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LINGUISTIC MINORITIES

Peace Agreement Drafter's Handbook

Prepared by

The Public International Law & Policy Group

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USER'S GUIDE

The Public International Law & Policy Group's (PILPG) Peace Agreement Drafter's Handbook is a comprehensive guide on how to draft a peace agreement based upon comparative analysis of over sixty peace agreements in the past thirty years. This Handbook is intended to assist drafters, mediators, negotiators, and anyone else interested in the substantive and practical contents contained in peace agreements. The Handbook is designed to facilitate drafting peace agreements quickly, efficiently, and effectively.

The Handbook sets out for the drafter the essential components found in the majority of peace agreements since approximately sixty to seventy percent of all peace agreements draw on similar elements and language. However, every conflict is unique and the drafter may have to make adjustments to certain elements to enhance the agreement's relevancy and applicability to a particular conflict. Therefore, each chapter should be considered as ad hoc and reshaping the new agreement to address the nuances of each party's needs will be necessary. Similarly, the comparative provisions and sample language provided in the Handbook are by no means exclusive, recommended, or mandatory. The purpose of the Handbook is to assist a drafter prepare a well-crafted agreement and enhance the durability of future agreements by drawing upon the best practices from prior agreements.

The Handbook consists of several chapters all following the same basic format. Each chapter focuses on a particular section commonly found in peace agreements such as ceasefires, economic restructuring, and property restitution. Each chapter first identifies the basic elements in that particular section of a peace agreement. For example, in ceasefires, the basic elements include the identification and definition of prohibited acts, separation of forces, and verification, supervision, and monitoring. The primary notes found in each chapter provide a brief overview of a specific element. These elements are then addressed through comparative analysis. The analysis provides for the drafter language found in other peace agreements from which the most relevant to the drafter's conflict can be selected. Each section then concludes with sample language.

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Executive Summary

Language is a primary means of communication and a mechanism for learning about and passing on cultural values. For linguistic minorities, it is a vehicle for expressing and transmitting their culture and maintaining their distinct identities. Despite its importance, there are few peace agreements that contain specific provisions addressing the rights of linguistic minorities. The agreements that do cover those rights and those of other ethnic or religious minorities often contain language broad in scope that does not necessarily reflect the specific rights sought by the particular groups.

In the context of negotiating peace agreements, the principle debate over language policy is whether to assimilate all linguistic groups into one primary official state language or whether to take a pluralist view and attempt to give each language equal recognition. In some conflicts, assimilating minority groups into accepting a primary official state language was a successful technique. Assimilation often created a greater sense of community and equality in the country or region. When assimilating, incentives were sometimes given for the purpose of learning the state language and community spheres where the minority languages could be freely spoken were set aside. However, depending on the meaning of a group's language to their innate identity and the prevalence of its use, pluralism was an alternative option where more than one language was recognized promoted, and protected.

When drafting peace agreement language for linguistic minorities, parties often undergo an analysis of the situation and consider questions such as, what are the patterns of language behavior? What are the attitudes within the language groups about assimilation and pluralism? What types of interactions have occurred between the language groups? What role does language play in the group's identity? What symbolic meaning does language have to a group? What is the level of use of the language within a given population or geographic area? The response to these questions often helps parties reach an understanding as to whether the peace agreement language should be more focused on assimilation or on pluralism. It should be noted, however, that a review of past agreements demonstrates that most parties elect to pursue a pluralistic approach. For this reason, the "Sample Language" found below tends to emphasize the equality of all linguistic groups.

This template includes four sections: Index of Agreements, Basic Elements, Comparative Analysis, and Summaries of Relevant Agreements.

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GUATEMALA, Agreement on identity and rights of indigenous peoples, 31 March 1995 (Guatemala Agreement)

<http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/guat12.pdf>

CHIAPAS, Commitments for Chiapas By the State and Federal Governments and the EZLN Under Paragraph 1.3 of the Rules of Procedure, 16 February 1996 (Chiapas Agreement 01)

<http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/mex4.pdf>

CHIAPAS, Actions and Measures for Chiapas Joint Commitments and Proposals from the State and Federal Governments, and the EZLN, 16 February 1996 (Chiapas Agreement 02)

<http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/mex2.pdf>

EUROPE, European Cultural Convention, European Treaty Series, Council of Europe, No. 18, entry into force on 10 October 1957 (European Convention 01)*

<http://insanhaklarimerkezi.bilgi.edu.tr/andlasavrupa/docs/18.doc>

EUROPE, Framework Convention for the Protection of National Minorities, Council of Europe, European Treaty Series - No. 157, Strasbourg, 1.II.1995 (European Convention 02)*

<http://conventions.coe.int/Treaty/en/Treaties/Word/157.doc>

EUROPE, Recommendation 1255 (1995)1 on the Protection of the Rights of National Minorities, Council of Europe, adopted by the Assembly on 31 January 1995 (European Recommendation)*

<http://assembly.coe.int/Documents/AdoptedText/ta95/erec1255.htm>

*While these documents are not peace agreements per se, they are international instruments that include language provisions useful for providing guidance on future linguistic agreements. As parties to peace agreements increasingly recognize the need for linguistic provisions and given the lack of precedent agreements to draw upon for such provisions, these international instruments provide comparative language.

BASIC ELEMENTS

The language and substance of a linguistic agreement is usually specific enough to eliminate objections and ambiguities which may later give rise to renewed contention. Reaching consensus on specific language can be more challenging. There are several basic elements which are generally addressed in approaching a linguistic agreement. These elements include a preamble, guarantees of the parties to the agreement, and mechanisms for granting rights.

Basic Elements

Preamble and General Statement: Parties are increasingly recognizing that peace agreements should, at a minimum, contain a general statement where they recognize the importance of protecting and promoting the rights of linguistic minorities and acknowledge the importance of language to the culture and identity of these groups. In addition to a general statement, parties can reflect their understandings about linguistic minorities and language in a preamble. The preamble is essential because it outlines the principles that serve as the basis of the peace agreement. The preamble assesses the objectives both Parties have agreed to meet.

Rights for Linguistic Minorities: When outlining provisions that address a specific right for a linguistic minority group, parties frequently acknowledge that, at a minimum, the linguistic minority has the same right as the non-minority populations. These rights include access to government, education, media outlets, the public and private use of one's own language, and access to public services and areas for public use.

Mechanisms for granting rights: Past agreements have utilized unique mechanisms for ensuring the equality of all linguistic groups throughout different facets of society, however, as stated above, frequently the agreements are written in such a broad manner that it is difficult or nearly impossible to implement the agreement and make the right effective in practice.

COMPARATIVE ANALYSIS

Preamble and General Statement

Primary Note: Parties are increasingly recognizing that peace agreements should, at a minimum, contain a general statement where they recognize the importance of protecting and promoting the rights of linguistic minorities and acknowledge the importance of language to the culture and identity of these groups. In addition to a general statement, parties can reflect their understandings about linguistic minorities and language in a preamble. The preamble is essential because it outlines the principles that serve as the basis of the peace agreement. The preamble assesses the objectives both Parties have agreed to meet.

Note: The Guatemala Agreement acknowledges that language serves as the primary vehicle for learning and passing on cultural values. This is an example of a pluralistic approach to a language policy because it ascertains that all languages should be mutually respected and that indigenous languages should be both protected and promoted.

Guatemala Agreement, Part III, A, 1

Language is one of the mainstays of culture since, in particular, it is the vehicle for learning and passing on the indigenous view of the world, and indigenous knowledge and cultural values. Thus, all the languages spoken in Guatemala deserve equal respect. In that context provision must be made to recover and protect indigenous languages and promote the development and use of those languages.

Note: The European Convention notes the significance of encouraging both the linguistic majority and the linguistic minority within a given country to study the language and history of the other group. This example exemplifies an attempt to promote cultural acquisition by providing facilities to undertake such study.

European Convention 01, Article 2

Each Contracting Party shall, insofar as may be possible,

encourage the study by its own nationals of the languages, history and civilization of the other Contracting Parties and grant facilities to those Parties to promote such studies in its territory, and

endeavour to promote the study of its language or languages, history and civilization in the territory of the other Contracting Parties and grant facilities to the nationals of those Parties to pursue such studies in its territory.

Sample Language: Preamble

Considering that the promotion and protection of the rights of persons belonging to linguistic minorities contribute to the political and social stability of the State in which they live and constitute an integral part of the development of society as a whole within a democratic framework based on the rule of law, and

Recognizing the importance of language to linguistic minorities as a vehicle for expressing and transmitting their culture and maintaining their distinct identities.

Sample Language: General Statement

Parties agree to ensure that persons belonging to linguistic minorities can exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law. States shall protect the existence of linguistic minorities and guarantee their right to enjoy their own culture, to profess and practice their own religion, and to use their own language,

Parties acknowledge that language is the primary vehicle for learning about and passing on cultural traditions, values, and worldviews. All languages, those spoken by the majority and those spoken by any minority, shall be given equal respect. The Parties to this agreement shall endeavor to respect the use of such languages in public and private discourses.

Rights for Linguistic Minorities

Primary Note: When outlining provisions that address a specific right for a linguistic minority group, parties frequently acknowledge that, at a minimum, the linguistic minority has the same right as the non-minority populations. These rights include access to government, education, media outlets, the public and private use of one's own language, and access to public services and areas for public use.

Access to Government, including Judicial Branch

Note: Effective and comprehensive peace agreements specifically underscore that a linguistic minority must have the same access as to the linguistic majority to government, including the Judicial Branch. The Chiapas Agreement specifically details the linguistic minority's rights. In terms of the right to use one's own native tongue in a legal statement, this agreement provides details directly about how this act will be undertaken.

Chiapas Agreement 01, Article 1, "Guarantees of full access to justice"

That the legislative, administrative and judicial authorities, within their spheres of competency, in the matters in which they have to intervene and at the time of decreeing their resolutions regarding affected indigenous peoples, take into consideration the latter's condition of culture, their system of internal regulations and other special related circumstances so that they may receive the guarantees to which they are entitled under the Political Constitution of the United Mexican States:

The use of their own tongue in statements and affidavits, which must be recorded with a translation into Spanish. Statements and affidavits given in indigenous tongues shall be recorded on audio tape and these recordings shall be annexed to the particular file, should consultation be necessary.

The appointment of interpreters, with their express approval, who command both the native tongue as well as Spanish, and who share and respect the culture and have a knowledge of the indigenous juridical system.

That the court-appointed defense counsel to which they are entitled know the indigenous tongue, culture, and juridical system.

Note: The second part of the Chiapas Agreement expands on the first by declaring that public defenders and translators must speak the language of the defendant and be knowledgeable in their culture. However, this agreement does not provide information on how this measure will be undertaken or how the government will promote such language acquisition.

Chiapas Agreement 02, “Guarantees of Access to Justice”

The translators and public defenders must not only command the indigenous tongues, but must also know and understand the indigenous cultures so that forearmed with knowledge and respect, they may better fulfill their functions.

Note: The second Chiapas Agreement the parties propose to translate laws and other important agreement into indigenous languages, and then put in place a program to distribute these translated texts. This way, the linguistic minority will have equal knowledge of various regulations and treaties. However, this may be a difficult endeavor considering the multiplicity of indigenous languages.

Chiapas Agreement 02, “Guarantees of Access to Justice”

Translation into the indigenous tongues of the laws, codes and regulations, as well as current international agreements and treaties, and the diffusion of these texts through proper procedures. The implementation is proposed of a program for the immediate distribution and diffusion of the translated texts, preferably through those institutions representing the community, in addition to the most effective distribution means available.

Note: The Guatemala Agreement specifically details the various mechanisms the government will use to promote the languages of the indigenous people, including bilingual judges and establishing a commission for the study of granting official status to indigenous languages.

Guatemala Agreement 01, Section III, A, 2

To that end, the Government shall take the following measures:

Promote a constitutional reform calling for the listing of all languages existing in Guatemala which the State is constitutionally required to recognize, respect, and promote;

Promote the use of the languages of the indigenous people when providing State social services at the community level;

Inform indigenous communities, in their own language in keeping with the traditions of the indigenous peoples and by adequate means, of their rights, obligations and opportunities in various areas of national life. Recourse shall be had, if necessary, to written translations and the use of mass communications media in the languages of those peoples;

Promote programmes for the training of bilingual judges and court interpreters from and into indigenous languages;

Promote the granting of official status to indigenous languages. To that end an officialization commission will be set up with the participation of representatives of the linguistic communities and the Academy of Mayan Languages of Guatemala, which shall study arrangements for granting official status, taking account of linguistic and territorial criteria. The Government shall promote, in the Guatemalan Congress, a reform of article 143 of the Constitution to reflect the results of the officialization commission's work.

Note: The European Convention's language is more specific than the Chiapas Agreement because it goes further and provides that every person must be informed in his language of the reason for his arrest.

European Convention 02, Section III, Article 10

The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the

nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.”

Note: The European Recommendation is also more specific than the Chiapas Agreement in that it states that the defendant can use his mother tongue with legal authorities. However, it does not mention that the legal authorities in an area with a large percentage of a certain linguistic minority must know that language. It also does not provide mechanisms to promote language acquisition among the legal community.

European Recommendation, Section 6, Article 7

In the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities and in proceedings before the courts and legal authorities.

Sample Language: Access to Government

The parties guarantee equal access to the government and all the legislative, administrative and judicial authorities of the State for all people, regardless of linguistic identity. [*Such access includes the right to be understood by others using their own language*].

Access to Education

Note: Peace agreements can address the rights of the linguistic minority to either receive a bilingual education or in the linguistic minority’s native language. The Chiapas Agreement is an example of a pluralist approach in that it guarantees that indigenous people have the right to be educated in both the majority state language and their native tongue.

Chiapas Agreement 01, Article 1, “Indigenous intercultural bilingual education”

Recognition of the multi-cultural composition existing in the State of Chiapas, as well as the respect of the right of its indigenous peoples to

promote and spread the significant elements which make up their culture creates the need, on the one hand, to incorporate into the local Constitution the right of the citizens of Chiapas to receive an education pursuant to the letter and spirit of the federal constitution's Article 3 and regulations of the General Education Act and, on the other, in the framework of the amendments set forth in the Federal Constitution, it is necessary that local reform take into consideration the following:

...

Indigenous education must be bilingual and intercultural.

Note: The Guatemala Agreement provides for bilingual and intercultural education.

Guatemala Agreement 01, Section III, A, 2

To that end, the Government shall take the following measures:

Promote a constitutional reform calling for the listing of all languages existing in Guatemala which the State is constitutionally required to recognize, respect, and promote;

Promote the use of all indigenous languages in the educational system, to enable children to read and write in their own tongue or in the language most commonly spoken in the community to which they belong and, in particular, protect bilingual and intercultural education and institutions such as the Mayan Schools and other indigenous educational projects;

Note: The second Chiapas Agreement attempts to put checks in place to make certain that school texts are celebratory in nature of multiculturalism. Moreover, the Agreement endorses the introduction of various elements of indigenous culture in regions where there is a large minority population.

Chiapas Agreement 02, "Education and Culture"

A proposal will be tabled at national forums to review the programs, text books and educational materials given out to Mexican schoolchildren to make them reflect upon and respect the multi-cultural nature of our country, including some indigenous tongue from

the region in the education of the population that only speaks Spanish. The State monographs will incorporate basic elements of the indigenous tongues characteristic of their particular regions.

Note: The European Convention stipulates that both the linguistic minority has the right to learn and be educated in its mother tongue, but also that the majority language should be given equal precedence.

European Convention 02, Article 14

The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

Note: The European Recommendation posits that the linguistic minority has the right to be educated in his mother tongue, and that a certain proportion of schools will be opened in areas with larger groups of minorities to teach students in their native language.

European Recommendation 01, Section 8, Article 7

Every person belonging to a national minority shall have the right to learn his/her mother tongue and to receive an education in his/her mother tongue at an appropriate number of schools and of state educational and training establishments, located in accordance with the geographical distribution of the minority.”

Sample Language: Access to Education

The Parties guarantee education and educational resources to all people until the age specified in the national education policy, regardless of linguistic identity.

[For areas where there are substantial numbers of linguistic minorities drafters may insert provisions for bilingual or intercultural education]

Access to Media Outlets

Note: Generally, a linguistic minority has the right to access and produce media in their mother tongue. This allows the minority to impart viewpoints and opinions in their native tongue. The European Convention both authorizes and guarantees the minority to impart information and ideas in their mother tongue without obstruction by declaring that a framework be instituted within a given country's legal system to protect a linguistic minority's right to access to the media without discrimination.

Note: The Guatemala Agreement promotes indigenous languages by providing access to mass communications and media for these languages.

Guatemala Agreement 01, Section III, A, 2

To that end, the Government shall take the following measures:

Enhance the status of indigenous languages, opening up new opportunities for them in the mass communications and cultural transmission media, strengthening such organizations as the Academy of Mayan Languages and other similar institutions;

European Convention 02, Section II, Article 9(1)

The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within

the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

Note: The European Recommendation explicitly states that a linguistic minority has the right to use his mother tongue in specific forms of media.

European Recommendation, Section 4, Article 7

Every person belonging to a national minority shall have the right to use his/her mother tongue in private and in public, both orally and in writing. This shall also apply to the use of his/her language in publications and in the audiovisual sector.

Sample Language: Access to Media

The Parties guarantee that persons belonging to linguistic minorities shall not be discriminated against in their access to the media. Parties agree to promote an environment that supports and encourages minorities to receive and impart information in their mother tongue.

Public and Private Use of One's Own Language

Note: Agreements addressing linguistic minority rights often explicitly recognize the minority's right to unreservedly use his or her native language, both publicly and privately, to maintain their names, and openly display cultural symbols. These examples from the European Convention clearly demonstrates such recognitions to public and private use of their language as well as the use of their name and the display of various forms of symbols, signs and inscriptions linked to their linguistic identity.

European Convention 02, Section II, Article 10 (1)

The Parties undertake to recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally in writing.

European Convention 02, Section II, Article 11 (1 & 2)

The Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

The Parties undertake to recognize that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

Note: The European Recommendation includes language similar to Article 11 of the European Convention 02 such that no one can force a member of the linguistic minority to change his name.

European Recommendation, Section 5, Article 7

Every person belonging to a national minority shall have the right to use his/her surname and his first names in his/her mother tongue and official recognition of his/her surname and first names.”

Sample Language: Option 1

The parties guarantee each individual’s right to use his or her surname to assure that individual’s linguistic identity.

Sample Language: Option 2

The parties recognize that every person belonging to a national minority has the right to use freely and without interference his or her native language, in private and in public.

Sample Language: Option 3

The parties undertake to guarantee that linguistic minorities enjoy the right to openly display their cultural symbols, inscriptions and signs without interference.

Access to Public Services and Areas for Public Use

Note: Drafters must outline the rights of the linguistic minority in a manner that allows them the same access to public services and areas of public use as the majority group. Moreover, they must include mechanisms within the peace agreement that will guarantee the minority such access.

Note: The European Convention asserts that geographical and topographical names and indicators be displayed in the language of the minority in areas where there is a large minority population.

European Convention 02, Article 11

In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavor, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

Note: The European Recommendation is similar to the example above; however, it states that the minority group lawfully has the right to publicly display names and signs in public without obstruction. But it also asserts that these same names and signs can be lawfully displayed in the majority language.

European Recommendation 01, Section 7, Article 7

In the regions in which substantial numbers of a national minority are settled, the persons belonging to that minority shall have the right to display in their language local names, signs, inscriptions and other similar information visible to the public. This does not deprive the authorities of their right to display the above-mentioned information in the official language or languages of the state.

Sample Language: Access to Public Services

In the regions in which substantial numbers of linguistic minority are settled the parties will work with local communities and linguistic groups to ensure both access to public services and areas of public use as well the safety of all individuals through the posting of signs and topographical markers in appropriate places in the language of the minority in question.

Mechanisms for Granting Linguistic Minorities' Rights

Primary Note: Past agreements have utilized unique mechanisms for ensuring the equality of all linguistic groups throughout different facets of society, however, as stated above, frequently the agreements are written in such a broad manner that it is difficult or nearly impossible to implement the agreement and make the right effective in practice.

Note: Below is a list of mechanisms that have been used in Past Agreements.

Constitutional recognition of the linguistic minority(ies);

Making the linguistic minority's language an official state language; enhancing the language's status;

Promoting the use of all indigenous languages, or particular indigenous languages, in the education system;

Promoting the use of all indigenous languages, or particular indigenous languages, when providing state social services;

Re-writing or translating laws, codes, regulations, national rights, and obligations in the language of linguistic minorities (however this might be too broad depending upon how many minority languages are spoken in the nation);

Creating bilingual schools or schools that use only the indigenous language; this could be done based proportionally and in geographic

areas where the same proportion of the population speaks a minority language; an issue that might need to be addressed is the transportation of students to or from these schools;

Translating textbooks into indigenous languages that are used in schools in geographic areas where a particular proportion of the students are of a linguistic minority;

Promoting the study of minority languages by the majority and;

Re-writing laws to punish discrimination based upon the use of an indigenous language;

Sample Language: Mechanisms for Granting Linguistic Minorities' Rights

To ensure the equality of all linguistic groups, the Parties shall undertake the following actions:

Promote public awareness and understanding of all linguistic groups through a campaign to educate all individuals about the pluriculture nature of the state, regardless of linguistic identity;

Provide continuing educational opportunities for those individuals who choose to enhance their understanding of other linguistic groups;

Create a commission, consisting of members of all linguistic groups in numbers proportional to that group in society, that will research linguistic communities and enclaves, creating a comprehensive report that will provide all Parties with information on the distribution of linguistic communities within a particular region or nation-state;

The Parties will ensure that all individuals are able to read or hear the rules, codes, or regulations of the nation in his or her own language;

The Parties will re-write laws to make discrimination against a person based upon linguistic identity a criminal offense.

SUMMARIES OF KEY CONFLICTS AND LINGUISTIC AGREEMENTS

Chiapas Agreements

The conflict in Chiapas has deep historical roots. The current conflict is still raging over issues of indigenous human rights and equality in a hierarchical government that allegedly discriminates against the indigenous population. The EZLN (The Zapatistan Army of National Liberation), a primarily indigenous militant group, staged an uprising in 1994, demanding increased rights and justices for the indigenous population in Chiapas. The EZLN and the Mexican Government have met several times in several venues to discuss the possibility of peace. Despite several agreements, the conflict remains violent. The Chiapas Agreements not only addresses cultural issues, but also define different aspects of culture, and it focuses its paragraphs on a deep understanding of the actual indigenous culture within Chiapas and Mexico. These agreements are pre-emptive and attempt to foresee future conflicts as well as deal with present conflicts. They consistently state that indigenous peoples' rights are equal to the rights of all Mexicans. They lay out specific goals in order to equalize the status of the minority/indigenous groups within Chiapas with the non-indigenous Mexican majority. The agreements in particular go into depth with regard to the use of native tongues in a bilingual education program.

Guatemala Agreement

Armed conflict began in Guatemala in the early 1960's and was exacerbated by the lack of democratic institutions, poverty, and unequal distribution of land and wealth. For thirty-six years, the government of Guatemala and guerilla groups engaged in a civil war. In the 1980s, four guerilla groups merged to form the Guatemalan National Revolutionary Unity (URNG). After years of peace talks, fighting ceased in 1996. By December of 1996, the UN brokered a final peace treaty. During this conflict the indigenous population of Guatemala suffered severe human rights abuses, particularly at the hands of military and paramilitary forces.

The terms of the agreement included a one-third cut in the size of the army, the laying down of arms by guerillas, and the reincorporation of URNG fighters to a civilian life. Because the fighting ended before the signing of the final accord, the cessation of armed conflict was not a significant challenge in Guatemala. Many factors led to the success of lasting peace, including the lack of violations of the agreement, the role of the United Nations in encouraging the parties to fulfill the

agreement, the weakness of the URNG, and the internal acceptance by Guatemalan civil society who perceived the peace process as a beneficial development.

A Truth Commission began documenting the human rights abuses and published a report in 1998. The commission, however, was unable to name the perpetrators or punish the perpetrators in any form. In the 1990 negotiations between the Guatemalan government and the URNG, mediated by the United Nations, but were slow to produce an agreement. Eventually, several agreements were signed before the Declaration of Peace in 1996, including the agreement referenced here. Implementation of the peace agreements is slow, and in 1998, in a report to the United Nations, the Secretary-General's Mission to Guatemala noted that Guatemala still lacks the structures, systems of justice, criminalization, and sufficient rights for everyone, thereby creating an environment of discrimination against its indigenous populations. While the agreement cited therein references virtually all cultural and identity elements affecting the minority/indigenous population, it has a separate section referencing language as a cultural right.

ABOUT THE PUBLIC INTERNATIONAL LAW & POLICY GROUP

The Peace Drafter's Handbook is a product of the Public International Law & Policy Group, a 501(c)(3) non-profit committed to providing global *pro bono* legal assistance to states and non-state entities involved in peace negotiations and in bringing war criminals to justice. PILPG also provides policy formulation advice and training on matters related to conflict resolution. This Handbook can be found on our web site (<http://www.pilgp.org>). A CD-ROM version of the Handbook is also available.

PILPG has advised over a dozen countries on the legal aspects of peace negotiations and constitution drafting, and over fifteen countries in Europe, Asia and Africa concerning fundamental questions of public international law and foreign relations. PILPG has also advised four international criminal tribunals.

The four primary practice areas of PILPG are:

- Peacebuilding
- International Justice
- Post-Conflict Political Development
- Public International Law

As a *pro bono* law firm, PILPG relies almost exclusively on volunteer legal assistance from more than sixty legal advisors and former diplomats, as well as major international law firms. On average PILPG is able to provide over \$1.5 million worth of *pro bono* services annually.

PILPG provides legal assistance to a large number of clients without a physical infrastructure or any full time paid staff, and is thereby able to commit over 95 percent of its resources directly to project activities. Frequently, PILPG sends members in-country to facilitate the provision of legal assistance, and its members often serve on the delegations of its clients during peace negotiations.

PILPG maintains volunteer points of contact in Washington DC, New York, Boston, Cleveland, Seattle, London, Paris, Rome, The Hague, Stockholm, Belfast, Krakow, Budapest, Zurich, and Nairobi.

From 1996-1998, PILPG operated under the auspices of the Carnegie Endowment for International Peace. In July 1999, PILPG was granted official Non-Governmental Organizations status by the United Nations.