first institutions strengthened. Unfortunately, due to differences with the other social organisations, IGEDEP did not continue to play the role that had been planned. It was decided that in the second stage social organisations should be constituted as a plenary for joint decision making, with Interpeace acting as facilitator and coordinator.”

Thereafter, in the second phase, FOSS began to understand itself as a platform, with higher identity and autonomy. Indeed, the historical overview report FOSS (2008 f) says that:<sup>46</sup>

“In the second stage, FOSS was restructured, having accomplished the objective of creating CAS, when the member organisations decided to redefine PESD in two ways: to continue collaborating but without IGEDEP coordination but also without the budget for projects that had been available in the first phase. to follow up with less budget (...) being Interpeace the institution that would give support and coordination.”

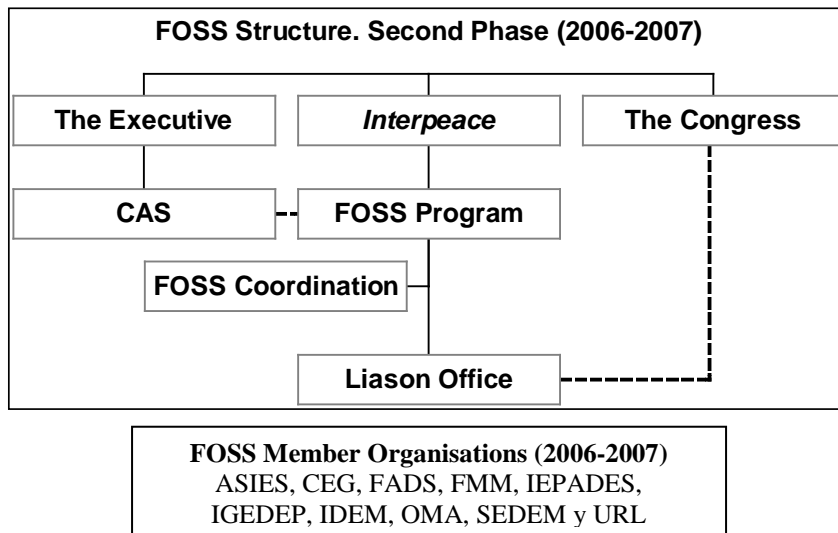
<sup>44</sup> Board of Directors of IGEDEP: Eduardo Stein Barillas, President; Raquel Zelaya, Vicepresident; Edelberto Torres-Rivas, Secretary; Gonzalo De Villa, Treasurer. Vocals: Gabriel Aguilera, René Poitevin, Guillermo Pacheco, Marta Altolaguirre. Functions: To approve financing for projects submitted by organisations; to request additional information through Coordination Commission; and to reject projects, informing the Coordination Commission of its reasons for doing so.

<sup>45</sup> See FOSS (2008 f: 11-12)

<sup>46</sup> See FOSS (2008 f: 22)



The next graph shows the renewed FOSS structure, more simple and practical, in the second phase (2006-2007):<sup>47</sup>



However, this organisational “downsizing” did not cause any loss of relevance and impact of the FOSS work, as might be expected. On the contrary, in this phase FOSS developed one of the most important interventions that the team FOSS-Interpeace has achieved in the field of political mediation in Guatemala, overcoming the impasse around the creation of the National System of Security (SNS). As a result of the intervention, one joint proposal was presented to the President and the Security Cabinet:<sup>48</sup>

“ (...) The process to reach one proposal for SNS was carried out within the framework of the Security and Defense Round Table convened by the Government. The problem was that SEPАЗ was not able to drive the process and the Ministry of Defense (MDN) assumed leadership. (...) In May 2005, the MDN tried to initiate the process but civil society organisations objected, arguing that the topic was not peculiar to the Defense sector (...) Then SEPАЗ decided to take over again control of the Table, but first went through a process with MINREX, MINGOB, MDN, SAE, CAS, FOSS and REDGUA to define the scope and procedures for the exercise. For this, SEPАЗ asked Interpeace (then WSP-International) for financial and technical support. (...) The process of defining the Round Table was very important because it created confidence between State actors whose relationship was difficult (...) For carrying out the Round Table, Interpeace obtained financing from British Government, through the FOSS Project...”

This discrete but decisive intervention of FOSS and Interpeace (with British Government support), during President Berger’s administration, at the very beginning of the second phase, was completed in December 2007, at the end of that second phase (also with British Government support), and then during President Colom’s administration:<sup>49</sup>

“The FOSS public activities in 2007 finished in December with the International Seminar on Advances in the Security Sector Reform: Implementation and National System of Security Consolidation, supported by the United Kingdom Embassy in Guatemala . (...) The audience at the seminar included former State officials, new State officials, civil experts, political parties, journalists and international cooperants. One of the lecturers was Mr. John Parr, advisor to the Ministry of Defense of Great Britain and North Ireland.”

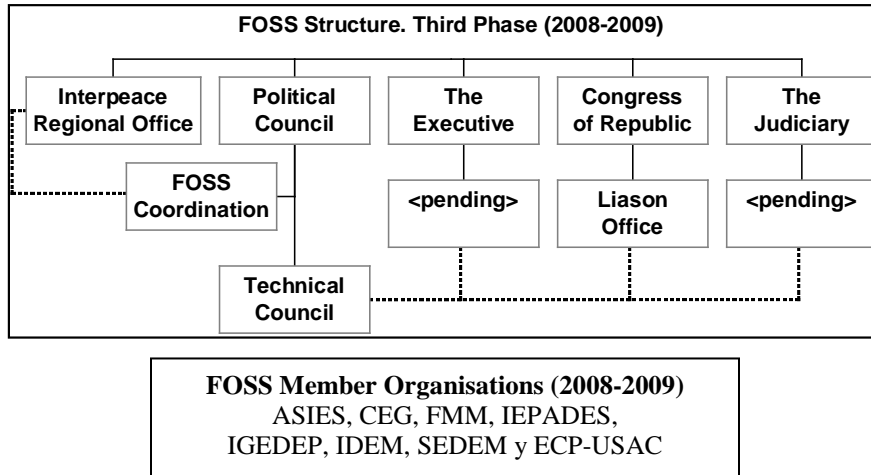
The next graph shows FOSS’ structure in the current third phase.<sup>50</sup> Even though the basic structures are the same, they are becoming more autonomous than they have been before.

<sup>47</sup> See FOSS (2008 f: 22)

<sup>48</sup> See FOSS (2008 f: 23-25)

<sup>49</sup> See FOSS (2008 f: 40-41)

<sup>50</sup> See AZURDIA (2008 a: 27)



At this moment, FOSS is facing a dilemma: growth and consolidation as Forum or progressive inertia and disintegration (see paragraph 3.2.1 further on). The resolution of this dilemma depends on two factors: the strategic and tactical value that its members assign to FOSS, and their political will to follow up the consolidation and strengthening of this special second tier organisation that is the Forum.

### 2.2.2. FOSS Financing

As was said in paragraph 2.1.1, in the first phase (September 2003 to December 2005) FOSS as project was financed by USAID, Interpeace and the UK Foreign and Commonwealth Affairs Office (FCO). Project proposals were internally presented by PESD-FOSS member organisations to a Coordination Commission, looking for exclusive or shared funding up to US\$ 100,000. If IGEDEP approved the proposal, organisations signed a financial contract with UNOPS.<sup>51</sup> However, in the second and third phases, FOSS has not received financial support for new “internal” projects.

From January 2007 to January 2009, the costs for the “Coordination function” were covered by Soros Foundation Guatemala and the Open Society Institute (OSI). Since February 2009, 80% of Coordination costs are covered by Interpeace. The costs of the logistics for the Liaison Office with Congress are covered by Interpeace, while the budget for the Liaison Officer him or herself is provided by the CEG/Interpeace/ASDI Project. As a matter of fact, it is Interpeace that looks for donors among international community. If Interpeace doesn’t find funds, Interpeace covers the budget, as it is happening now. Unfortunately, current donations only cover (and not always) operational costs and do not permit the pursuit of new FOSS projects, whether individually by a member organisation, or jointly.

### 2.2.3. FOSS Membership

The most interesting characteristic that an external observer can perceive in a first encounter with FOSS is the ideological and political pluralism of its member organisations. According to the persons interviewed, the FOSS organisations can be located on a political spectrum “left-right” (if this labels means something today) in this way:

CEG	IDEM	SEDEM	ECP-USAC	ICCPG	IEPADES	FMM	ASIES
← “left”			“center”		“right” →		

<sup>51</sup> From 1999 to 2004, WSP International worked in Guatemala under the umbrella of the United Nations System. Due to this, the organisations made their financial arrangements with UNOPS. Since 2004, Interpeace works directly with its national partners, as an international NGO.

Nevertheless, pluralism doesn't seem to hinder the functioning of FOSS, because there are explicit and concrete "rules of coexistence" (*normas de convivencia*), "rules for plenary meetings" (*normativa de reuniones plenarias*) and "rules of coordination" (*normas de coordinación*) agreed by the member organisations.<sup>52</sup> This pluralism of FOSS is especially remarkable in the Guatemalan political environment, in which political alliances occur only between ideologically alike organisations.

On the other hand, one could more critically observe that FOSS doesn't show intercultural pluralism. Indeed, there are no indigenous organisations which can provide indigenous perspectives on violence, security and justice, as for instance the Mayan Lawyers Association (*Asociación de Abogados Mayas*, AAM), Political Association MOLOJ ("*Movimiento*") or the Guatemalan Indigenous Mayors and Authorities Association (*Asociación Guatemalteca de Alcaldes y Autoridades Indígenas*, AGAAI). As a matter of fact, there are no member organisations coming from the local level which can provide local perspectives either; as for instance the National Municipalities Association (*Asociación Nacional de Municipalidades*, ANAM), the Conflict Resolution Departmental Network of Huehuetenango (*Red Departamental de Atención de Conflictos de Huehuetenango*, REDAC), Catholic Social Action (*Pastorales Sociales de la Iglesia Católica*), the Christian Ecumenical Council of Guatemala (*Consejo Ecueménico Cristiano de Guatemala*), or remarkably the PROPAZ Foundation. There are also no social organisations specialised in environmental security which are able to provide expertise and technical assistance to the National Coordination for Disaster Reduction (*Coordinadora Nacional para la Reducción de Desastres*, CONRED), institution that has been incorporated into the National System of Security (SNS) Regarding environmental security, the presence of Marco Vinicio Cerezo Blandón, FUNDAECO founder, in the new CAS could be an excellent opportunity for FOSS to broaden its perspective.

Another more problematic dimension of the FOSS membership is the lack of university institutions. In the first phase there were FLACSO and URL. But FLACSO quit FOSS after a process of internal refocusing and reorganisation. And URL quit on the grounds that security issues are not academic themes in which URL would be able to make specialised and strategic proposals. In the second phase, FOSS approved the incorporation of the School for Political Science of the USAC. But in the third phase USAC's General Directorate for Research (DIGI-USAC) also requested incorporation and was admitted with the right to speak but without a vote, because it cannot be fully included without official decision from USAC's President. Unfortunately ECP-USAC has not participated in FOSS activities until now, despite having received all information and invitations. Whatever the reasons, FOSS doesn't have university members now, which is disadvantageous for FOSS and the universities alike.

In the first phase, PESD-FOSS made up of 13 organisations. But in the second phase, one of them (the POLSEC network) finished its project-cycle. Two of them (FLACSO y URL) quit FOSS, as has been said. Later OMA quit after debates on death penalty, which was defended only by OMA within FOSS.<sup>53</sup> And FADS quit due to a disagreement with the selection process for the current FOSS Coordinator. The reduction of the number of active organisations from 13 to 10, and then to 8, is intriguing to an external observer, especially because FOSS has not attracted new members since 2004. One former FOSS coordinator declared that this fact shows that the leadership of FOSS organisations, and the social organisations themselves, need "a shock therapy to wake up from their state of fossilization" ("*un operativo de shock para despertar a los fósiles de la sociedad civil*").

FOSS organisations have different specialties in democratic security, and this fact favours the complementarity and synergy between them. So, within FOSS, CEG specialises in legislative procedures and lobbying; ASIES, in the substantive content of law and systematic research; IDEM in military issues;

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<sup>52</sup> See FOSS (2008 a), (2008 b) y (2008 c)

<sup>53</sup> Currently, FADS, OMA and FMM –still a FOSS member– come together in a joint platform called Pro-Justice Movement ("*Movimiento Pro-Justicia*", MPJ)

FMM in civil intelligence and defense; SEDEM in democratic controls and local networking; ICCPG in security and justice relationships; IEPADES in security institution building and democratic culture. All of them have recognized outstanding capacities on human rights, political analysis, education, advocacy and lobbying.

FOSS organisations have different institutional sizes. ASIES and FMM are “bigger” than others, but remain FOSS members. As a matter of fact, 30 of the 32 persons interviewed declared that it is convenient for social organisations specialised in security (OSS) to be part of FOSS because this generates added value (“valores agregados”) like: (1) Collective Brain: Exchange of ideas, visions, information and knowledge; (2) Collective Understanding: Strategic convergence (common goals) and joint influence and impact; (3) Collective Will: Energy and moral drive; (4) Collective Memory: A repository of shared experience; and (5) Interinstitutional Synergy.

#### **2.2.4. FOSS Functioning**

One important conclusion of this evaluation is the difference of “*esprit de corps*”, or sense of belonging to FOSS, that exist among directors of member organisations (which make up the FOSS “Political Council”) and among member organisation staff that are part of the FOSS “Technical Council”. Some directors expressed political or personal criticism and bitterness towards others, whilst all those who meet and work within the Technical Council showed a common vision, capacity of agreement and respectful attitudes towards at times very different opinions. Convergence within the Technical Council does not necessarily translate in inter-institutional agreements because its members do not have the power to take decisions for their organisations (except a few individuals who are directors, and therefore part of the Political Council, but also contribute to the Technical Council). The overview report on FOSS (2008 f) reveals one of the negative consequences of that situation: “*Sometimes personal positioning gets mixed up with the institutional positions, especially in the case of some Technical Council members. This fact can create not only conflicts but also unnecessary delays that affect teamwork. In this respect, it is necessary to remember that, according to the Coexistence Rules of FOSS, the political decisions are adopted by institutional representatives at the Political Council level. Not all Technical Council members have the authority to adopt important political decisions*”<sup>54</sup>

It is obvious that the Political Council does not carry the practical responsibilities of what FOSS enables but also requires. All persons interviewed declared that those who carry the burden are the Technical Council and the FOSS Coordinator (described as a sensitive, dynamic, technically skilled, politically neutral person) This observation acknowledges not only the importance of the Coordinator’s job but also the Interpeace facilitation. However, given that only the Political Council can take FOSS decisions and that some Directors said that they don’t have time for FOSS because they have bigger priorities, we have a serious problem and an important risk here. The obvious solution is to delegate more decision making authority to other institutional representatives of organisations at the Political Council.

The FOSS members have strong common ground in their commitment to the Peace Accords and to the democratic security paradigm, which provide a solid basis for collaboration despite political and ideological differences, asymmetries in size, budget and specialisation, and different interpretations of consensus (“unanimity” or “the best possible agreement”). The differences that exist are in fact a strong value for the “Forum”, in that they reflect the social diversity of Guatemala. They invite good will to further strengthen and use FOSS as a common platform, in order to achieve better internal fellowship and more effective common influence on critical concerns for the country.

The role of Interpeace in the functioning of FOSS functioning seems to be neutral and discrete, always respectful of the rhythms, agendas and priorities of the members. This is not an easy task and also implies

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<sup>54</sup> See FOSS (2008 f: 51)

resisting the temptation of imposing effectiveness and efficiency at any cost, in the face of the current situation of overwhelming violence, insecurity and impunity in Guatemala.

### 2.3. Results Obtained by FOSS

The most important results obtained by FOSS since 2003 till now have been:

- 1) Organisational development and much strengthened technical and political capacity of members.
- 2) The Liaison Office with Congress has contributed to the discussion, approval or rejection of almost 60 Bills and Laws (see Annex 2 of this document)
- 3) Contribution to the design, approval and implementation of Security Advisory Council (CAS) and the National System of Security (SNS).
- 4) Contribution to embedding the democratic security paradigm in the vision and discourse of politicians, State officials, the academic community, press and public opinion.
- 5) Capacity building of human resources in different aspects of democratic security.
- 6) Progressive ownership, not yet fully achieved, of the international cooperation programme by FOSS organisations.
- 7) The existence of FOSS itself as Forum, that is, as a second tier organisation of eight social organisations specialised in security issues.

A more detailed consideration of these results follows here.

#### 2.3.1. With respect to Members Organisations

Guatemalan civil society currently has a technical and thematic capacity on various aspects of democratic security that is outstanding by global standards. Obviously, the building of this capacity cannot be attributed exclusively to POLSEDE-POLSEC-FOSS. However, the contribution of POLSEDE-POLSEC-FOSS is very significant. This fact has been documented in different national and international evaluations, as for example one conducted by IDRC three years ago.<sup>55</sup>

“(…) A draft Framework Law on Public Security was going through Congress during the field visit for this report. It included the creation and regulation of a civilian intelligence capacity, a law to regulate private security companies and another on the possession of firearms. The passage of these laws which had been drawn up through a very important process of consensus between government and security sector civil society organisations was notable for two things. On the one hand, the increasing sophistication of the security sector policy community in dealing with Congress. A Congressional Commission of FOSS (*Fortalecimiento de Organizaciones Sociales en Temas de Seguridad*, or Strengthening of Social Organisations in the Theme of Security) was working (...) to penetrate the complex and shifting alliances amongst political forces in Congress, and to resist the role of the *Ministro de Gobernación* in trying to erode the agreed Draft Law. (...) Guatemalan civil society organisations were in general fragmented and weak by 2005. Mayan organisations in particular had failed to build a capacity to articulate the indigenous voice in the post war years, for a variety of reasons. When MINUGUA, the UN Verification Mission, left Guatemala in 2004 there was a widespread feeling at the final conference that Guatemalan civil society organisations had not been sufficiently strengthened to sustain the peace-building effort. However, as we discuss below, some organisations managed to reorganize, restructure and develop new frameworks for work, and the human rights and security sector and judicial reform groups stand out in this respect. (...) Improved capacity to generate security sector reform policy is also apparent in the legislative agenda around democratic security which was taken up in the wake of the POLSEDE process. The Program of Strengthening Social Organisations in Security Themes (FOSS) has been important for bringing several civil society organisations together to draw up legislative proposals for a Law of Free Access to Information, a Law of Private Security Services, and a Public Order Law (...)”

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<sup>55</sup> See IDRC (2006: 30)

### 2.3.2. As Collaborative Forum

FOSS has gained in maturity and evolved from a project that offered opportunities to get funding for strengthening the individual organisations, towards a Forum that for some time now has not offered funding opportunities but that provides a space to think through specific issues and, where possible, present common proposals. FOSS, as Forum, is a reflection of Guatemalan society and therefore shows internal differences, but it is also a mirror for the governance of Guatemalan society in showing how such differences can be managed and often overcome.

### 2.3.3. With the Congress of the Republic

Since 2004 FOSS, as a group of civil society organisations, has a Liaison Office (*Oficina de Enlace*) with Congress, allowing direct civil society engagement with parliamentarians, congressional debates and participation in bill discussions. The relationship was formalized in the Agreement signed the 08/31/2004 and ratified in November 2008.<sup>56</sup> This seems to be a highly exceptional and perhaps unique arrangement worldwide.<sup>57</sup> It was originally a project proposal of CEG (*Centro de Estudios de Guatemala*), but the association with CEG has created ambiguity and certain tensions within FOSS, at least periodically and among certain members. Technically that ambiguity should no longer exist, as the funding today comes to Interpeace, who hires the person occupying the post and provides the Liaison Office infrastructure.

FOSS' work with Congress depends critically on the quality and capacity of the person who makes up the Liaison Office. Until now there were four Liaison Officers: Martín Arévalo de León, Javier Monterroso, Ligia Blanco and Juan Ramón Ruiz. Their terms of reference are especially wide and demanding.<sup>58</sup> In earlier years there was some difficulty for the Liaison Officer in that the post holder seemed to be answerable to three different entities: the director of CEG, the FOSS coordinator and the director of Interpeace (as employer). There should be a clear management line to let it work, without unnecessary "organisational noise".

What is known as the "Liaison Office" is in fact one person without a physical office. The question has been looked into whether it would be good to have a physical office closer to Congress in Zone 1 of the capital, where many Congressional Caucuses ("*bancadas*") have their office, and not in the distant Zone 10 where Interpeace have their Latin American Regional Office. For example, the Association for Legislative Development and Democracy (*Asociación para el Desarrollo Legislativo y la Democracia*, LEGIS), a member of the Legislative Consortium ("*Consortio Legislativo*"),<sup>59</sup> has an office there and finds the proximity an enabling factor. Arguments against having a physical office there are the increased visibility of the FOSS group and the concern that this may engender allegations of undue influence. Another concern would be the added cost. An alternative would be not to have a separate physical Liaison Office, but a small FOSS office that would also accommodate the person providing the liaison with Congress. Though different interlocutors confirmed that a physical office near the Congress in Zone 1 could indeed have advantages, nobody suggested that not having had such an office until now had been a problem.

The focus of FOSS being democratic security, the ten key congressional commissions that its members have been engaging with are: National Defense Commission; Government Commission; Commission of

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<sup>56</sup> See the document FOSS (2008 g)

<sup>57</sup> The Informative Bulletin (*Boletín Informativo*) of Congress inserted that day the following note: "The President of Congress, Rolando Morales Chávez, emphasized that civil society, through the Project Strengthening of the Competences of Social Organisations in the field of Security (*Fortalecimiento de Organizaciones Sociales en Temáticas de Seguridad*, FOSS), has opened a communication channel that has been forgotten and put behind for a long time". Accessible (04/02/09) at the Congress website: [http://www.congreso.gob.gt/gt/ver\\_noticia.asp?id=90](http://www.congreso.gob.gt/gt/ver_noticia.asp?id=90)

<sup>58</sup> See Annex 2 of this document.

<sup>59</sup> See next paragraph 2.3.6

Legislation & Constitutional Issues; Extraordinary Commission for the Country Vision Plan; Extraordinary Commission for Justice Sector Reform; Foreign Affairs Commission; Human Rights Commission; Commission of Women; Commission of Minors and the Family; and the Extraordinary Commission for Youth, which recently has requested technical assistance for promoting the Youth Violence Prevention Bill. Members of Congress have suggested that other congressional commissions, among the 47 that currently exist, could benefit from equal technical support, for example: Special Commission for National Security and Intelligence Issues; Extraordinary Commission for Law Dismissing (“*Deslegislación*”) and Indigenous People Commission.

Since 2004, FOSS has effectively contributed to promoting and protecting the democratic content in a set of laws that have been adopted. Annex 2 of this document offers the list of Laws and Legal Initiatives with which FOSS has been involved. The list includes also the legislative minimum agenda (18 laws) to be promoted in 2009 and probably 2010. This agenda includes the challenging Law on Firearms and Ammunitions and the Law on Private Security Companies, the debates around which are also subject to the lobby of other interest groups with different visions.

A very important fact to note is the absence in Guatemala of harsh and repressive “iron fist” legislation (“*mano dura*”) or zero tolerance against the youth gangs (*pandillas, maras*) that has been adopted in neighbouring El Salvador and Honduras. Such legislation undermines democratic gains and human rights and FOSS can claim partial credit for Guatemala not having adopted this course of legislative action. This is an example of a type of impact that is often hard to identify, i.e. a negative trend avoided.

The influence of civil society, especially the members of FOSS, on the legislative debates and the resulting legislation adopted is undeniable. This constitutes the greatest impact of FOSS so far. It is worth highlighting that this has been achieved in a highly cost-effective manner. It also needs mentioning that these results have been achieved in the face of extremely difficult circumstances: Parliamentarians switching party or going independent (“*tránsfugas*”);<sup>60</sup> the annual rotation of the presidency of Parliamentary Commissions; and a significant slow down in parliamentary work once the electoral campaigning starts, which in Guatemala can be well over a year before elections; alleged situations of corruption and fraud committed by Congress Directive Board; strong discredit of Congress in national public opinion, and so on.

Given such remarkable impact of FOSS in its work with Congress we may ask: What is it that makes the Liaison Office so effective and efficient? Members of Congress and policy advisors interviewed pointed at a number of factors:

- 1) The objective manner with which FOSS presents information, analysis and suggestions, which reduces the ideological and political positioning and focuses the attention on the technical questions and options.<sup>61</sup>
- 2) High technical quality of the FOSS input.
- 3) Appropriate cross-references of comparative legislation relevant to the topic under debate.
- 4) Provision of informal spaces for parliamentarians and their policy advisors to meet and discuss in addition to the formal meetings they have.
- 5) Linking of parliamentarians with other civil society entities (for example, at local level) that can provide a perspective from their reality as they see and experience it.

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<sup>60</sup> In the week of the strategic review the ruling UNE (*Unidad Nacional de la Esperanza*) party lost ten members, that formed a new independent caucus (“*bancada*”)

<sup>61</sup> A Congressional advisor (former army officer) declared, privately, that he and other advisors were considered and marginalized as “reactionaries”, but FOSS’ inclusive spirit made it possible for him and his antagonists to overcome the stereotypes and to produce progressive and enlightened laws.

- 6) Information about options pursued in other countries and potentially useful international expertise.
- 7) Continuous monitoring of parliamentary agendas and schedules, which also helps the members of FOSS prioritize and synchronise their work by keeping them abreast of the dynamics of Congress.

The unanimous assessment about FOSS' work with Congress is fairly well expressed in the following declaration of one Congressman: "FOSS has become a reference if not in public opinion at least for parliamentarians and their policy advisers (*"El FOSS se ha convertido en un referente si no en la opinión pública por lo menos para los diputados y sus asesores."*) It is also highly significant that all the persons associated with Congress that were interviewed, confirmed that they could clearly differentiate between collective FOSS interventions and interventions of from an individual organisations that may also be a member of FOSS. They know that sometimes no consensus can be reached within FOSS, but they don't see this as a problem or deficiency of FOSS, which seems to be clearly their most significant interlocutor.

The explanation for this fine and correct perception is that FOSS organisations only present proposals and contributions to Congress as "FOSS" if they have reached unanimity. Given that individual FOSS members are fairly specialised in certain sub-topics related to democratic security, it may be one or two of the members that develop a draft proposal which is then debated among all. FOSS collectively can adopt the draft as it is or the internal debate leads to some modifications. Obviously, FOSS individual members can also pursue their individual lobbying of parliamentarians and their advisors (for example, FMM has a designated person for this, and directors of organisations have their own network of influence and political bargaining). However, such autonomous actions don't undermine the FOSS positions, which are considered as valid as the individual ones. If FOSS, internally, cannot achieve a fair consensus, it will not put forward a FOSS proposal and those individual members with expertise and access will pursue their own strategies or make different alliances for common proposals or joint action.

#### 2.3.4. With the Security Advisory Council (CAS)

The CAS recently created its own "official website" (since December 2008). In its self-introduction refers to the POLSEDE-POLSEC-FOSS influences in its conceptualisation and creation.<sup>62</sup>

**"Personal Data:** The Security Advisory Council (CAS) is an institution created by Governmental Agreement AG 15-2004 (03/16/2004), as response to Peace Accords obligations, specifically the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society Accord (*Acuerdo de Fortalecimiento del Poder Civil y Función del Ejército en una Sociedad Democrática*, AFPC). CAS responds to the security concept established in the Central American Democratic Security Framework Treaty (*Tratado Marco de Seguridad Democrática de Centro América*) and also to the priorities established by different discussion groups like the project Towards a Democratic Security Policy 1999-2003 (*Hacia una Política de Seguridad para la Democracia*, POLSEDE), the project Towards a Citizen Security Policy (*Hacia una Política de Seguridad Ciudadana*, POLSEC) and the project Strengthening of the Competences of Social Organisations in the field of Security (*Fortalecimiento de las Capacidades de las Organizaciones Sociales en Temáticas de Seguridad*, FOSS), which have been supported by different sectors of civil society, the state, and international cooperation. **Interests:** The concept of Democratic Security provides the theoretical basis for CAS. (...) Starting from the conviction that Human Rights must be a real interest for the State, the concept of Democratic Security is oriented towards protecting people's interests and their full development."

The review of FOSS report (2008 f) gives a precise account of FOSS' contribution to the complex process of defining CAS.<sup>63</sup> FOSS has helped CAS to strengthen its institutional relations with civil society organisations and has been an important mechanism of communication and interaction between CAS and

<sup>62</sup> At: <http://consejoasesordeseuridad.blogspot.com/> y <http://www.blogger.com/profile/00363321915899706681>

<sup>63</sup> See FOSS (2008 f: 12-13).



them. At CAS' request, FOSS has also elaborated technical opinions about security issues, for instance the "Technical Opinion of FOSS Organisations about the Pre-Project of a Law Against Terrorism".<sup>64</sup> It is important to say that six persons from FOSS organisations were in the first CAS, while there still remain three which are part of the current second CAS.<sup>65</sup>

### 2.3.5. With the National Security System (SNS)

The SNS proposal came from CAS and incorporated previous proposals generated by POLSEDE, POLSEC and FOSS. Indeed, the former CAS coordinator, Enrique Álvarez, Director of IDEM, one of FOSS' member organisations, has declared that:<sup>66</sup> "(...) SNS is an element already brought up by the POLSEDE project (...) After this came POLSEC and finally FOSS. Since the very beginning, CAS started to work on that proposal".

The review of FOSS report (2008 f: 23-25) contains the record of FOSS' contribution to the political and technical definition and implementation of the SNS. Besides, it is necessary to mention that FOSS supported the discussions, debates and approval of the SNS Framework Law (Decree 18-2008). In particular, FOSS has had influence on the Favorable Ruling of Bill 3608 (future SNS Framework Law), within the Extraordinary Commission for the Country Vision Plan. Moreover, the implementation of some resolutions contained in the Framework Law has advanced with support provided again by the Liaison Office, which will continue monitoring and promoting the implementation. Currently, the Liaison Office promotes the discussion, ruling and approval of the Strategic Intelligence Secretary Internal Law, within the context of SNS Framework Law.

Regarding the importance for Guatemala of the SNS Framework Law and the proactive attitude of civil society organisations in the process of its definition, promotion and political negotiation, it is interesting to consider here the opinion of one of the most important experts and activists on human rights in Guatemala, which is currently a member of the Security Advisory Council:<sup>67</sup>

"It was not easy to arrive at the National System of Security Framework Law, after years of discussion and negotiation between parliamentarians and security experts. The approved law does not incorporate all the elements suggested by the PESD program carried out by the organisations specialised in security issues. Like other laws approved by the Congress, it is an agreement that reflects state visions and social visions together [but not integrated]. Despite this, it generates one system and, therefore, it has potential, if the law is applied, of beginning to finish the arbitrariness that exists in security issues."

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<sup>64</sup> See FOSS (2007)

<sup>65</sup> The first CAS (7 holders and 3 substitutes) in June 2004 comprised Julio Balconi (former Army General), Carmen Rosa de León (IEPADES) and Sandra Muralles (FADS), and 4 more persons coming from the CAS Preparatory Commission: Adela de Torrebiarte (OMA), Iduvina Hernández (SEDEM), Max Quirin (CACIF) and Enrique Álvarez (IDEM), as coordinator. Substitutes: Helen Mack (FMM), José Eduardo Martí Guilló (URL) and Ciriaco Pirique Raguay (CONFECOOP). Between 2005 and 2007 Iduvina Hernández, Adela de Torrebiarte, Julio Balconi and Helen Mack left. In January 2008 Roberto Ardón (CACIF), as holder, and Fernando Girón (FMM), Julio Curruchiche (Foro Guatemala) and Michelle Castillo de Leal (OMA), were brought in as substitutes. All of them finished their term of office on June 14, 2008. The new President Colom (July 21, 2008) swore in the new CAS with Roberto Ardón (CACIF), Michel Castillo de Leal (OMA), Julio Curruchiche (Foro Guatemala), Fernando Girón (FMM), Sandra Muralles (FADS), Claudia Virginia Samayoa (UDEFEFUGUA) and Carmen Rosa de León Escribano (IEPADES), as coordinator; and Marco Vinicio Cerezo Blandón (FUNDAECO), Ciriaco Pirique (CONFECOOP) and Marco Antonio Canteo (ICCPG), as substitutes.

<sup>66</sup> See OBSERVADOR (2008: 18)

<sup>67</sup> See SAMAYOA (2008: 9) Brackets added.

### 2.3.6. Impact in the Political Vision and Discourse

The concept and paradigm of democratic security has definitely entered the wider political vision and discourse, which does not mean that all mindsets are in accordance with it. Still, influencing the wider public discourse is already one significant step and achievement. From a FOSS and Interpeace perspective its very important that this paradigm is explicitly mentioned in the Preamble of the recent National Accord for the Advance of Security and Justice (*Acuerdo Nacional para el Avance de la Seguridad y la Justicia en Guatemala*):<sup>68</sup>

“We ratify our acceptance of the Central American Democratic Security Model that is based on the supremacy and strength of civil power, balance of forces, security of persons and properties, eradication of poverty and extreme poverty, promotion of sustainable development, environmental protection and eradication of violence, corruption, impunity, terrorism, narcoactivity and firearms trafficking. Also we frame ourselves in the obligations contained in the Peace Accords, which have been recognised as State obligations in the correspondant Framework Law, and also in the principles contained in the Democratic Security Framework Law, in the Country Vision Plan and in the Antigua II Declaration, in which the international cooperation joins the State of Guatemala in a commitment to support this effort of inter-institutional coordination.”

In this effort of inter-institutional coordination, FOSS is only one voice in the concert of other voices, many of them formed in the school of POLSEDE – as for example the Center for Strategic and Security Studies in Central America (*Centro de Estudios Estratégicos y de Seguridad de Centroamérica, CEESC*)<sup>69</sup> and the Guatemalan Network for Democratic Security (*Red Guatemalteca para la Seguridad Democrática, REDGUA*) – and other institutions or networks supported by international organisations, such as for example Legislative Consortium (“*Consortio Legislativo*”) coordinated by OEA-PAFIC.<sup>70</sup>

FOSS as project, following the path of POLSEDE and POLSEC, has been very successful in familiarising a number of other civil society organisations with the paradigm of democratic security and developing the technical knowledge in these organisations regarding different topics of defense and security. There is possibly no other country in Latin America and the Caribbean where there is such level of technical-thematic knowledge on security issues as in Guatemala. FOSS members themselves believe that if FOSS had not existed, the overall situation at least at the legal and policy level would have been worse. Indeed, those actors that control the State, by themselves would not have valued the 1996 Peace Accords or “democratic security”. FOSS members recognize that they are not reversing a negative trend, but at least slowing it down. That still leaves the question of what conditions are required to begin to reverse the spiral of increasing violence, impunity and insecurity and how these conditions can be created.

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<sup>68</sup> See ANASEJU-GUA (2009: 1)

<sup>69</sup> CEESC is a civil association founded in 2005, inspired by a democratic security paradigm. Its main objective is creating, promoting, implementing and supporting projects and programs of scientific investigation in the fields of democratic security and good governance, rule of law and human rights. CEESC members are: Héctor Rosada-Granados, Sandino Asturias Valenzuela, Ricardo Marroquín Rosada, Edgar Gutiérrez Girón, Julio Rivera Clavería, Antonio Arenales Forno, Iván García Santiago, Miguel Ángel Reyes Illescas, Mario Alfredo Mérida González, Adolfo Reyes Calderón, Gabriel Aguilera Peralta, Gabriela Contreras, Elizabeth Ávalos, Alberto Samayoa and Jorge Herrera.

<sup>70</sup> The “Legislative Consortium” is made up of Citizen Action (*Acción Ciudadana*), the Netherlands Institute for Multiparty Democracy (NIMD) and the Association for Legislative Development and Democracy (*Asociación para el Desarrollo Legislativo y la Democracia, LEGIS*) The Consortium works within the framework of the project “Congress Modernization and Legislative Agenda”, which is part of the Programme of Support for Institutional Strengthening of the Guatemalan Congress (OEA-PAFIC), under the coordination of the Democratic Values and Political Management Programme (PVDGP-OEA), with financial support from the Swedish Embassy. OEA-PAFIC is an initiative of the Secretary General of the Organisation of American States (OAS) to strengthen the political and institutional role of the Guatemalan Congress in its three constitutional functions of representation, legislation and audit. See more information at: <http://www.gerenciapolitica-oea.org/PAFIC/>

## Chapter 3. Strategic Assessment (2003-2008) and Prospective Analysis (2009-2013) of FOSS

This chapter contains conclusions and recommendations derived from the strategic assessment and prospective analysis carried out by the authors of this document. Annex 1 contains a brief description of the evaluation process and instruments used. Obviously, the opinions expressed here don't claim to be a final word, only aspire to be like a mirror that returns, with minimal distortion, their own images to persons and organisations that wish to look in here.

### 3.1. SWOT Analysis (2003-2008) of FOSS

The next SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis uses information coming from FELICIANI (2006: 5-9), FOSS (2008 f: 50-53), AZURDIA (2008 a: 19-20. 22-23. 30-32) and from our own documental research, interviews and informal conversations.

#### 3.1.1. Main Internal Strengths

- 1) Increased maturity of the member organisations in what motivates them to be part of FOSS and in how they interact with the other members.
- 2) Political experience, technical capacity and spirit of service that have converted FOSS in one important reference in security issues, especially related to the legislative work of Congress.
- 3) Ideological and political pluralism and complementarity of thematic specialisations handled with tolerance and respect between member organisations.
- 4) *Esprit de corps* or “community feeling” that facilitates teamwork, especially at Technical Council level. This “common sense” comes from the shared paradigm of democratic security and it is also a consequence of having invested time, patience and intelligence in open discussions and exchange of ideas, information and perspectives.
- 5) Nowadays FOSS has in the Coordination and Liaison Office two brilliant, dynamic, efficient and democratic persons, with strong human qualities, technical capacity and negotiating ability.<sup>71</sup>
- 6) FOSS has now the Strategic Plan 2009-2013 and the Operational Plan 2008-2009, collectively formulated.

#### 3.1.2. Main Internal Weaknesses

- 1) The particular interests of member organisations sometimes cause ideological contradictions and personal rivalries. There are occasions in which the lack of internal communication or alignment between persons that work in the same organisation complicate the dynamics of the Forum.
- 2) Two directives of member organisations have shown less “common feeling” with FOSS and even voiced doubt about its utility: “I fight with FOSS. I was quitting early in 2007, but some organisations begged me not to do it. Where is the added value of FOSS? FOSS as Forum almost doesn't exist!” (“*Yo peleo con el FOSS. Me iba a ir del FOSS a principios de 2007, pero me pidieron algunas organizaciones que no lo hiciera. ¿Cuál es el valor añadido del FOSS? ¿El FOSS como tal es casi como si no existiera!*”), said one person. And the other person said: “Do I win something with FOSS? My delegate at Technical Council says yes” (“*¿Yo gano algo con el FOSS? Mi delegado al Consejo Técnico dice que sí*”).

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<sup>71</sup> FOSS members readily admit to the critical importance of the nature and quality of the Coordination. The Coordination needs to be and be perceived as neutral, objective and even-handed between the members. This requires a number of structural aspects e.g. that the Coordinator cannot be or have been associated with one of the member organisations as well as the need to agree to a recruitment process for Coordinators that is perceived as objective and neutral by the member organisations.

- 3) The regulation of not making public statements without unanimity makes it very difficult for FOSS to be rapidly responsive to emerging situations relevant to the management of security in the country (e.g. in the dynamics of the Executive, or in the media). This is one reason for the scarcity of its public statements. Even one member organisation seems to avoid their public appearance as FOSS member.
- 4) Not all the organisations use the Liaison Office with Congress, because it is perceived as “tied up” with the agenda or image of CEG, which then leads to a preference to also work with Congress directly.
- 5) Differences in size and financial resources between “big” and “small” organisations sometimes cause lack of cohesion and efficiency.
- 6) It is possible that FOSS needs to promote with greater intensity the implementation of the SNS Framework Law. For instance, the Law foresees the establishment of a National Institute of Strategic Security Studies (*Instituto Nacional de Estudios Estratégicos en Seguridad*, INES), but FOSS hasn’t considered that it is an important line of work.<sup>72</sup>
- 7) Heavy workloads in the member organisations compete with the time and resources required for FOSS collective tasks.

### 3.1.3. Main External Threats

- 1) Increasing violence, crime, impunity and insecurity. The country seems to be trapped in a net of national and international gangs (the “parallel powers”), which reinforces people’s disappointment with democracy and calls for authoritarian and military solutions.
- 2) Weakness of the state institutions responsible for democratic security, due to low tax revenues, deficient institutional definition and articulation, corruption, impunity and continuous personnel rotation.
- 3) Fragmentation of civil society and rivalries between social organisations.
- 4) Weakness and fragmentation of political parties that are functioning as electoral companies and not as school of ideology, good governance and public administration.
- 5) Influence, not always constructive, of the mass media, which represent, in many occasions, the particular interest of powerful groups.
- 6) The security agenda of the United States of America (“War against Terror”, “War on Drugs”, “Plan Mérida”) weighs on the state decisions of Guatemala, not always within the framework of democratic security and not always in line with the endogenous strategies of security and defense of the country
- 7) Change of priorities in the international cooperation agencies.

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<sup>72</sup> Legislative Decree 18-1008, Article 17. National Institute of Strategic Studies in Security: “Is created, the National Institute of Strategic Security Studies, that is the institutional, instrumental and functional framework that the State has for the capacity building, professionalisation and specialisation of human resources in the field of security of the Nation, by means of the direction and coordination of different academic state institutions in security issues, and this through college, bachelor, master and doctorate studies. The National Institute of Strategic Security Studies will be overseen by the National Security Council to deliver its directives regarding capacity building, professionalisation and specialisation. The Institute will coordinate its programmes of capacity building, professionalisation and specialisation with other national or international institutions.”

### 3.1.4. Main External Opportunities

- 1) Broad recognition, among politicians and international assistance actors, of the proposal capacity, technical quality and professional ethics of FOSS member organisations.
- 2) High level of approval of FOSS support and strong demand from the Congress of the Republic.
- 3) Approval by Congress, in March 2008, of the National System of Security Framework Law (Legislative Decree DL 18-2008) that came into force on July 16, 2008.
- 4) Election (06/14/2008) of the new Security Advisory Council (CAS) members.
- 5) Election (November 2008) of the National Security Council (CNS) members and election of Francisco J. Jiménez Irungaray, also a former coordinator of FOSS, as the first Technical Secretary (from 01/7/2009) of the National Security System (SNS). These are decisions that show the Presidential will to implement the SNS.
- 6) Process of implementation of the National Accord for the Advance of Security and Justice (*Acuerdo Nacional para el Avance de la Seguridad y la Justicia en Guatemala*, ANASEJU-GUA)
- 7) Growing interest of the international donor community in the work with, and through, civil society organisations, after their disappointment with the results obtained during years of direct work on security issues with state institutions. Trend of harmonization of donor agendas.
- 8) The existence of the International Commission Against Impunity (CICIG) and concrete proposals to the Executive and the Judiciary for controlling the immediate causes of crime and impunity.

### 3.2. Prospective Analysis (2008-2013) of FOSS

The former SWOT data may lead to the conclusion that external threats seems to be bigger than FOSS internal strengths and capacities for taking advantage of external opportunities and overcoming its own internal weaknesses. When this situation occurs in the institutional life of an organisation, red lights glow, emergency is declared and contingency plans are activated. However, only two persons, among the FOSS members interviewed, expressed a sense of urgency based on an awareness that the current spiral of increasing violence, crime and impunity has brought Guatemala to a critical point, and that all forces have to be mobilised for collective action to slow and begin to revert that trend.

Is this appreciation wrong? Are there errors in the methodology of evaluation? Is the evaluators' reading of Guatemalan reality wrong? If it is not the case, and given that FOSS members are persons highly recognized for their intelligence, professionalism and courage, then it is necessary to ask why they don't show, as FOSS, the strength that their individual organisations have. Why do FOSS strengths seem to be less than the sum of that of its the member organisations? Why do FOSS weaknesses seem to be higher than the sum of the member organisation's weaknesses? Is FOSS going towards an scenario in which the magnitude and complexity of the national situation exposes the internal FOSS weakness, paralysing and destroying it as collaborative Forum? In the next paragraphs we will try to reflect on these questions.

### **3.2.1. Future Scenarios: FOSS between fossilization and phosphorescence**

In the prospective analysis exercise carried out for this evaluation (see Annex 1), three scenarios were identified, into which FOSS could find itself between 2009 and 2013. One is a catastrophic scenario, called here “FOSSilization”. Another scenario is one of ‘status quo’, which really would represent ‘inertia’: the prolongation of FOSS’ present situation. A third –ideal or idealistic?– scenario would see FOSS flourishing, and is called here “FOSSphorescence”. Next follows a brief description of the key factors of each scenario and a brief evaluation of their probabilities.

**A) Catastrophic Scenario of “FOSSilization”.** The key factors are:

- 1) Interpeace “drops” FOSS.
- 2) Some Coordination but ineffective, due to lack of responsiveness of the members.
- 3) There is no budget for joint projects or support from other donors.
- 4) Liaison Office still works, but with less activity.
- 5) Strategic Plan 2009-2013 and Operational Plan 2009 have minimum implementation.
- 6) Political Council hardly or never meets while the Technical Council meets without quorum.

Such scenario is not entirely impossible, especially if FOSS loses its strategic relevance by continuing to do more of the same instead of seeing where the current requirements are. Are social organisations losing their energy, creativeness, agenda driving role because they have converted themselves into technical experts that have become reactive, small groups of big dinosaurs turning into fossils? But FOSS could also deteriorate if it tries to take on too much, entering into areas where it does not have the same technical capacity and understanding of the appropriate political strategies, and disperses itself and loses its focus.

**B) Status Quo or Inertia Scenario.** Key factors are:

- 1) Interpeace supports FOSS through 2009.
- 2) Coordination is as active and efficient as it was in 2008.
- 3) There is no budget for joint projects or support from other donors.
- 4) Liaison Office is as active and efficient as it was in 2008.
- 5) Operational Plan 2009 is carried out 100% and Strategic Plan 2009-2011 50%
- 6) Political Council and Technical Council work as they did in 2008.

This is definitely likely to be the scenario for 2009, but the question is whether it will continue to be beyond? This is definitely a possible scenario although not the preferred one neither for FOSS members or for Interpeace, which would like to see FOSS members take on more of their self-management, but it would also not be preferable because the critical issue in Guatemala is not only more legislation but especially implementation.

**C) Ideal(istic) Scenario of “FOSSphorescence”.** Key factors are:

- 1) FOSS grows as collaborative Forum, with new full or ‘associate’ members, and more personnel, acceptance, activity and impact.
- 2) Interpeace continues the support until 2013.
- 3) There is a budget for joint projects coming from new donors.
- 4) Coordination grows even more effective and efficient, as more Executive Coordination.
- 5) A FOSS Office opens in Zone 1, hosting Coordination, Liaison Office with Congress, and with a basic capacity to engage with the Executive and with the Judiciary.
- 6) Strategic Plan 2009-2011 is achieved by 80%
- 7) Political Council and Technical Council have more activities and political outreach.

This scenario has two versions:

- Scenario C1: “FOSSphorescence” with Interpeace continue to support the Coordination function and the operational costs of the FOSS Office but not the wages of the Liaison Office person and other possible personnel.
- Scenario C2: “FOSSphorescence” with Interpeace acting as international fundraiser for joint projects and supporting the Coordination function but not the wages of any other personnel nor any operational cost.

These are achievable scenarios, if the FOSS members organisations decide to make it happen (that is, if the “internal drives” described in paragraph 3.3.1 are functioning) and if the external conditions are favourable (that is, if the “external drivers” described in paragraph 3.3.2 are functioning) In both scenarios, C1 and C2, FOSS remains a strong and dynamic Forum whose members respect each other’s differences but also recognize that the results of collaborative work can carry greater weight and therefore have greater influence than those of individual work. FOSS manages to provide timely and respected input on key issues of strategic relevance for the overall dynamics in Guatemala, and manages to influence key actors. In addition, FOSS may be enlarging its structured collaboration with other entities in the Executive, the Judiciary and at the local level, carrying out more collaborative programmes and projects. In both scenarios, C1 and C2, Interpeace would be offering strategic support to FOSS, as Forum, inasmuch as FOSS members themselves actively pursue the scenario of “FOSSphorescence”.

### **Power vs. Interest Mapping Exercise**

The occurrence of one or other scenario depends not only on decisions of FOSS members but also on the influence of external factors, on the quantity of strategic allies (and the quality of their real power) and the quantity of strategic antagonists (and the quality of their real power) To estimate the quantity of allies or antagonists (and the quality of their real power), a “power vs. interest mapping exercise” was carried out with FOSS members.

This exercise proceeds through strategic reflection driven by two generating questions: (1) Which are the key actors and factors that shape the situation of violence and insecurity of the country?; and (2) What is the relative real power of each such actor and factor over the situation and what is the current interest they have in the FOSS mission? The results of the above inquiry are visualized on a two-dimensional X-Y grid with the X-dimension representing the relative real power and the Y-dimension the relative interest in the FOSS mission. Further analysis can “un-pack” into greater detail the actors and factors. The resulting map shows to what degree you have currently a connection to actors that are both powerful and influential. If there are few or none of these, then it invites you to consider a strategy either to raise the interest of those that have power, or to help raise the power of those that have interest.

The next graph shows the results obtained in the collective exercise of mapping (12/03/2008). Five institutions are currently considered as strategic allies, in this order: the National Security Council (CNS); the Government Commission of Congress; the Legislative and Constitutional Issues Commission; the Defense Commission; and the Security Advisory Council (CAS). Six institutions are considered as potential strategic allies, in this order: President of Republic; Office of the First Lady (coordinator of the Social Cohesion Council); Departmental Governments; Mass Media; National Defense Ministry; and International Community of Donors.

Level of Interest in FOSS Mission	+	FOSS	Interpeace																			
	+	HHRR. NGOs	Networks of Democ. Security																			
	↑		CICIG	G-13	OACNUDH																	
						UNDP	EU															
			Congress Gov.Com.	Congress Com.Leg.			Congress Directive Board															
				Francisco Jiménez																		
			Vicem. 1 MINGOB						Parties in Congress	Chiefs of Congress Caucuses												
		CAS	Congress Defense Comm.			Municipalities	MINGOB															
						Gobernac. Departamentales																
		Penitent. System	ICSJ				PNC															
		PDH	Women NGOs			DIGICI	CSJ															
	↑	Vice-President			MP																	
					CODEDES COMUDES		SAIA		Evangelic Churches	Catholic Church				Media Press	EMBUSA							
		Farmers NGOs.	SIE	INACIF			CNS		Political Parties	Combined Forces	First Lady		CACIF	Military Chiefs								
								FPP		The President		MDN	Army									
0 0 0										Parallel Powers		Organized Crime	Narco-Powers									
	0 0 0	→ Level of Power →										+++										

There are three strategic antagonists (parallel powers, organized crime and narco-powers) which at the moment (fortunately) don't have any interest in FOSS. Their real power only could be confronted with a wide strategic alliance of all state institutions, social organisations and international community, which is the main objective of the National Security System. Perhaps the most worrying conclusion of this analysis is the void in the upper right quadrant of the diagram. That is, the very limited capacity of FOSS to mobilise state and social actors that have much real power for confronting (democratically) violence, crime and impunity but that at the moment have little interest in the FOSS mission. The next paragraphs offer some strategic recommendations for increasing the FOSS level of influence in Guatemala.



### **3.2.2. FOSS Strategies of Influence**

In any future scenario, FOSS member organisations could apply, for the benefit of Guatemala, the following strategies of influence. This may require some further analytical work. The contextual and situational analysis underpinning the current Strategic Plan (2009-2013) seem insufficient.

#### **(1) With Congress of the Republic**

It is necessary to ensure continued funding after 2009, when Sweden would like to focus its grants on other areas of work. Is UNDP likely to take over? While FOSS' specific strength has been the quality of its technical advice, its future work with Congress cannot be ignorant of the discrediting of Congress in the media and in public opinion. FOSS should not become an "apologist" of Congress but FOSS could seek to play some role in taking the work of Congress to wider society, in non-technical language and forms.

#### **(2) With the Executive**

Yet helping Congress enact enlightened laws that then are not or not well implemented, is, in the final analysis, not really strategic. Minimally FOSS has to concern itself with the questions of implementation. This means engaging with especially the Executive and to a degree the Judiciary, certainly at central level and ideally at central and at more local level. However, as the actors there are more diverse and dispersed than in Congress, it will require making the right actor-analysis, finding the right strategies to engage on the key issues and at the right moment.

The Executive has a different dynamic from the Congress. In Congress various political parties are represented and it is by its very nature a space for debate. The slowness of its work offers the time to civil society organisations to debate among themselves and do in-depth technical-thematic work. The Executive represents less political parties, has spaces for debate but is also decision-oriented (need to act and be seen to be acting) and therefore offers less time to civil society organisations to discuss among each other and prepare a position. The Executive is also made up of a series of different institutions, unlike Congress which is only one. The different dynamics of the Executive would suggest that collaborative work within and through a FOSS more dynamic than is currently the case would be most appropriate.

So the question is how FOSS can most effectively work with the Executive. It was felt that a simple replica of the model of working with Congress, namely a Liaison Office, is probably not adequate. What kind of interface and how it would function and what constraints it would be likely to run into deserves more in-depth analysis.

For working with the Executive, CAS is in principle an important mechanism. The relevance of CAS again depends on its ability to show its usefulness to the Presidency and through the Presidency to the Executive. The technical support within CAS is limited (technical secretary, technical assistant and administrative assistant) and FOSS can provide much needed additional technical support to enable CAS to come up with solid proposals, which in turn will strengthen the perceived credibility of CAS. It will be important however for FOSS to do so with appropriate modesty (it does not have expert knowledge on everything) A possibly strategic area of collaboration may be the design and implementation of the ANASEJU-GUA. Furthermore, if CAS would like to reach out and work with local actors and citizen networks throughout the country, then there would be opportunities here for FOSS-CAS collaboration if both parties can avoid pursuing competition with each other.

But strategically and tactically FOSS probably should not rely on CAS only. It cannot control the membership of CAS nor the openness of the State to CAS. And CAS by itself does not engage with the

diversity of state institutions and their internal dynamics. Besides, CAS has serious structural vulnerabilities. It exists only through Presidential Decree (Governmental Agreement, *Acuerdo Gubernativo*) and not by means of an appropriate Law. Candidates are presented by social organisations but ultimately chosen by President. Dependent on the interest of President, if CAS does not get the President's ear, it becomes disabled. CAS also doesn't have a meaningful budget to support sustained work on its own agenda priorities. It is essential for CAS to demonstrate its relevance and the quality of its input, that is to establish itself as a valued point of reference.

Perhaps rather than debating possible mechanisms, FOSS should do an analysis of the strategic issues and actors in the executive, set itself certain objectives in the mid-term and then consider the question of how in practice to engage with the Executive, in order to achieve those objectives.

### **(3) With the Judiciary**

The protracted debate within FOSS whether to engage with justice administration or not has now been resolved. For some years there was internal opposition as there is already a network of organisations working on this, many coming from the human rights sector, so it felt like duplication. Of course some FOSS members like ICCPG work on justice issues with others, but not through the FOSS framework. There is agreement now that there are some specific issues where security and justice are closely interconnected (e.g. democratic controls, interinstitutional coordination) and where FOSS can legitimately engage. There is also a coordinating platform of organisations working on justice issues that seems a relevant point of reference for FOSS.

### **(4) With Local Actors**

The nature of many FOSS member organisations seems to be leaning more towards research, analysis, policy work, advocacy and lobby. While some of them venture beyond the capital city in this pursuit, only two seem to be working more actively at local level and with local actors (SEDEM and IEPADES). It may therefore not be realistic to expect FOSS as such to seek to engage other sectors of society, especially in the interior and at local level. Still, given its knowledge, expertise, contacts and access at the central and capital-city level, FOSS could play a more active role in connecting local actors to the central level and in providing information about central level debates, dynamics and policies to the local level. If working with local actors is seen as strategically important, then FOSS should find the means to do so. Minimally the person in the Liaison Office can be a source of information to the local authorities and local non-state actors.

### **(5) With Itself as Collaborative Forum**

It is absolutely necessary for FOSS to bring "added value" to the member organisations. FOSS programmatic activities should not compete with the programmatic activities of member organisations, neither thematically or for funding. If partial overlap occurs, then the FOSS opportunity should be something that a member can't implement on their own.

We have heard that, at discourse level, there are differences in the positioning of the directors of member organisations ranging from: "*FOSS should be no more than an enabler for the member organisations to pursue their agenda*" to "the *situation in the country is so urgent that we should not waste our time discussing our internal differences*". Yet particularly the directors of the member organisations felt that their workloads made it difficult for them to always actively engage with FOSS. The concern over current workloads made one of them also doubt whether FOSS can really take over responsibility from Interpeace for the management of its own affairs as collective Forum already in the next two or three years. While the workload constraint is obviously valid, it is at the same time unlikely that workloads will be lighter in two or three years from now. The question therefore is how conditions can be created that allow simultaneously the member organisations to manage themselves and FOSS to also manage itself.

### 3.3. Recommendations for “FOSSphorescence”

The following recommendations are presented to FOSS member organisations assuming that all of them have decided to pursue FOSS phosphorescence, that is, “FOSSphorescence”. If they bet for the full transition of FOSS from being an Interpeace project to be really the Forum of social organisations specialised in security issues in Guatemala, they need to be more actively involved and engaged in making this transition for real.

#### 3.3.1. Internal Drivers for “FOSSphorescence”

Most of the factors that can make FOSS achieve “FOSSphorescence” are under the control of its members. A FOSS Forum that primarily plays a facilitating role for the individual member organisations to get access and find a wider audience for their individual work would be a strategic mistake. However robust in themselves, individualised and fragmented approaches by civil society organisations are intrinsically weaker than collective action, due to three main reasons: (1) They make it difficult for the State to deal with the multitude of actors; and to deal with an even bigger diversity of positions; (2) It diminishes the argument from civil society that different political forces need to learn to collaborate for the public good, if they themselves are not able to do so; and (3) It makes it easier to ignore or discredit civil society inputs by those who are not committed to democracy and public participation.

However, a further strengthening of the collaborative nature in and of FOSS would require a gradual evolution of structures and functions.

**(1)The Political Council:** The Political Council must recognise that the relevance and potential benefit for society and state is a highly valid justification for engagement with and through FOSS even if the immediate benefits for the individual organisation are limited. The situation in Guatemala has become so urgent that personal and organisational rivalries cannot be allowed to prevail. It is necessary to see FOSS no longer as a platform to increase the influence of the individual organisation, but as a platform for collective action which is the only option to have some influence on the wider societal dynamics. The Political Council should take note of the fact that Congressional interlocutors stated that prior to FOSS civil society would express opinions but had no influence, which is not only related to the much greater technical expertise that FOSS has provided the members with, so that their opinions now are of much higher relevance and quality but also to the collective nature of the proposal.

The Political Council would also do well to recognise that FOSS reflects Guatemalan society with its different perspectives and visions, but that it must also model how the challenge of differences can be handled constructively and for the common good. The Political Council needs to show the political maturity they expect from the politicians and public servants. All Directors could engage actively with FOSS or consider nominating a representative with authority to take decisions. Also could be considered that each one of the Directors take each semester the chairmanship of the Political Council, following a model of rotating chairmanship similar to the one existent in the European Union.

The Political Council needs to mobilise its members for important external relations work. It is not only disappointing but possibly a strategic omission that several Directors did not show up for important meetings earlier in 2008 with the new CAS, the new Minister of Government and the CICIG. The Political Council must evaluate if FOSS is included in strategic and operational work planning of each member organisation. And if not why not and if yes then how. If FOSS is part of the planning of a member organisation, then scarce resources (such as people, time, and some money) can and will be allocated to it.

**(2) Coordination:** There is the option of having a Coordinator that becomes more of an Executive Director with a role that goes beyond facilitating, mediating and providing practical support and evolves into stronger management of project development and implementation. The Political Council then

becomes more of a Governing Council, appointing and overseeing the work of the “Executive Coordinator”. It has been argued that something like this existed in the first phase of FOSS with notably IGEDEP acting as “manager” of the funds that were then available to FOSS, and that it was resented. Here however we are talking about an individual and not an organisation, accountable to a Governing Council, and looking at the question with several years of additional experience.

**(3) Membership:** It is better to have more members or simply active collaboration with other organisations and networks? The arguments made against new members are that it has taken many years to build the level of trust and convergence that currently exists, and that it may further complicate developing consensus and decision-making. The arguments made in favour of new members are that FOSS itself is a learning space that others need to benefit from and that the challenges for the society are become bigger and more complex so that more actors need to collaborate. There is currently a practice of individual FOSS members also collaborating with non-FOSS organisations and networks around a variety of topics. To slow down the complications that arise around new membership, FOSS members could consider identifying a number of others in a second circle of “active and regular collaborators” without being full members of FOSS. This raises the question about the return of OMA and FADS to FOSS. This also offers options for universities in the capital city and/or inside the country, indigenous organisations and local networks to be ‘associates’ of FOSS.

**(4) Joint Projects:** In the ideal(istic) scenario, FOSS members develop collaborative projects and engage themselves in the fundraising. These projects can be of different nature:

- a) Research activities, some examples of which have been suggested in the section 1.4.2.
- b) Renewed study and knowledge strengthening of FOSS members to enable them to more effectively analyse and work with the Executive (e.g. on public administration and public sector reform) and the Judiciary (e.g. on relationship between transitional justice and democratic security)
- c) Political outreach and information provision to other sectors of society and to local actors, as well as acting as interface for these other sectors and local actors to engage with central government.
- d) Projects related to other thematic fields of democratic security or human security that until now are outside the agenda of FOSS, for example, environmental security or psychosocial studies on violence and criminality.

**(5) Legal Identity:** How will it receive funds for joint projects? The option of joint projects being managed by one of the smaller organisations as a way of developing their capacities may not be realistic as donors might not have confidence and the smaller organisation not the capacity to match the demanding donor requirements. The option of joint projects managed by one of the bigger organisations could create situations like the problematic one with IGEDEP in the first phase of FOSS.

**(6) Consensus Mechanisms:** Is there a need to clarify the notion of “consensus”? Persons interviewed have declared that in FOSS the culture of consensus has been working properly. The few public communications made by FOSS have required full unanimity. Could FOSS consider, where no consensus emerges around a particular issue, presenting some options with their respective pros and cons? This could be the case where the different options all respect basic principles of democratic security but differ in certain other aspects e.g. the currently discussion whether control over Armas and Municiones (Weapons and Ammunitions) remains with MDN or goes to MINGOB, or the disagreements about what to do regarding criminal investigation capacity in the PNC: abolish the existing entity or reform it.

**(7) A FOSS Office?:** A FOSS office might be funded from: (1) Membership contributions, which will only be a minor part of its budget and therefore preempt the possibility of the larger members thus gaining undue influence; (2) Direct grants from international cooperation; and (3) Cost-recovery from FOSS joint projects or those projects that an individual member would not be able to get or carry out. A separate

Office with one person and running costs included would cost in the order of US\$ 50-60,000 per year, which is in the order of the annual budget of the smaller FOSS member organisations and could represent US\$ 7-9,000 per year and member organisation. From a short-term self-interest point of view this might seem objectionable to such smaller organisations, but the argument should be less important if the smaller institution recognises that FOSS is an effective instrument for them to have influence beyond their size. In practice cost are more likely to be covered through a mix of the different mechanisms.

**(8) External Communications:** Although FOSS members make public statements individually or collaboratively, FOSS as such has not had an external communications strategy. This is partially justified as a condition of influence may be that one leaves someone else to take the credit (e.g. a Congressional Commission) and remains discreet about one's own contribution. Yet the alleged lack of understanding of and commitment to democratic security among the population at large, suggests that wider dissemination is strategically important. Press statements need not be the only or preferred mechanism for this. The communications strategy could include the creation of the FOSS website.

### **3.3.2. External Drivers for “FOSSphorescence”**

**(1) Interpeace Role:** In this scenario, the Regional Office of Interpeace for Latin America will play the role of strategic ally and co-fundraiser. This would reduce the time Interpeace needs to invest in supporting FOSS, and opening up space for the identification and pursuit of additional programmatic activities in Guatemala. Interpeace has no intention to simply “drop” FOSS which, given the achievements of FOSS, would not be wise. But it wants its own footprint in relation to FOSS to become lighter. FOSS members largely praised Interpeace for its support with the fundraising and the coordination of FOSS and for providing linkages with the international community. They appreciate the neutrality and objectivity with which Interpeace supports the coordination, the equality of treatment and service to all. They recognized that Interpeace so far had taken much of the responsibility for the effective functioning of the Forum and that it was up to them now to shoulder more of such. In the evaluative workshop, FOSS members expressed emphatically that Interpeace must continue its work with FOSS not only as facilitator but as strategic ally.

**(2) Donor Role:** Donors could offer funding for joint programmes and encourage the presentation of integrated project proposals with common objectives and a joint logframe (as, for example, Sweden requested from the Consorcio Legislativo for its Vision 2011-2012) However, the engagement and funding of the donors for collaborative projects and for some of the “infrastructural” costs of the Forum, is outside the control of the FOSS members. Therefore, it is recommended that Political Council cultivates a relationship on behalf of FOSS with the Foreign Affairs Ministry (MINREX) and the Secretary of Planning and Programming of Presidency (SEGEPLAN) in order to introduce the FOSS needs for Scenario C into the consultations and negotiations with the G-13 and also into bilateral agreements with Agencies or Embassies interested in the agenda of democratic security.

**3.3.3. Action Plan to “FOSSphorescence”:** Without the “collaborative will” of FOSS organisations, right now, there will not be any C-Scenario at all and FOSS, probably at the end of 2009, will be at standstill before its fossilisation in 2010 and subsequent disappearance in 2011. To avoid such development, a minimum plan of action is proposed here.

- a) The first activity recommended to the Political Council is “to take its own pulse” and to make decisions about FOSS' future and about the level of commitment of each organisation, in one extraordinary meeting, urgently convened. In this meeting, the Directors of the FOSS organisations could consider the possibility of nominating delegates with sufficient authority to take decisions. Also they could consider that each one of them must take the responsibility of presiding for six months over the Political Council, a model of rotating chairmanship similar to the one established by the European Union. Directors must also evaluate if FOSS is included in

the strategic and operational work planning of each member organisation, and if not why not and if yes then how it is included.

- b) A second activity recommended to the Political Council for advancing towards “FOSSphorescence” is to formulate a FOSS project portfolio. These projects must not be a simple sum of individual subprojects profiled by member organisations. The burden of formulation must not be carried only by the Coordinator but by an *ad hoc* Commission of the Technical Council. Interpeace will invest in fundraising for these projects. It is furthermore recommended that the Political Council and Interpeace try to introduce the project portfolio into the protocols of consultation and negotiation between the G-13 and the Government and into the cooperation plans of donors that support the work of social organisations in democratic security.
- c) Given that cooperation between FOSS and the Technical Secretary of the National Security Council (CNS) is crucial for implementing the National Security System (SNS), the third strategic recommendation to FOSS and its member organisations is to resume their participation in the process of definition and implementation of the National Accord for the Advance of Security and Justice in Guatemala (ANASEJU-GUA). The cooperation FOSS-CNS could guarantee the synergy (and avoid the interference) between SNS and ANESEJU-GUA implementations. FOSS work with the Executive and the Judiciary must be carried out within this strategic cooperation framework. Particularly, FOSS must promote the creation of the National Institute of Strategic Security Studies (INES), established by Article 17 of the SNS Framework Law.
- d) Following this course of action, it will also be strategic relevant for FOSS to re-approach other state and social institutions (public and private) such as the Ombudsman Office (*Procuraduría para la Defensa de los Derechos Humanos*, PDH), the Metropolitan Archdiocese, the Guatemalan Evangelical Alliance and the University of San Carlos de Guatemala (USAC), as co-authors of the “Proposal of Strategy for Building the National Agenda of Security”. Other institutions could be the URL, FADS and OMA, as former members of FOSS, and all the organisations that participate in the ANASEJU-GUA. The Political Council could consider identifying a number of them and inviting them to become a second circle of active and regular collaborators without being full members of FOSS.
- e) The FOSS Coordinator post and Liaison Office will continue their proactive, effective and efficient job. If fundraising for projects is successful, then the Political Council could decide that the Coordinator manage the projects, acting as Executive Coordination. In this case, the Political Council would develop into a Governing Council with supervisory and control functions over the Executive Coordinator.
- f) Obviously, the occurrence of one or other scenario depends not only on the “collaborative will” of FOSS members but also on the quantity of FOSS strategic allies or antagonists (and the quality of their real power) Perhaps the most worrying conclusion of the “power vs. interest exercise” is the limited capacity of FOSS to mobilize state and social actors that have much real power for confronting (democratically) violence, crime and impunity but that so far have little interest in the FOSS mission. In order to manage this weakness, FOSS could formulate a communication strategy that includes, among other things, a mass-media strategy (for having access to wide segments of citizens) and the creation of a FOSS website.

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## Annex 1: Strategic Evaluation Process

**1. Objectives:** According to the Terms of Reference, the objectives are :

- 1) To make a general analysis of the FOSS evolution since 2003 till now.
- 2) To evaluate and to assess FOSS' relevance and impact on the State with regard to democratic security.
- 3) To evaluate the efficiency and effectiveness of FOSS achievements, according to its objectives, and to evaluate the sustainability of these results.
- 4) To evaluate FOSS' organisational and functional internal processes, and the Interpeace facilitation of the FOSS collaboration.
- 5) To formulate recommendations for enhancing the sustainability of FOSS and its efficiency and effectiveness in its new phase 2009-2013.

**2. Activities:** The activities carried out were:

- 1) Document research (from 10/30/08 to 11/26/08). See Bibliography in the report.
- 2) Internal workshop with FOSS member organisations (12/03/08, 09:00-18:00 h.)
- 3) Interviews with technical personnel and directors of FOSS organisations (see list below).
- 4) Interviews with external 'beneficiaries' of FOSS products (see list below)
- 5) Interviews with personnel of Interpeace Regional Office (see list below).
- 6) Presentation of progress and final reports to Interpeace Regional Director for Latin America and to FOSS Coordination (to be scheduled).
- 7) Presentation to FOSS Technical and Political Councils (to be scheduled).

**Interview Methodology:** Open dialogue about the same generating questions proposed in the Evaluation Workshop (see next paragraph).

Persons Interviewed	Responsibility	Schedule
1. Héctor Rosada-Granados	First FOSS Coordinator	11-27-08 15:00-16:00 h
2. Martín Arévalo de León	First FOSS Liaison Officer with the Congress of Republic	11-27-08 17:00-18:30 h
3. Asa Wallton	First Secretary Sweden Embassy	11-28-08 09:00-09:30 h
4. Renzo Rosal	Programme Director of Soros Foundation	11-28-08 11:00-12:30 h
5. Sandino Asturias	CEG Director	11-28-08 16:00-17:30 h
6. Ana Glenda Táger	- Interpeace Reg. Off. Director	12-01-08
7. Carmen Ortiz Estrada	- FOSS Coordinator	09:15-10:30 h
8. Juan Ramón Ruiz	- FOSS present Liaison Officer	
9. Raquel Zelaya	ASIES Directors	12-01-08
10. Karin Erbsen de Maldonado		11:00-12:30 h
11. Ana Glenda Táger	- Interpeace Reg. Off. Director	12-01-08
12. Carmen Ortiz Estrada	- FOSS Coordinator	13:00-14:00 h
13. Juan Ramón Ruiz	- FOSS present Liaison Officer	
14. Mara L. Bocaletti F.	Soros Foundation External Consultant	12-01-08 14:30-15:30 h
15. Édgar Gutiérrez	SAE Former Director, former Secretary of State, Analyst, Journalist	12-01-08 15:30-16:30 h
16. Iduvina Hernández	SEDEM Executive Director	12-01-08 17:00-18:30 h
17. Rodolfo Aníbal García	-Independent Congressman	12-02-08

Hernández 18. Gerson José Pablo Sotomayor del Cid	(Legislative and Constitutional Issues Commission) -Legislative Advisor	09:00-10:00 h
19. Luis Mijangos 20. Víctor Manuel Valverth	- LEGIS Consultant - LEGIS Director	12-02-08 10:00-11:15 h
21. Carlos De León 22. Justo Pérez	Advisors to Congress Commission on Government	12-02-08 14:00-15:00 h
23. Jorge Herrera	Patriot Party (PP) Advisor	12-02-08 15:45-16:30 h
• Cynthia Fernández • Adela de Torrebiarte • Hugo Maúl Figueroa	- ASIES Consultant - MINGOB former Minister - CSJ former Judge	12-02-08 17:30-19:00 h
24. Enrique Álvarez	IDEM Director	12-03-08 12:45-14:00 h
25. Javier Monterroso	ICCPG Advocacy Director and third Liaison Officer	12-04-08 08:30-10:00 h
26. Mayra Alarcón Alba 27. Felipe Robles 28. Fernando Girón	-Executive Director -Security and Military Relations Coordinator -Area Specialist	12-04-08 16:30- 17:30 h
29. Francisco J. Jiménez Irungaray	Government Minister and second FOSS Coordinator	12-04-08 19:00- 20:30 h
30. Carmen Rosa De León Escribano	IEPADES Executive Director	12-05-08 10:15-12:00 h
31. Juan Ramón Ruiz	Fourth and present Liaison Officer	12-05-08 12:00 –13:00 h
32. Luis Carranza	Multilateral Policy Director in the Foreign Affairs Ministry	12-05-08 15:00-16:15 h

**3. FOSS Evaluation (2003-2008) and Strategic Prospects (2008-2013) Workshop:** Eighteen (18) Participants: Álvarez, Enrique (IDEM); Ampérez, Brenda (SEDEM); Asturias, Sandino (CEG); De León, Mayda (IEPADES); Díaz, Elvin (ICCPG); González, Patricia (IEPADES); Jacobo, Liza (Interpeace); Maldonado, Rodolfo (ASIES); Mejía, Brenda (IDEM); Monterroso, Javier (ICCPG); Ortiz Estrada, Carmen (FOSS Coordinator); Rivera, Manuel (Interpeace); Ruiz, Juan Ramón (Liaison Officer FOSS-Congress); Táger, Ana Glenda (Interpeace); Van Brabant, Koenraad (Interpeace); Vásquez, Vanessa (CEG); Vega, Carlos (ASIES); Alvarado, Jorge (External Consultant).

#### **Workshop Objectives:**

- 1) To evaluate collectively FOSS' impact, efficiency, effectiveness, relevance and risk management (sustainability) in the period 2003-2008.
- 2) To evaluate the efficiency and effectiveness of FOSS achievements, according to its objectives, and to evaluate the sustainability of these results.
- 3) To formulate recommendations for further enhancing the FOSS sustainability, efficiency and effectiveness in its new phase (2009-2013).

## Workshop Methodology:

- 1) **Evaluation of FOSS Efficiency and Effectiveness 2003-2008.** *Generating Question:* Which are the impacts achieved by FOSS in security since 2003 till now? *Specific Questions:* Have the expected results been achieved? If FOSS had not existed, would the present situation be worse, equal or better than the situation in 2003? Has FOSS promoted dialogue and cooperation amongst its members? How were the funds invested and which were the internal and external drivers for achieving impacts?
- 2) **Evaluation of FOSS Sustainability and Management 2003-2008.** *Generating Questions:* Have the resources invested by FOSS been sufficient for reaching (or not) the expected results? What role has the Coordination played in reaching (or not) the expected results? *Specific Questions:* Have FOSS member organisations had sufficient ownership, involvement and commitment? Have the management mechanisms for tacking decisions been appropriate?
  - a) **FOSS Prospects 2009-2013.** Definition and evaluation of possible scenarios for FOSS and “Interest vs. Power Mapping” Exercise.
  - b) **FOSS Prospects 2009-2013.** *Generating Questions:* What kind of resources does FOSS need to achieve the results planned in the Strategic Plan? What type of management and coordination are necessary and sufficient?

## 4. Evaluators

- Jorge L.Alvarado Pisani has been working as an independent consultant since 1998, for UNDP, DANIDA, Ibis, OAS and GTZ. University education in philosophy, theology, physics and mathematics. Venezuelan citizen, resident in Nicaragua since 1981, was academic vice-president (1989-1992) of UCA Nicaragua, professor in URL Guatemala (1994-1998) and has been doing consultancies in Guatemala since 2000 until now. Current field of work: Strategic planning and organisational development of state and social institutions specialised in human rights, democratic security, gender equity and indigenous peoples rights.
- Koenraad Van Brabant is currently Head of Reflective Practice and Learning in Interpeace, based in the Central Office in Geneva but with an organisation-wide remit. This role includes being a resource person on evaluations. In his previous career however he has been actively involved in the promotion of NGO collaborative platforms (notably the Agency Coordination Body for Afghan Relief and the creation of the Consortium of Humanitarian Agencies in Sri Lanka) and has also been an independent evaluator of the policies and programmes of different organisations. He first came to Guatemala in 1979 and has been on working visits more regularly since 2004. He has not been involved in the design or management of the FOSS project.

## **Annex 2: List of Bills and Laws with which FOSS has been involved and Terms of Reference of the Liaison Office with the Congress of the Republic**

(Elaborated by Juan Ramón Ruiz, Liaison Officer FOSS-Congress)

### **1. Support to Congress in analysis, debate and approval of 9 laws for security and justice:**

- 1) Decree 70-2005, General Directorate of Intelligence (DIGICI) Law.
- 2) Decree 21-2006, Law against Organised Crime.
- 3) Decree 32-2006, Penitentiary Rule Law.
- 4) Decree 33-2006, National Autonomous Institute of Forensic Sciences (INACIF) Law.
- 5) Decree 35-2007, Approval of the Agreement between United Nations Organisation (ONU) and Government of Guatemala that creates International Commission Against Impunity (CICIG).
- 6) Decree 53-2007, Approval of Facultative Protocol of the Agreement Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments.
- 7) Decree 18-2008, National System System Framework Law.
- 8) Decree 22-2008, Law against Femicide and other Forms of Violence against Women.
- 9) Decree 57-2008, Access to Public Information Law.

### **2. Support and lobbying for 6 bills for democratic security and justice:**

- 10) Bill 2630, Criminal Code (*Código Penal*) Reform (related to sexual crimes).
- 11) Bill 3166, Private Security Providers Law, approved in second debate.
- 12) Bill 3319, Reforms to Injunction of Legal Protection Law (*Ley de Amparo*, see note 20 of this document), currently being studied by the Constitutional Court.
- 13) Bill 3824, Criminal Investigation Police Law, on ruling by the Commission on Legislation and Constitutional Issues.
- 14) Bill 3881, Law against Sexual Violence and Exploitation and People Trafficking, postponed for approval to January 2009.
- 15) Bill 3902, Firearms and Ammunitions Law, approved in third debate, pending approval of articles and final draft. The Liaison Office promoted and participated in the elaboration of the FOSS position about this bill, and this FOSS document is now one official input in the seminars of discussion article by article, before the next debate in plenary.

### **3. Laws whose implementation was supported and yet must be further monitored and promoted by FOSS through Liaison Office:**

- 16) Regulation of the Penitentiary Rule Law.
- 17) National Security System Framework Law.
- 18) National Security System Implementation.
- 19) DIGICI Law Implementation.
- 20) International Commission Against Impunity (CICIG) Law Implementation.
- 21) Law against Femicide and other Forms of Violence against Women Implementation.
- 22) Access to Public Information Law Implementation.

### **4. Rulings by Parliamentary Commissions for which FOSS has provided input or in which it has participated:**

#### **• Government Commission**

- 23) Favorable Ruling of Decree 32-2006, Penitentiary Rule Law.
- 24) Favorable Ruling of Bill 3166, Private Security Providers Law.
- 25) Favorable Ruling of Decree 21-2006, Law against Organised Crime.
- 26) Unfavorable Ruling of Bill 3154, Anti Youth Gangs Law (*Ley Anti-Maras*), jointly with the Commission of Minors and the Family.
- 27) Unfavorable Ruling of Bill 3189, Law for Repressing, Fighting and Eradicating Youth Gangs, jointly with Commission of Minors and the Family.

- **Justice Sector Reform Extraordinary Commission**
  - 28) Two Favorable Rulings of Bill 3284, National Autonomous Institute of Forensic Sciences (INACIF) Law.
  - 29) Two Favorable Rulings of Bill 3319, Reforms to Injunction of Legal Protection Law (*Ley de Amparo*).
  - 30) Favorable Ruling to Bill 3125, Criminal Code (*Código Penal*) Reform.
  - 31) Favorable Ruling to Bill 3560, Code of Criminal Procedure (*Código Procesal Penal*) Reform.
  - 32) Unfavorable Ruling to Bill 3580, Code of Criminal Procedure (*Código Procesal Penal*) Reform.
- **Defense Commission**
  - 33) Favorable Ruling to Bill 3314, Intelligence Law.
  - 34) Unfavorable Ruling to Bill on National Security Issues Classification and Declassification.
  - 35) Participation in Technical Round Table for discussing Bill 3880, National Defense Law. FOSS stated a joint position that called for total revision of that Bill because it does not fit with (and is opposed to) the National Security System Framework Law.
- **Foreign Affairs Commission**
  - 36) Favorable Ruling to Bill 3391, Approval of Facultative Protocol of the Convention Against Torture.
  - 37) Favorable Ruling to Bill 2662, Approval of Rome Statute of the International Criminal Court.
- **Extraordinary Commission for the Country Vision Plan**
  - 38) Favorable Ruling to Bill 3608, Framework Law of Security
- **Commission of Women, Legislation and Constitutional Issues Commission, and Commission of Minors and the Family**
  - 39) Joint Favorable Ruling to Bill 2630, Criminal Code Reform (in Sexual Crimes issues).
- 5. **Minimum Legislative Agenda to be promoted from 2009 onwards with FOSS influence through its Liaison Office with Congress:**
  - 40) Firearms and Ammunitions Law.
  - 41) Private Security Providers Law.
  - 42) Reforms to National Civil Police Organic Law.
  - 43) Strategic Intelligence Secretary Internal Law (whitin the context of the National Security System Framework Law).
  - 44) Public Order Law (new)
  - 45) Security Advisory Council (CAS) Law
  - 46) National Defense Law.
  - 47) Army Constituent Law (new)
  - 48) Criminal Code Law (new)
  - 49) Military Code Law (new)
  - 50) Criminal Investigation Police Law.
  - 51) General Prosecutor (*Ministerio Público*) Career Law.
  - 52) Law against Sexual Violence and Exploitation and People Trafficking.
  - 53) Reforms to Appeals of Injunction of Legal Protection Law (*Ley de Amparo*).
  - 54) Reforms to Ex Ante Judgement Law.
  - 55) Reforms to Code of Criminal Procedure (*Código Procesal Penal*)
  - 56) Reform to Law against Organised Crime.
  - 57) Ratification of Rome Statute of the International Criminal Court.

## 6. Terms of Reference for the FOSS Liaison Officer with the Congress of the Republic

The document INTERPEACE (2008) contains the Terms of Reference for the job of FOSS Liaison Officer with the Congress of the Republic. The person in charge will have full responsibility for the technical, substantive, methodological and administrative direction of the FOSS Liaison Office. This person will work in close coordination with the project PROATESUS of the Center for Guatemala Studies (*Centro de Estudios de Guatemala, CEG*) and will be under direct supervision of Interpeace and the FOSS Coordination. And will have the following functions:

- 1) Strengthening the presence of FOSS in the Congress of the Republic.
- 2) Supporting the collective or individual needs of FOSS members.
- 3) Managing FOSS members initiatives (meetings, seminars, etc.) with Congress institutions (Directors Board, Commissions, Caucuses, etc.)
- 4) Sensitising parliamentarians to the democratic security paradigm, in the context of the Central American Democratic Security Framework Treaty, the Guatemalan Peace Accords and the recommendations of POLSEDE.
- 5) Lobbying Congress for the advancement of the Legislative Peace Agenda in security issues, in coordination with FOSS members and the National Commission for Monitoring and Supporting the Strengthening of the Justice Sector (*Comisión Nacional de Seguimiento y Apoyo al Fortalecimiento de la Justicia, CNSAFJ*)
- 6) Facilitating contacts between organs of Congress and FOSS members.
- 7) Networking between civil society organisations, FOSS members and state institutions for moving forward the legislative agenda in security issues.
- 8) Meetings with the Directors Board of Congress, Presidents and member of Congressional Commissions and chiefs and members of caucuses for facilitating processes.
- 9) Participating in FOSS meetings and organising FOSS meetings for sharing information about the work of Congress.
- 10) Collaborating with the FOSS Coordinator in the organisation and facilitation of seminars, workshops or meetings for dealing with differences of opinion between FOSS members, related to the issues that fall within the mandate of the Liaison Office's work with Congress. In all cases, the Liaison Officer must promote the consensus and respect the disagreements that could emerge between FOSS organisations.
- 11) Elaborating monthly and quarterly reports and sending them to Interpeace, according to the established format.
- 12) Participating in weekly meetings for the follow up of Interpeace projects.
- 13) Coordinating the elaboration of documents concerning FOSS (advance reports, specific reports, interim reports, etc.) required by Interpeace, donors and interested governments; and any other additional requests that could emerge.
- 14) Participating in monthly meetings of the Legislative Consortium (*Consortio Legislativo*), supported by ASDI, for evaluating progress.
- 15) Elaborating and sending periodical advance reports about the Liaison Office activities to FOSS member organisations.
- 16) Any other task related with the Liaison Office, that could be requested by his/her supervisor.